

**OPSC  
Legislative Update  
October 29, 2018**

**2018 Legislative Session and Budget Update**

The California Legislature adjourned on August 31, maintaining tradition by working late into the night to ensure all business in the 2017-18 Legislative Session was completed. Bills that passed in the final weeks before adjournment covered topics ranging from net neutrality, wildfire liability and mitigation, an end to cash bail, renewable energy, and patient privacy.

Other bills stalled, including a voluntary water tax, a bill seeking to regionalize our state's electric grid, and an attempt to change the standard for police use of deadly force. In healthcare, attempts to push single payer went by the wayside and an alternative Assembly package of health care reform bills were also shelved.

In what has become customary, the Democrat-controlled Legislature continued to loudly rally against the Trump Administration in 2018, although some nonpartisan issues like the wildfire crisis and the opioid epidemic diverted attention from this objective. The Democrats retained their supermajority in the Assembly despite some vacancies, but lost their Senate supermajority (at least temporarily) due to the recall of Democrat Senator Josh Newman who voted for the gas tax last year. While this likely kept any potential tax increase proposals at bay, some majority-vote progressive proposals did pass.

Following the Legislature's adjournment, Governor Jerry Brown spent the month of September acting on the nearly 1,000 bills that were sent to his desk in the final two weeks of session. This was Brown's sixteenth and final year deciding what was signed and what was vetoed. While many of his decisions were fairly easy to predict, Brown threw the Legislature some curveballs last month, demonstrating his willingness to go against his party's grain. His vetoes included a smoking ban at beaches and parks, employee protection and sexual harassment-related bills, and legislation allowing for supervised drug injection sites. Brown's veto rate has averaged approximately 13 percent over his recent two terms, but this year he rejected 201, or 16.5 percent of the 1,217 bills that cleared the Legislature over the course of this year - his highest veto rate as Governor.

Despite the increased vetoes, Governor Brown still approved 1,017 bills this year. The California Brown is handing over to the next Administration is unquestionably more progressive than the Golden State he inherited in 2010. Brown is known for his pragmatism, particularly his penchant for tempering some of the bold spending proposals put forth by legislative Democrats. Still, over the course of the last eight years, Brown has blazed the trail on progressive policies and, since the 2016 election, solidified California as the stronghold of the Trump resistance. This year, he approved many of the high-profile bills that passed the Legislature, including those dealing with net neutrality, renewable energy, criminal justice and greater female representation on corporate boards. A number of labor bills were also signed, as well as numerous consumer privacy measures and an expansive wildfire mitigation package.

***Privacy Legislation***

In the privacy space, the Governor signed SB 1121 by Senator Bill Dodd in September which

addresses some of the “unintended consequences” of the California Consumer Privacy Act (CCPA) of 2018. The business community and some segments of the healthcare and life sciences industries successfully obtained amendments to the bill that make important clarifications to the HIPAA exemptions in the original Act, which, as initially written, negatively impacted healthcare providers.

As enacted, the original bill required hospitals and physicians to look at each piece of paper or electronic file to determine whether the information it contains constitutes medical information, protected health information, or neither. If neither, it would be subject to the CCPA. This new administrative burden would have significantly increased healthcare costs without providing any corresponding benefit to the patient – and HIPAA and CMIA already contain extensive patient rights and privacy protections. For these reasons, Senator Bill Dodd amended his SB 1121 to include all three of these HIPAA fixes, and the Governor signed SB 1121 on September 23. It is an urgency measure so it went into effect as soon as it was signed.

### ***Physician Trainee License – SB 798 (2017)***

OPSC continued its work this year to clarify and revise problematic provisions included in SB 798 – passed in 2017 – that expanded the minimum postgraduate training requirements for MDs and DOs from 1 year to 3 years for licensure. OPSC expressed its concerns to the author and the Senate Business and Professions Committee that changes to physician postgraduate training requirements should not have a detrimental impact on physicians’ ability to provide services to patients, especially those patients in rural and underserved areas. SB 1480 by Senator Jerry Hill was amended late this session to address many of the concerns raised by OPSC. The Governor signed SB 1480 on September 19.

### ***2018-19 State Budget – Health Care***

#### **Health Care Reform**

The Legislature did pass and the Governor signed budget trailer bill language which institutes a Council on Health Care Delivery Systems with \$5 million in one time funds to develop health care reform options. Also included in the budget was one-time funding of \$60 million for an all-payer health care cost and utilization database.

#### **Proposition 56 – Physician reimbursement & loan re-payment program**

Included in the state budget was continued allocation of Prop. 56 funds of up to \$500 million for supplemental Medi-Cal payments to physicians. In addition, \$220 million in Prop. 56 funds are being allocated to a Medi-Cal physician loan repayment program.

### ***Other 2018 OPSC Bills of Interest***

Here is the list of priority bills which were signed into law this year. Further information on these and other bills of interest may be found on the OPSC website.

## **PHYSICIAN MANDATES**

### **AB 505 (Caballero D) Medical Board of California: adjudication: expert testimony.**

This bill authorizes an administrative law judge to extend the time for the exchange of information regarding the use of expert testimony in matters brought by the Medical Board of California or the

Osteopathic Medical Board of California, upon a motion based on a showing of good cause, for a period not to exceed 100 calendar days.

**Position:** Support

**[AB 2789](#) ([Wood](#) D) **Health care practitioners: prescriptions: electronic transmission.****

This bill requires health care practitioners authorized to issue prescriptions to have the capability to transmit electronic transmission prescriptions, and requires pharmacies to have the capability to receive those transmissions, beginning January 1, 2022. Because the bill was amended to add exemptions and allow more time for implementation, OPSC went neutral.

**Position:** Neutral as Amended

## LICENSURE, EDUCATION & TRAINING

**[AB 1791](#) ([Waldron](#) R) **Physicians and surgeons: continuing education.****

This bill requires the Medical Board, in determining continuing education requirements, to consider including a course in integrating HIV/AIDS pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) medication maintenance and counseling in primary care settings, as specified.

**Position:** Watch

**[AB 2487](#) ([McCarty](#) D) **Physicians and surgeons: continuing education: opiate-dependent patient treatment and management.****

This bill authorizes a physician and surgeon to complete a one-time continuing education course on opiate-dependent patient treatment and management, as an alternative to the mandatory continuing education course on pain management and the treatment of terminally ill and dying patients.

**Position:** Support as Amended

**[SB 1448](#) ([Hill](#) D) **Healing arts licensees: probation status: disclosure.****

The bill requires the Medical Board of California and the Osteopathic Medical Board of California to require a licensee to provide a separate disclosure to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, under specified circumstances. This was amended recently to further narrow the requirements of the bill to only those incidences of sexual misconduct that are specified felonies, drug abuse resulting in direct harm to patient, and criminal conviction. For these reasons, OPSC is now neutral.

**Position:** Neutral as Amended

**[SB 1480](#) ([Hill](#) D) **Professions and vocations.****

This bill contains clean-up language to SB 798 (2017) which requires at least 36 months of board-approved postgraduate training for a physician to obtain full licensure beginning after January 1, 2020. The bill includes a number of changes and clarifications to the new physician trainee license requirements including: eliminating the restrictive timeframe authorized for physician trainees to receive compensation, modifying the "consecutive" months requirement for completion of postgraduate training, allowing for exceptions to 36-month post-graduate training requirement, clarifying eligibility for out-of-state licensed physicians. In addition, the bill also makes changes to various DCA board requirements.

**Position:** Support as Amended

## OPIOIDS

### **AB 1751 (Low D) Controlled substances: CURES database.**

This bill requires the Department of Justice, no later than July 1, 2020, to adopt regulations regarding the access and use of the information within CURES by consulting with stakeholders, and addressing certain processes, purposes, and conditions in the regulations. It also authorizes the DOJ to enter into an agreement with any entity operating an interstate data sharing hub, or any agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information.

**Position:** Support

### **AB 2487 (McCarty D) Physicians and surgeons: education: opiate-dependent patient treatment and management.**

This bill authorizes a physician and surgeon to complete a one-time continuing education course on opiate-dependent patient treatment and management, as an alternative to the mandatory continuing education course on pain management and the treatment of terminally ill and dying patients.

**Position:** Support as Amended

### **AB 2760 (Wood D) Prescription drugs: naloxone hydrochloride.**

This bill requires a prescriber to offer a prescription for naloxone hydrochloride or another drug approved by the US FDA for the complete or partial reversal of opioid depression to a patient when certain conditions are present and to provide education on overdose prevention and the use of naloxone hydrochloride or another drug to the patient and specified others, except as specified.

**Position:** Oppose Unless Amended

### **SB 1109 (Bates R) Controlled substances: Schedule II drugs: opioids.**

**Status:** Signed by Governor

#### **Summary:**

This bill, for physicians and surgeons licensed on or after January 1, 2019, requires the one-time mandatory Continuing Medical Education (CME) for physicians and surgeons on pain management and the treatment of terminally ill and dying patients to include the risks of addiction associated with the use of Schedule II drugs. It was amended in June to no longer require additional physician CMEs related to addiction, instead requiring CMEs to be incorporated into the current 12 hours already required related to pain management. For this reason, OPSC is supportive of the bill.

**Position:** Support as Amended