

**OSTEOPATHIC MEDICAL
BOARD
OF CALIFORNIA**

**Board Meeting, Thursday, January 21, 2016
10:00 a.m.**

**Department of Consumer Affairs
Headquarters Building 2
1747 North Market Blvd.
Hearing Room
Sacramento CA 95834**

OMBC Phone (916) 928-8390

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TABLE 1



OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
BOARD MEETING

Date: Thursday, January 21, 2016
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business)

Location(s): Department of Consumer Affairs
Headquarters Building 2 (HQ2)
1747 North Market Blvd.
Hearing Room
Sacramento CA 95834
(916) 928-8390

AGENDA

(Action may be taken on any items listed on the agenda and may be taken out of order, unless noticed for a certain time.)

Open Session

1. Call to Order and Roll Call / Establishment of a Quorum
2. Public Comment for Items Not on the Agenda
Note: The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]
3. Introduction of new board member(s)
4. Election of Officers
5. Review and Approval of Minutes – September 21, 2015 Board Meeting
6. Review and Approval of Osteopathic Medical Board Strategic Plan – (DCA-SOLID)
7. Administrative Hearing
 - 10:30 a.m. John Wogec, D.O. – Petition for Reinstatement of Surrendered License
8. **Closed Session**
 - Deliberations on disciplinary or enforcement actions, including the above petition.
(Government Code Section 11126(c)(3).)

- Adjourn Closed Session

Return to Open Session

9. FSMB Liaison – Jerry Landau, J.D.

- Interstate Licensing Compact
- Telemedicine Medicare Act of 2015 (Telemed Act. H.R. 3081)
- Medical Marijuana
 - SB – 643

10. Executive Director's Report – Angie Burton

- Licensing
- Staffing
- Budget
- CURES Update
- Enforcement Report / Discipline

11. Title 16 California Code of Regulations: Discussion and possible action

- Proposed Language to add Section 1604.10 (Notice to Consumers)
- Proposed Amendments to Section 1610 (Application; Refund of Fee; Expirations; Renewals)
- Proposed Language to add Section 1616 (Sponsored Free Health Care)

12. North Carolina Dental Board vs. Federal Trade Commission – Presentation by Board's Legal Counsel

13. Agenda Items for Next Meeting

14. Future Meeting Dates

15. Adjournment

For further information about this meeting, please contact Machiko Chong at 916-928-7636 or in writing 1300 National Drive, Suite 150 Sacramento CA 95834. This notice can be accessed at www.ombc.ca.gov

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting. (Gov. Code, sections 11125, 11125.7(a).)

In accordance with the Bagley Keene Open Meeting Act, all meetings of the Board are open to the public and all meeting locations are accessible to the physically disabled. A

person who needs a disability-related accommodation or modification in order to participate in the meeting, may make a request by contacting Machiko Chong, ADA Liaison, at (916) 928-7636 or via e-mail at Machiko.Chong@dca.ca.gov or may send a written request to the Board's office at 1300 National Drive, Suite 150, Sacramento, CA 95834-1991. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

TABLE 2



OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
Executive Office

Board Member Appointments

Elizabeth Jensen-Blumberg, D.O., of San Francisco, was appointed to the Osteopathic Medical Board on October 28, 2015 by Governor Edmund G. Brown Jr.. Dr. Jensen-Blumberg has been a hospitalist at St. Mary's Medical Center since 2008 and a physician and internal medicine hospitalist at Bay Area Hospitalist Associates since 2005. She is a member of the Society of Hospital Medicine and the American Osteopathic Association. Dr. Jensen-Blumberg earned a Doctor of Osteopathic Medicine degree from Touro University College of Osteopathic Medicine in California.

Cyrus Fram Buhari, D.O., of Stockton, was appointed to the Osteopathic Medical Board on October 28, 2015 by Governor Edmund G. Brown Jr.. Dr. Buhari has been a physician at the San Joaquin Cardiology Medical Group since 2013. He was an assistant clinical professor of medicine and physician at the Central California Faculty Medical Group from 2012 to 2013 and a physician at the Veterans Affairs Central California Healthcare System from 2012 to 2013 and at the Community Hospitalist Medical Group from 2008 to 2012. Dr. Buhari earned a Doctor of Osteopathic Medicine degree from the Western University of Health Sciences.

TABLE 3



BOARD MEETING MINUTES

Thursday, September 17, 2015

BOARD MEMBERS PRESENT: Joseph Zammuto, D.O., President
Keith Higginbotham, Esq., Vice President
David Connett, D.O., Secretary Treasurer
James Lally, D.O., Board Member
Claudia Mercado, Board Member
Cheryl Williams, Board Member
Jane Xenos, D.O., Board Member
Alan Howard, Board Member

STAFF PRESENT: Angelina Burton, Executive Director
Michael Santiago, Esq., Legal Counsel, DCA
Machiko Chong, Executive Analyst
Corey Sparks, Lead Enforcement Analyst
Donald J. Krpan, D.O., Medical Consultant

BOARD MEMBERS ABSENT: Michael Feinstein, D.O., Board Member

The Board meeting of the Osteopathic Medical Board of California (OMBC or Board) was called to order by President, Joseph Zammuto, D.O. at 10:05 a.m. at the Department of Consumer Affairs (DCA), 1747 North Market Blvd. (HQ2), Hearing Room, Sacramento, CA 95834.

1. **Roll Call:**

Mr. Higginbotham called roll and determined that a quorum was present.

2. **Approval of Minutes – August 7, 2014 Board Meeting:**

Dr. Zammuto called for approval of the Board Meeting minutes of May 7, 2015.

- **M** – K. Higginbotham, **S** – D. Connett for approval of the minutes.
- Roll Call Vote was taken **Aye** – Dr. Connett, Mr. Higginbotham, Mr. Howard, Ms. Mercado, Dr. Xenos, Dr. Zammuto; **Nay** – None; **Abstention** – None; **Absent** – Dr. Feinstein, Dr. Lally, Mrs. Williams.

Motion carried to approve minutes with no additions or corrections.

3. **Regulations – Public Hearing**

Regulation hearing regarding amendments to Title 16, Division 16 of the California Code of Regulations, Section 1661.2, Article 12.5 – “Diversion Evaluation Committee Duties and Responsibilities” and Section 1663, Article 12.7 – “Disciplinary Guidelines” as described in the notice published in the California Regulatory Notice Register.

This regulatory proposal would implement, interpret, or make specific sections 315, 315.2, and 315.4 of the Business and Professions Code pertaining to the Uniform Standards for Substance-Abusing Healing Arts Licensees.

Pursuant to these sections DCA was required to establish Uniform Standards regarding substance-abusing licensees. This rulemaking will incorporate the Uniform Standards for Substance-Abusing Healing Arts Licensees, as required by law, by proposing to add the standards for a licensee who is placed on probation due, in part to a substance abuse problem. The proposed amendments will allow the Board to impose more restrictive conditions to protect the public.

Mrs. Chong stated that the date was September 17, 2015; the hearing began at approximately 10:08 a.m. A quorum was present. No oral or written testimony was received. The hearing was closed at 10:11 a.m.

4. President’s Report:

Dr. Zammuto had nothing to report; however he stated that he attended the Osteopathic Physicians and Surgeons Fall meeting/ board meeting held in Monterey, California during which time he gave a brief update on the OMBC’s activities.

5. Executive Director’s Report:

Licensing: – Angie Burton updated the Board on licensing statistics, staffing, budget activity, and diversion program statistics. She explained that although she was providing information regarding licensing statistics some of the data may not be accurate as BreZE statistical information fluctuates on occasion. To date the Board has 7,128 current active licensees and 595 current inactive licensees for a total of 7,723. Prior to commencement of the Board meeting, a report on the number of licensees residing in California was run, which reflected 6,500 physicians. Mrs. Burton believes this number is accurate but is not entirely sure.

Staffing: – The OMBC is still functioning with eleven full-time and one half-time positions, and is planning on beginning the recruitment and interview process for the cashiering vacancy in early October. DCA – SOLID Strategic Planning Unit should be contacting each of the Board members, if they have not done so already, and has reached out to all of the Board stakeholders regarding completion of the Strategic Planning Survey which will be reviewed and utilized during the Strategic Planning Session scheduled for October 30, 2015.

Controlled Substance Utilization Review and Evaluations System (CURES): – CURES 2.0 became available on July 1, 2015. However, because of security issues with older browsers, the Department of Justice (DOJ) postponed the “go-live” date and only a soft

launch of the system occurred. During the testing phase of the system it was found that prescribers and dispensers were using older versions of Microsoft Internet Explorer, but system usage was intended to be used with Microsoft Internet Explorer 11.0 or greater. The soft launch is set to conclude in early October; however DOJ will continue to work with prescribers and dispensers to assist with the onboarding process. To date 18 prescribers and 5 dispensers have registered with CURES 2.0. DCA is currently working on completing an inter-agency agreement with DOJ for the ongoing funding of the maintenance and operation activities of CURES. Also, Assembly Bill (AB) 679 (2015-2016, Allen). Controlled Substances extended the CURES registration deadline from January 1, 2016 to July 1, 2016 for all prescribers and dispensers of controlled substances. The bill has passed in the legislature and is with the Governor.

Mr. Howard inquired whether the Board was able to obtain growth of the license population over a 5-10 year period, and asked if the report could be provided at the next meeting. Mrs. Burton informed him that the Board is definitely growing with roughly 700 licenses being issued a year. Although there are licensees that are lost due to retirement, relocation out-of-state, and cancellation, license growth is significant and has been consistent. Mrs. Burton also stated that she would look into trying to obtain a growth report for the next meeting.

Ms. Mercado inquired whether it was possible to obtain licensee aging report to gain a better understanding of the license holder age demographics which might aid in outreach to Osteopathic Universities. Mrs. Burton informed her that she was not sure that it would be possible to obtain the report but stated that she would look into it.

Enforcement/ Discipline: - The Board's Lead Enforcement Analyst, Corey Sparks, presented the enforcement report to the Board.

Mr. Howard questioned the complaint intake process and what steps the Enforcement Unit was taking to decrease the aging timeframes, and was advised by Mr. Sparks that the complaint intake staff had been away in training during a time where there had been an influx of cases received in office thus causing the backlog. To keep the aging timeframes down the cases needed to be entered into the system within at least 10-15 days from receipt and assigned accordingly.

Ms. Mercado inquired how complaints were received in office and was informed by Mr. Sparks that they are received via phone call, email, Medical Board of California referral, or via postal delivery. Mrs. Burton added that complaints are also received via 805 reporting by the hospital, in addition to record of malpractice settlement and malpractice judgment case submissions from the insurance companies. Because of the statistical information provided, Mrs. Burton feels that there is an evident need for additional staffing within the Enforcement Unit. However, the addition would not be possible until FY 17/18 as there is not enough space available within our current location to house more staff, therefore the board will have to develop new ways to delegate the workload received. Currently the enforcement complaints received in office are reviewed by either Mrs. Burton or the Office Manager, Francine Davies, and if the documents reflect a need for immediate attention it is promptly handed to an analyst for processing.

Ms. Mercado inquired whether there were any updates available on the BreEZe database and if the board was receiving any assistance from DCA on system improvements. Mr. Sparks stated that on the Enforcement end there were new reports being created to assist with data integrity and to help with the enforcement process. They are also gearing up for regression testing which would make sure that the boards currently utilizing the system will not be affected by the boards/ bureaus scheduled for Release 2 go-live.

Dr. Lally inquired if there were national established ratios for staffing to licensee percentages for the Board to provide the best care of licensees (i.e. for every 10 active licensees there should be an analyst in place), which may possibly assist in the pursuit of obtaining additional staff. Mrs. Burton was not aware of any available ratios but stated that she would check with the Federation of State Medical Boards to see if they had developed one.

Dr. Connett asked Mr. Sparks if it was possible to create a report that coincided with the data report previously requested by Mr. Howard, regarding the ratio of disciplinary actions handled over the past 10 years of licensee growth and the number of complaints received in office due to the increase, which may further assist the Board in understanding the workload of the enforcement unit. Mr. Sparks was not sure if he would be able to extract the report from the BreEZe system but stated that he would look into it.

Ms. Mercado wondered if there was a way to conduct community outreach for complainants of other ethnicities to make them aware of the Board and what the Board does. Mr. Sparks was not sure if it was within the power of the board to complete the process of compiling outreach brochures or solicitations. However, both he and Mrs. Burton felt that it would definitely aid in providing clarification to the public of what an osteopathic physician is in addition to who the public is able to contact in case they have a complaint. Mrs. Burton added that DCA does have a site for the public to submit complaints that are subsequently forwarded to the correct board.

6. DCA Update – Christine Lally:

Ms. Lally introduced herself and stated that there were 3 main items that she would be updating the Board on.

BreEZe: – Over the past several months DCA released many reports and data extracts for Release 1 boards to use for workload tracking; and also finalized the last 2 of the 4 Enforcement Reports that were created, which will be made available beginning the week of September 21st. With the release of the final 2 reports DCA BreEZe users will have the ability to run reports providing comprehensive information on all significant milestones in the enforcement process. All Release 1 boards are encouraged to use the reports as a resource, both for workload tracking and to identify trends in consumer complaints. Ms. Lally made note that she was not made aware of the data integrity issues Mr. Sparks stated he was having with the 2 reports previously released. However, she advised that she has been in contact with her office regarding the

concern and stated that they would be more than welcome to go over the reports with Mrs. Burton and Dr. Zammuto to ensure that they are all on the same page. She also mentioned that no other boards were having issues with the reports in question. Data extracts of applications pending, received, and completed are also provided on a regular basis to each board (monthly or biweekly) depending on the type of extract requested and will in the future be available on demand.

Since Go-Live of the BreEZe database two years ago there have been 144 System Investigation Requests (SIRS) submitted by the OMBC staff: 61 SIRS have been resolved (42%); 74 SIRS have been closed at the board's request (51%); and 9 SIRS are in progress or waiting to be fixed (6%). The final maintenance update for the BreEZe system is set to occur sometime beginning September 21st.

On behalf of DCA Ms. Lally congratulated the Board for the Duplicate License Request applications and Fictitious Name Permit (FNP) Applications that would become available to licensees beginning September 25th. This development would make FNPs eligible for online renewals and enable more efficient processing of duplicate document requests through online portals. Again, Ms. Lally offered additional assistance to the Board with system utilization and clarification should the Board require it.

Release 2 of the BreEZe online system is set to occur in mid-January 2016 which will include fixes and enhancements for Release 1 boards. However, the maintenance schedules have not been finalized as of yet. DCA recognizes the need for frequent maintenance schedules and will be working along with the vendor to create a schedule that supports the needs of the Release 1 & 2 boards.

Enforcement: – Recently DCA began holding quarterly board/bureau enforcement meetings with all of the Executive Officers and Enforcement Managers. The meetings were created to ensure that there is better communication, increased coordination, and sharing of best enforcement practices among all DCA Programs. The next meeting is scheduled for September 28th and will include training on the subpoena process by the Attorney General's Office and will cover the significance of properly writing a subpoena as well as the risk and liability involved.

North Carolina State Board of Dental Examiners v. FTC – In late February the Supreme Court of the United States issued a 6-3 decision in the matter of the North Carolina State Board of Dental Examiners v. FTC regarding whether the North Carolina Dental Board was immune from Federal Antitrust Laws. The Supreme Court concluded that the North Carolina State Board of Dental Examiners, which consisted mostly of dentists, could not be allowed to regulate their own markets free from antitrust accountability. DCA's legal office continues to work closely with Agency, the Governor's Office, and the Attorney General's Office on the decision. Beginning September 21st the Department will have its first training on the matter which will be open to Executive Officers, Board/Bureau Presidents, and Executive Legal Counsel. Department's Legal Counsel is also tracking the development of cases filed in other states that may impact California. For example, there is a pending case in Texas regarding regulations restricting TeleHealth practices involving the medical board, which is comprised mainly of licensees. In Mississippi there is a case pending involving the medical board, which is comprised of

nine (9) practicing physicians, regarding regulations restricting who may own a pain management clinic.

Senator Hill, Chair of the Senate Business & Professions and Economic Development Committee, requested a legal opinion from the Attorney General's Office on the impact these occurrences would have on DCA boards to ensure that the current board structures provide sufficient active state supervision. The Attorney General issued an opinion on the case and the statement will be made available at the Training being held on September 21st or by request made to board legal counsel. Additionally, it is likely that the legislature will hold an informational hearing on the case in the Fall relating to its impact. The Executive Office asks that the legal counsel be made aware of any questions the Board has or those received by the Board regarding the Supreme Court decision.

Ms. Lally added that the DCA Public Affairs Team would be more than happy to handle any request for compilation of Public Service Announcements that the Board would like to have done and recommended that the Board contact the Executive Office when they are ready so that a meeting could be set up.

7. Telemedicine for Medicare Act of 2015 (TeleMed Act, H.R. 3081)

Mrs. Burton stated that H.R. 3081 has different requirements than California's current Telemedicine bill which requires that a physician have a license in the state that the patient is located. However, H.R. 3081 does not require that the physician be licensed in the state that the patient resides, and is clearly directed only toward Medicare providers and does not include all providers. She hypothetically questioned should the board have a Medicare provider in the state of New York who is treating a patient in the state of California and something occurs would the board have the jurisdiction to do anything?

Mr. Santiago stated that the Board would not have the jurisdiction to discipline the physician unless the physician held a license in California. He also stated that the bill is still in its infancy; therefore legal will be tracking the bill in the event that there are changes resulting from additional input from other agencies in terms of the specific legislation.

Dr. Lally inquired whether it would be premature to recommend that for safety reasons there be stipulations added to the bill requiring that the physician hold a license in the state where the patient resides. Mrs. Burton stated that she would reach out to the FSMB and let them know that the Board opposes the bill.

Kathleen Creason, Director of Osteopathic Physicians and Surgeons of California (OPSC), stated that OPSC has reviewed the bill concerning whether it would be applicable to the Board. After further discussion with Mrs. Burton, who stated that it would apply to California physicians OPSC concluded that it should be applicable to the Board. However, Mrs. Creason stated if it is necessary to clarify its need in legislation OPSC would be more than welcome to make an amendment next year to clear up the language.

8. Administrative Hearings:

1:00 p.m.

- Daniel Brubaker, D.O. – Petition for Modification of Probation.
- John Fosbinder, D.O. – Petition for Early Termination of Probation
- Renee Kilmer, D.O. – Petition for Early Termination of Probation

The Office of Administrative Hearing (OAH) Administrative Law Judge Ed Washington conducted the above hearings.

9. Closed Session

The Board met in closed session to deliberate on the petitions for modification or early termination of probation above pursuant to Government Code section 11126(c)(3).

10. Return to Open Session

11. Agenda Items for Next Board Meeting:

- Interstate Licensing Compact and Progression – Discussion
- H.R. 3081 Telemedicine Medicaid Act – Discussion
- SB 643 - Discussion

12. Future Meeting Dates:

- Thursday January 21, 2016 @ 10:00 am – Sacramento, CA
- Thursday, May 5, 2016 @ 10:00 am – Western University, Pomona, CA
- Thursday, October 6, 2016 @ 10:00 am – TBD

13. Public Comments

The Board members commended the students in attendance from the ATSU-SOMA Campus in California and requested them to provide any feedback that they had regarding the profession and the Board.

14. Adjournment

There being no further business, the Meeting was adjourned at 3:50 p.m.

TABLE 4

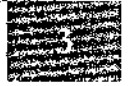
Osteopathic Medical Board of California



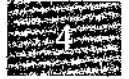
2016 Strategic Plan

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Board Members



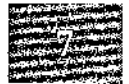
Message from the Board President



About the Osteopathic Medical Board



Mission, Vision & Values



Strategic Goals



Goal 1: Licensure



Goal 2: Enforcement



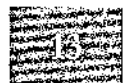
Goal 3: Outreach and Communication



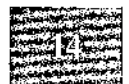
Goal 4: Regulation and Legislation



Goal 5: Board Administration



Strategic Planning Process



Board Members

Joseph Zammuto, D.O., President

Keith Higginbotham, Esq., Vice-President, Public Member

Cyrus Buhari, D.O.

Michael Feinstein, D.O.

Elizabeth Jensen-Blumberg, D.O.

James Lally, D.O.

Alan Howard, Public Member

Claudia Mercado, Public Member

Cheryl Williams, Public Member

Former board members who also participated in the development of this strategic plan:

David Connett, D.O.

Jane Xenos, D.O.

EDMUND G. BROWN, JR., GOVERNOR

ANNA M. CABALLERO, SECRETARY, BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

AWET KIDANE, DIRECTOR, DEPARTMENT OF CONSUMER AFFAIRS

ANGIE BURTON, EXECUTIVE DIRECTOR, OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Message from the Board President



On behalf of the OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA it is my sincere pleasure to present the 2016 - 2019 Strategic Plan. I want to thank the California Department of Consumer Affairs' SOLID Unit for their leadership in the process. I want to thank all the board members, the executive director, assistant executive director, board staff, and the public for putting together this plan.

The mission of the board is to protect the public by requiring competency, accountability and integrity in the safe practice of medicine by osteopathic physicians and surgeons. The Board continually strives to attain meaningful improvement to service our physicians, protect the public, and maintain the highest standards in healthcare.

The vision of the board is to uphold the highest standards of quality and care by our physicians; continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

The success of this strategic plan depends on an ever evolving relationship with all the stakeholders in the State of California. We look forward to our relationship involving licensure, enforcement, outreach and communication, regulation and legislation, and Board administration.

Joseph A. Zammuto, DO
President, Osteopathic Medical Board of California

About the Osteopathic Medical Board

Developed more than 130 years ago by Andrew Taylor Still, M.D., D.O. Osteopathic medicine brings a unique philosophy to traditional medicine. Osteopathic physicians (D.O.s) are fully licensed to prescribe medication and practice in all medical specialty areas including surgery, just as any M.D. D.O.s are trained to consider the health of the whole person and use their hands to help diagnose and treat their patient.

D.O.s are one of the fastest growing segments of health care professionals in the United States. California has the 4th largest osteopathic population in the United States.

The Business and Professions (B&P) Code Section (§) 3600 (Osteopathic Initiative Act) and the California Code of Regulations (CCR) Title 16. Professional and Vocational Regulations, Division 16., §1600. Et. Seq., authorizes the Osteopathic Medical Board of California to license qualified osteopathic physicians and surgeons to practice osteopathic medicine, and to effectuate the enforcement of laws and regulations governing their practice (Medical Practice Act). The Act requires the Board to ensure that consumer protection is their highest priority in exercising its licensing, regulatory and disciplinary functions.

The Osteopathic Medical Board of California (hereinafter, “Board” or “OMBC”) is a fully functioning board within the Department of Consumer Affairs with the responsibility and sole authority to issue licenses to physicians and surgeons (hereafter Doctors of Osteopathic Medicine or D.O.s) to practice osteopathic medicine in California. The OMBC is also responsible for ensuring enforcement of legal and professional standards to protect California consumers from incompetent, negligent or unprofessional D.O.s. The OMBC regulates D.O.s only. There are 6,227 D.O.s in California with active licenses at this time and another 1,006 D.O.s who maintain active licenses in California while residing in other states. There are 588 D.O.s who maintain inactive licenses. Total number of osteopathic physicians and surgeons currently holding a California license is 7,821.

D.O.s are similar to M.D.s in that both are considered to be “complete physicians,” in other words, one who has taken the prescribed amount of premedical training, graduated from an undergraduate college (typical emphasis on science courses) and received four years of training in medical school. The physician has also received at least one more year of postgraduate training (residency or rotating internship) in a hospital with an approved postgraduate training program.

After medical school, D.O.s may choose to practice in any specialty or subspecialty as do M.D.’s. Examples are, but not limited to, family practice, internal medicine, pediatrics, and any surgical specialty. These programs may range from on average 2 to 6 years of additional postgraduate training. Licensing examinations are comparable in rigor and comprehensiveness to those given to M.D.s. Whether one becomes a D.O. or an M.D., the process of receiving complete medical training is basically the same. The same laws govern the required training for D.O.s and M.D.s who are licensed in California. D.O.s utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery. D.O.s are licensed in all fifty states to perform surgery and prescribe medication. D.O.s practice in fully accredited and licensed hospitals and medical centers. Section 2453 of the Business and Professions Code states that it “is the policy of this State that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.”

Osteopathic Medical Board of California 2016-2019 Strategic Plan

A D.O. may refer himself/herself as a "Doctor" or "Dr." but in doing so, must clearly state that he/she is a D.O. or osteopathic physician and surgeon. He or she may not state or imply that he or she is an M.D. while being licensed in California as a D.O.

A key difference between the two professions is that D.O.s have additional dimension in their training and practice, one not taught in medical schools giving M.D. degrees. Osteopathic medicine gives particular recognition to the musculoskeletal system (the muscles, bones and joints) which makes up over 60% of body mass. The osteopathic physician is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The osteopathic physician is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. D.O.s use structural diagnosis and manipulative therapy along with all of the other traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

To meet its responsibilities for regulation of the D.O. profession, the OMBC is authorized by law to:

- a. Monitor licensees for continued competency by requiring approved continuing education.
- b. Take appropriate disciplinary action whenever licensees fail to meet the standard of practice, or otherwise commit unprofessional conduct.
- c. Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
- d. Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Additionally the OMBC is charged with enforcement of laws proscribing unlicensed osteopathic medical practice.

Our Mission

To protect the public by requiring competency, accountability and integrity in the safe practice of medicine by osteopathic physicians and surgeons

Our Vision

The Osteopathic Medical Board upholds the highest standards of quality and care by our physicians; continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

Our Values

- Consumer Protection
- Professionalism
- Accountability
- Honesty & Trust
- Integrity & Transparency

Strategic Goals

Licensure

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

Enforcement

Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.

Outreach and Communication

Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

Regulation and Legislation

Monitor and uphold the law, and participate in the regulatory and legislative process.

Board Administration

Build an excellent organization through proper Board governance, effective leadership, and responsible management.

Goal 1: Licensure

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

- 1.1 Implement online application processing to reduce cycle times and improve stakeholder service.
- 1.2 Create an online renewal process to reduce cycle times and improve stakeholder service.
- 1.3 Enhance customer service by implementing telephone procedures, seeking improvement of the phone-tree configuration, and requiring additional customer-focused staff training.

Goal 2: Enforcement

Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.

- 2.1 Review and assign a time limit for expert reviewer contract processing to reduce response times to cases.
- 2.2 Recruit additional expert reviewers to increase efficiency of case review and leverage the resources of subject matter experts with specific background in osteopathic medicine.
- 2.3 Hire one complaint intake staff member to eliminate backlog, improve customer service, and meet performance measures.¹
- 2.4 Hire one Enforcement Analyst to address excess workload providing enhanced customer service, and meeting performance measures targets.²
- 2.5 Utilize aging reports in BreEZe³ to bring the Board into compliance with statutes⁴.
- 2.6 Initiate a Budget Change Proposal (BCP) to fund travel for enforcement personnel to perform onsite check-ins of probationers.

¹ Objective 2.3 is contingent upon BCP approval for increase of office space, Goal Area 4, Objective 3


² Objective 2.4 contingent upon BCP approval for increase of office space, Goal Area 4, Objective 3

³ BreEZe is the DCA's new Licensing and Enforcement tracking system that will replace the Board's legacy systems.

⁴ Objective 2.5 is contingent upon the implementation of BreEZe release 2.

Goal 3: Outreach and Communication

Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

- 
- 3.1 Develop printed materials to provide consumer information regarding the differences between the D.O. and M.D. designation, philosophies of osteopathy, and Board contact information to increase awareness of the Board's role as a consumer protection entity.
 - 3.2 Produce and post instructional videos on initial application and renewal processes, common disciplinary actions, Board purpose, and a description of the osteopathic profession to help licensees and consumers understand the Board's functions.
 - 3.3 Investigate options to enhance the Web site by including sections on licensing and discipline, frequently asked questions (FAQs), and a quarterly newsletter to communicate Board activities to stakeholders.
 - 3.4 Develop a stakeholder email distribution list (or LISTSERV) to provide up-to-date information to stakeholders.
 - 3.5 Modify renewal form to include explanation of the benefits of providing an email address to the Board.
 - 3.6 Engage colleges, students, and professional organizations providing in-person speaking, webinar, and teleconference events to promote student and professional organization's relations with the Board.
 - 3.7 Reach out to professional organizations to request a hyperlink to the OMBC Web site to be added to the organizations' Web Site in order to inform the public that they are separate entities from the Board.
 - 3.8 Investigate the practicality of adding the Web site address to OMBC pocket license to increase awareness of the Board's resources.

Goal 4: Regulation and Legislation

Monitor and uphold the law, and participate in the regulatory and legislative process.

- 4.1 Review the need for, and if necessary hire a legislative analyst to keep the Board up-to-date on pending legislation and potential obstacles to patient safety.
- 4.2 Enhance legislative relationships to maintain contact with lawmakers regarding healthcare issues.
- 4.3 Implement a review of the OMBC's regulations (including telemedicine) to update or strengthen regulatory language providing clarity and consistency with professional standards.
- 4.4 Review the Cite and Fine Schedule and revise if necessary to provide for the application of appropriate levels of enforcement citations.
- 4.5 Change the Continuing Medical Education (CME) cycle to coincide with the license renewal cycle.
- 4.6 Assess feasibility to change CME requirement verification to an audit system to streamline the renewal process.
- 4.7 Create a licensee placard requirement for D.O. places of practice to increase consumer protection through awareness.

Goal 5: Board Administration

The Board builds an excellent organization through proper Board governance, effective leadership, and responsible management.

- 5.1 Coordinate with the DCA's Office of Information Services (OIS) to research the capability of altering the phone tree in order to improve customer service.
- 5.2 Analyze call log data (if available) to justify a BCP for additional staff to answer and route calls.
- 5.3 Relocate the OMBC office to house all program staff in a single location and effectively store physical files.
- 5.4 Create an Architectural Revolving Fund (ARF)⁵ account to fund office relocation.
- 5.5 Schedule, convene, and document monthly staff meetings to share challenges and accomplishments with the Board.
- 5.6 Establish a change management process for developing or modifying policies, procedures, program requests, and forms to implement changes in policies, laws and regulations.
- 5.7 Develop and disseminate an anonymous training needs assessment to staff to identify and provide training to fulfill gaps and program needs.
- 5.8 Provide information technology and customer service training to staff in order to increase technical troubleshooting skills and enhanced customer service.

⁵ http://www.dof.ca.gov/accounting/manual_of_state_funds/index/tabs/documents/0602.pdf The fund is a depository of money appropriated for the construction, alteration, repair, and improvement of state buildings.

Strategic Planning Process

To understand the environment in which the Board operates and identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- Interviews conducted with eight members of the Board, the Executive Director, the Assistant Executive Director and the staff medical advisor completed during the month of September 2015 to assess the challenges and opportunities the Board is currently facing or will face in the upcoming years.
- One focus group with Board staff on September 3, 2015 to identify the strengths and weaknesses of the Board from an internal perspective. Seven Board staff participated.
- An online survey sent to 3,899 randomly selected external Board stakeholders in September 2015 to identify the strengths and weaknesses of the Board from an external perspective. 236 stakeholders completed the survey.

The most significant themes and trends identified from the environmental scan were discussed by the Board executive team during a strategic planning session facilitated by SOLID on October 30, 2015. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2016–2019 strategic plan.

Osteopathic Medical Board of California
<http://www.ombc.ca.gov/>

1300 National Drive, Suite #150
Sacramento, CA 95834-1991
(916) 928-8390 Office
(916) 928-8392 Fax
E-mail: osteopathic@dca.ca.gov

Prepared by:



Department of Consumer Affairs
1747 N. Market Blvd., Suite 270
Sacramento, CA 95834

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Osteopathic Medical Board of California in September and October 2015. Subsequent amendments may have been made after Board adoption of this plan.



TABLE 5

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TABLE 6

Protecting
Advocating
Serving

The FSMB: At Your Service

Jerry G. Landau, JD
Board Member, Federation of State Medical Boards

Lisa A. Robin
Chief Advocacy Officer

Osteopathic Medical Board of California
January 21, 2016



California Osteopathic —Then and Now...

- ❑ 1922 – The Osteopathic Medical Board of California (OMBC) was established with the passage of the Osteopathic Initiative Act
- ❑ 1991 –Initially comprised of five osteopathic physicians appointed by the governor, two public members were added
- ❑ 2002 – The OMBC volunteered to be included under the umbrella of the CA Department of Consumer Affairs
- ❑ 6,709 actively licensed osteopathic physicians (2014)
- ❑ Accepts FCVS package – profiles sent during 2013-2014 (159); sent to date in 2015 (64)

Topics today

- **Background - who we are**
- **Services and Educational Offerings**
- **Advocacy Update**
 - Policy Initiatives 2015
 - License Portability / Interstate Medical Licensure Compact
 - Marijuana in Patient Care and Management
 - TELE-MED Act

Background - who we are

Greetings from the FSMB Board of Directors



FSMB Offices in Euless, TX and Washington DC



- **FSMB established in 1912**
- **Non-profit 501c6 organization with approximately 185+staff**

FSMB Vision and Mission 2015-2020

Vision

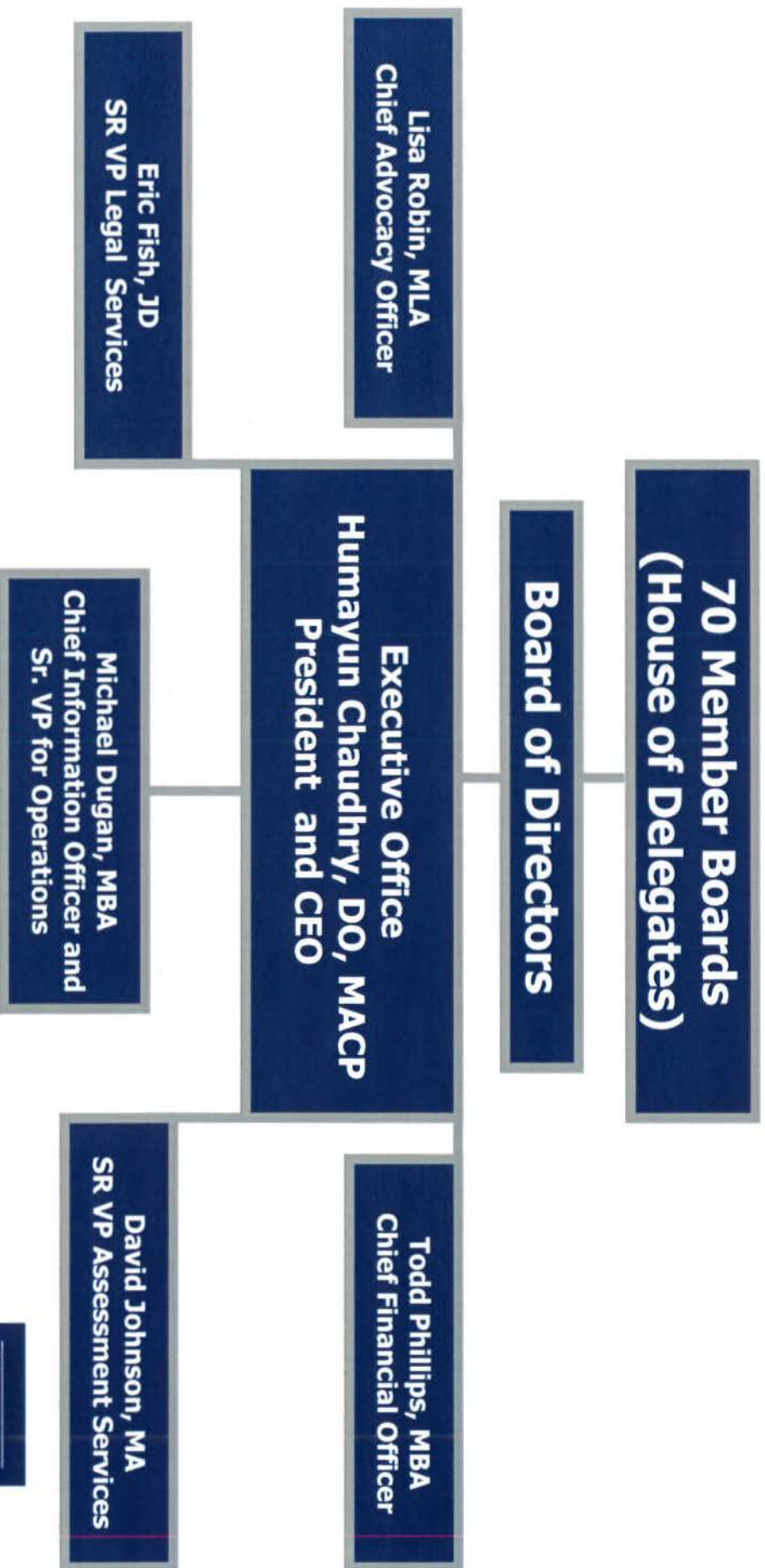
The FSMB is an innovative leader, helping state medical boards shape the future of medical regulation by protecting the public and promoting quality health care.

Mission

The FSMB serves as the voice for state medical boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices.



FSMB Organizational Chart



New Five-Year Strategic Plan

- Approved by the 2015 House of Delegates as presented in the Report of the Special Committee on Strategic Positioning
- Committee was made up of highly qualified and visionary individuals who contributed their time and expertise to review the continued relevance of the 2010-2015 Strategic Plan and help us map out the future direction of the FSMB
- Members included representatives from the FSMB BOD, Member Boards, AIM, AMA, AOA, NBME and NCCPA



2015-2020 Strategic Goals

Data and Research Services:

Expand the FSMB's data-sharing and research capabilities while providing valuable information to state medical boards, the public and other stakeholders.

State Medical Board Support:

Serve state medical boards by promoting best practices and providing policies, advocacy, and other resources that add to their effectiveness.

Advocacy and Policy Leadership:

Strengthen the viability of state-based medical regulation in a changing, globally-connected health care environment.

Organizational Strength and Excellence:

Enhance the FSMB's organizational vitality and adaptability in an environment of change and strengthen its financial resources in support of its mission.

Education:

Provide educational tools and resources that enhance the quality of medical regulation and raise public awareness of the vital role of state medical boards.

Collaboration:

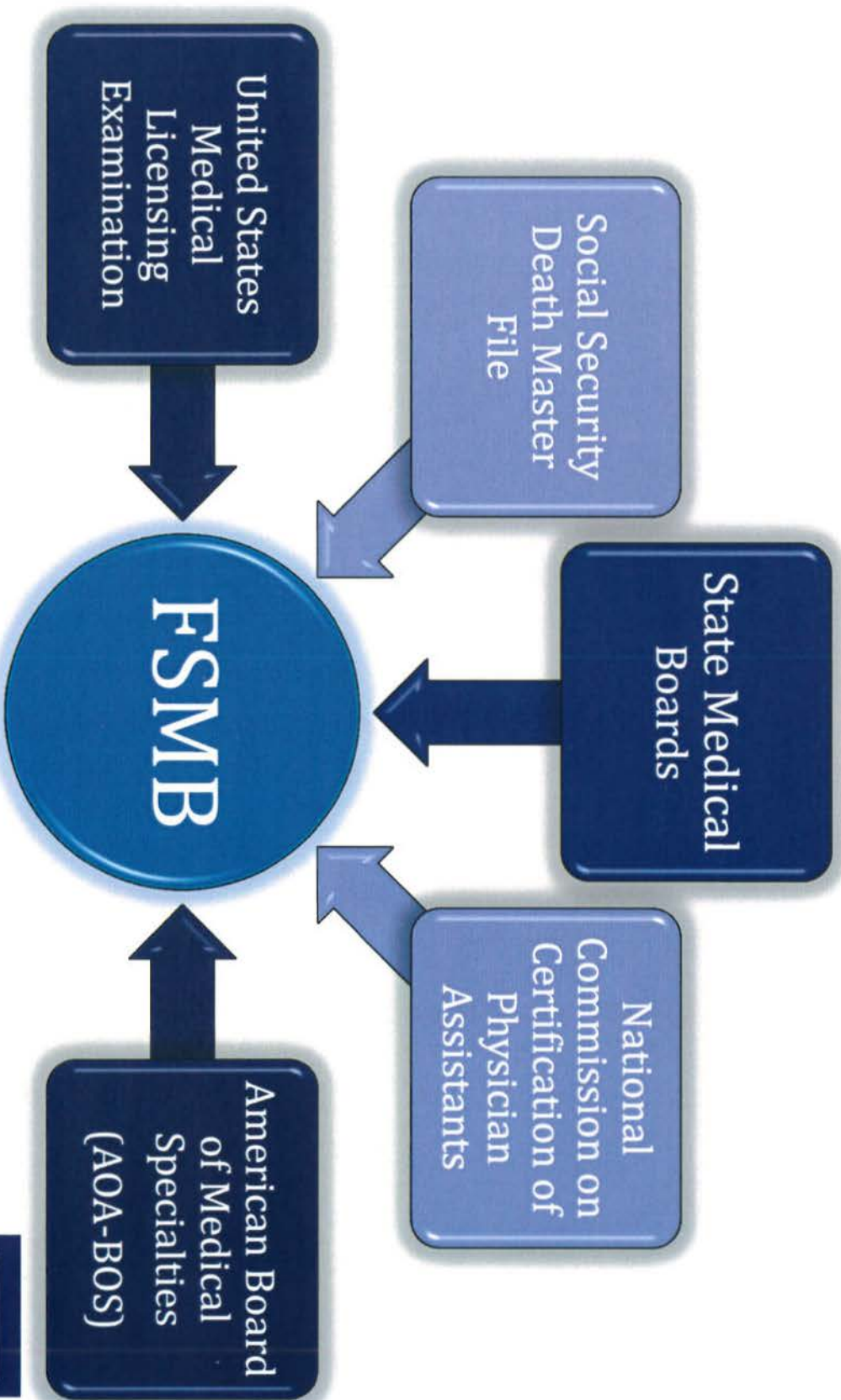
Strengthen participation and engagement among state medical boards and expand collaborative relationships with national and international organizations.

2014 Physician Census

- **There are roughly 916,264 physicians with an active state medical license**
 - This is a net increase of 38,070 (4%) from 2012
- **A net of 12,168 physicians were added to the nation's physician roster each year**
- **Average age is now older and predominantly male, but increasingly female at entry level**
- **IMGs numbers, particularly from the Caribbean are growing at a rapid rate**

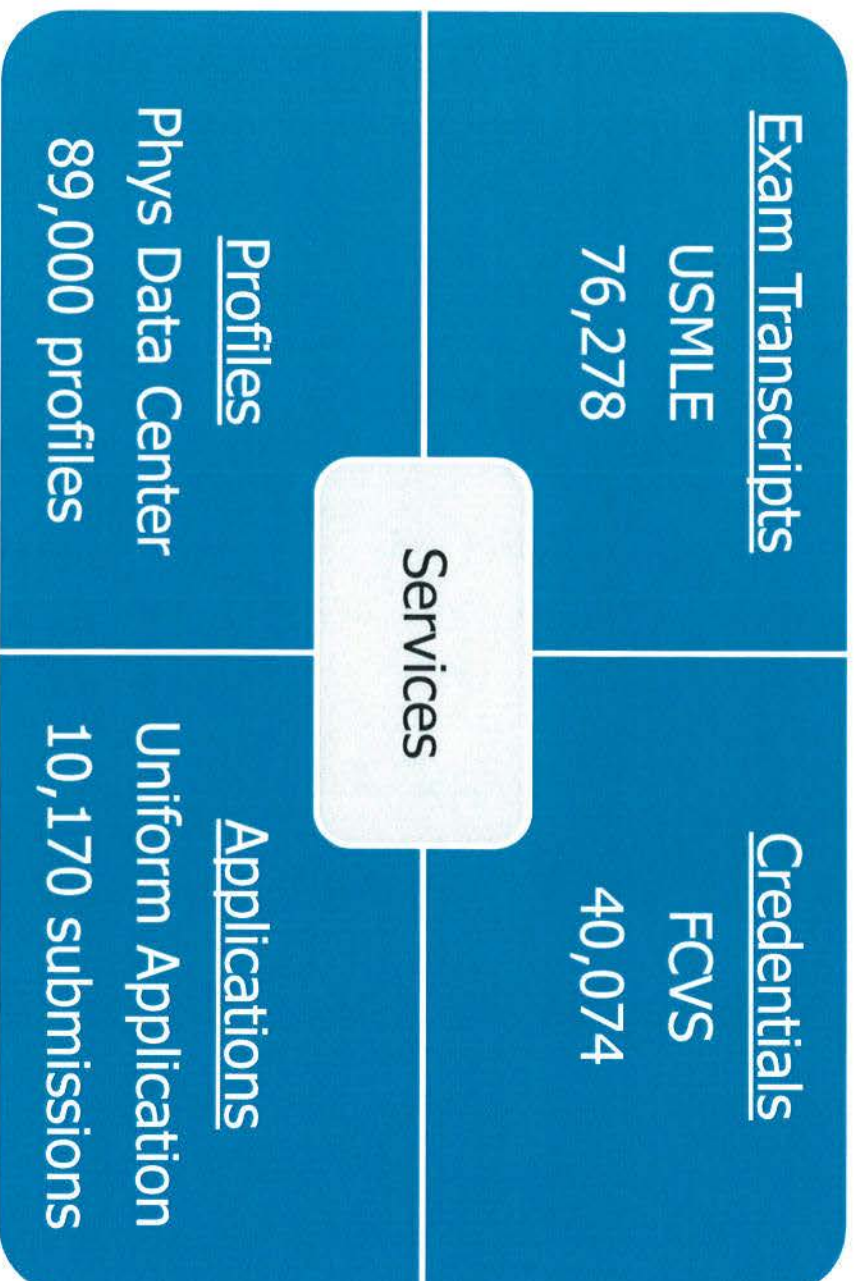
Services and Educational Offerings

FSMB Information Sources





2014 Service Volumes



994 roster files - 32.5 million records

DocInfo



docInfo Physician Information Made Easy

- Where is my physician licensed?
- Where did my physician go to medical school?
- Has my physician been disciplined by a licensing board?

Physician Name:

All States

Start Search



What is a State Medical Board?

State Medical Boards (SMBs) serve the public by regulating physicians.

Learn More...

What is FSMB?

FSMB Supports State Medical Boards in their mission of public protection.

Learn More...

Copyright ©2001-2015 by the Federation of State Medical Boards of the United States, Inc., docinfo@fsmb.org

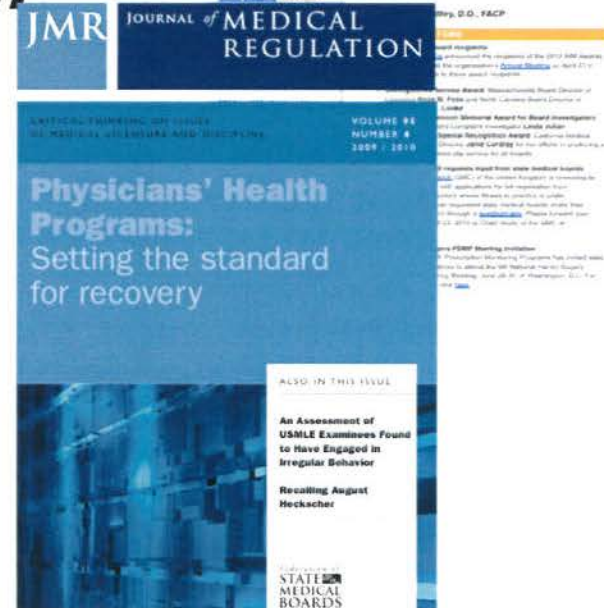
FSMB Educational Offerings

- **Annual Meeting**
 - April 28-30, 2016 in San Diego
- **Annual Educational Series**
- **Board Attorney Workshops**
 - (Fall and Spring)
- **New Executives Orientation**
- **Monthly Roundtable**
- **On-line CME Programs**



Communications via Multiple Channels for Multiple Audiences

- **FSMB Annual Report**
- ***Journal of Medical Regulation***
- ***Newsline***
- ***FSMB eNews***
- **Website – www.fsmb.org**
- **Advocacy Newsletter**
- **Twitter - @TheFSMB**



Advocacy Update

- Policy Initiatives 2015
- License Portability / Interstate Medical Licensure Compact
- Marijuana in Patient Care and Management
- TELE-MED Act

Policy Initiatives 2015

- **Ethics and Professionalism Committee** – White papers on “practice drift” and “duty to report”. Addressing physician burn out.
- **Workgroup on Telemedicine Consultation** – Report on state regulatory approaches to remote physician-to-physician consultations
- **Workgroup on Marijuana and Medical Regulation** – Model policy guidelines regarding the use of medical marijuana in patient care, including a statement regarding the regulation of licensees who use marijuana recreationally or for medical reasons.
- **Workgroup on Team-based Regulation** – Identify best state-based practices and recommend regulatory strategies for achieving greater cooperation and collaboration among health professional boards in carrying out their shared responsibility to protect the public

Interstate Medical Licensure Compact

Interstate Compact HOD Directive in 2013

- FSMB House of Delegates unanimously adopted:

Resolution 13-5: Development of an Interstate Compact to Expedite Medical Licensure and Facilitate Multi-State Practice (HOD 2013)

- Directed FSMB to study the feasibility of an Interstate Compact model to facilitate license portability

Interstate Compact Key Principles

- Participation voluntary for both physicians and state boards of medicine
- Creates another pathway for licensure, but does not otherwise change a state's existing *Medical Practice Act*
- Regulatory authority remains with the participating state medical boards
- Practice of medicine occurs where the patient is located

Interstate Compact Key Principles

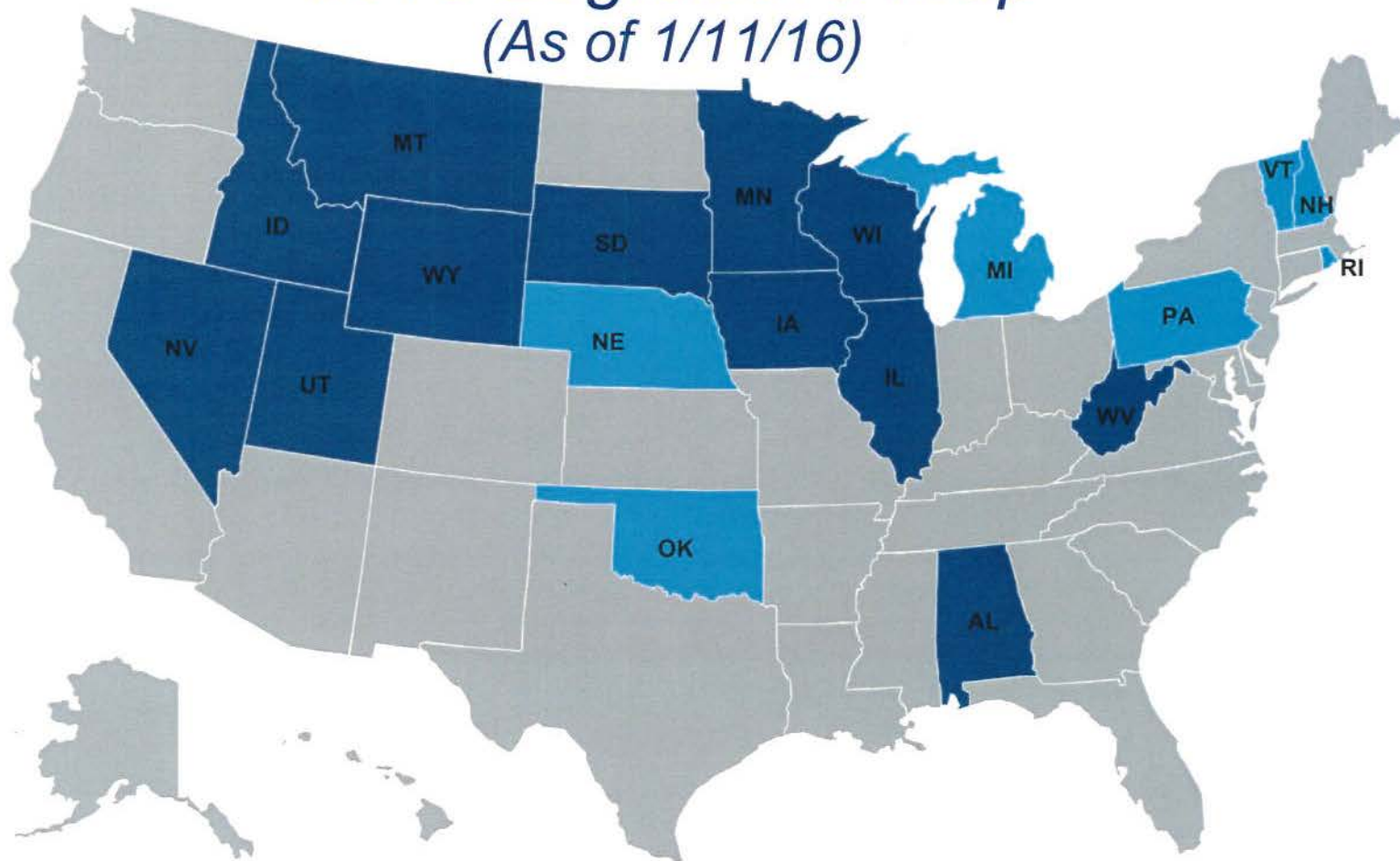
- Compliance with the statutes, rules and regulations of state where patient located
- Improved sharing of complaint and investigative information between medical boards
- The license to practice medicine may be revoked by member state once issued
- Ability of boards to assess fees will not be compromised

Compact Eligibility Requirements

- **Estimated 80% of physicians could be eligible**
- **Must meet the following requirements:**
 - Successfully passed USMLE or COMLEX-USA
 - Successful completion of a GME program
 - Specialty certification or a time-unlimited certificate
 - No discipline on any state medical license
 - No discipline related to controlled substances
 - Not under investigation by any agency



Interstate Medical Licensure Compact 2016 Legislative Map (As of 1/11/16)



More introductions coming!



Interstate Medical Licensure Compact Commission

After the Compact became effective with at least 7 states enacting the legislation, a Compact Commission was formed

- Develop requirements for the Interstate Compact's technical infrastructure, provide oversight and administration, and promote interstate cooperation, ultimately ensuring that the Compact facilitates expedited physician licensure
- Each Compact Member state has 2 Commissioners
- Met for the first time on October 27-28 in Chicago
- Second meeting held on December 18 in Salt Lake City



Interstate Medical Licensure Compact Commission

Commission has adopted temporary bylaws, appointed committees, and elected officers:

Chair: Ian Marquand (Montana)

Vice Chair: Jon Thomas, MD (Minnesota)

Secretary: Diana Shepard, CMBE (West Virginia Osteopathic)

Treasurer: Brian Zachariah, MD (Illinois)

Next Commission Meeting is March 31-April 1, 2016 in
Minneapolis, MN



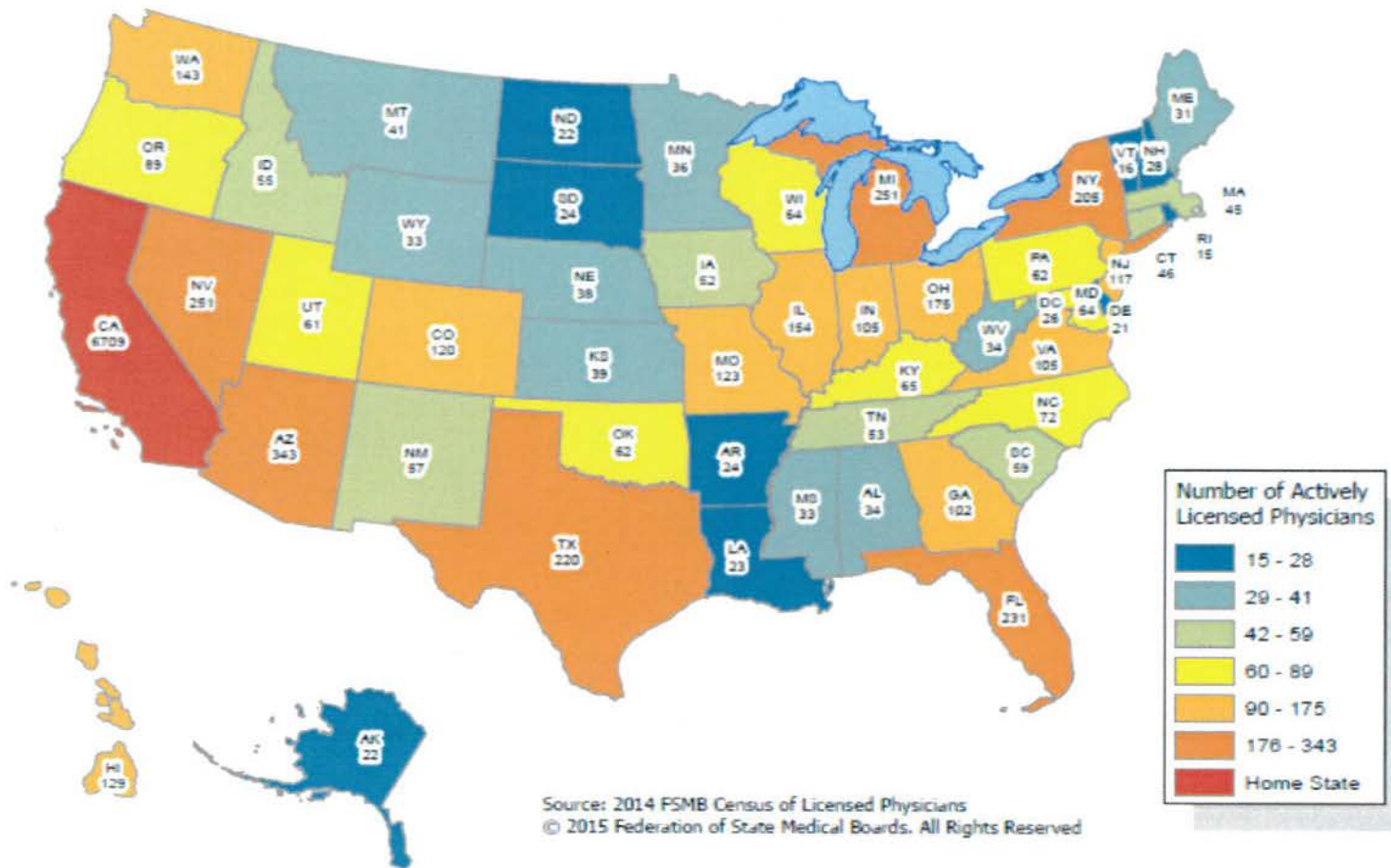
Interstate Medical Licensure Compact

Funding:

- One year funding for \$225K to establish the Commission July 1, 2015-June 30, 2016 – *HRSA License Portability Grant Program*
- FSMB Foundation issued grant opportunity for \$60,000 to support boards readiness for implementation
- Three-year grant opportunity \$250K annually under *HRSA License Portability Grant Program* (submitted) to support fully operationalizing the Compact and the expedited licensure process



Osteopathic Medical Board of California Actively Licensed Physicians with Licenses in Other States



Journal of the American Medical Association

New England Journal of Medicine



THE NEW ENGLAND JOURNAL OF MEDICINE

Perspective
APRIL 23, 2013

Improving Access and Mobility — The Interstate Medical Licensure Compact

Hunter J. Clardy, D.O., Lisa A. Rubin, M.L.A., E.K.M. Fish, D., David H. Bell, D.O., and J. David Offord, M.D.

Interstate compacts — regional agreements limiting practicing jurisdictions that have 174 legal states of both internet and students law — allow states to address issues of mutual regulatory or administrative nature without state boards have state need to understand of their federal government's authority or providing assistance to meet it. It now of the federal structure of government. Such compacts have been used widely since the knowledge of the United States to create boundary between and state government. Existing physicians ability to practice across state lines is not

Ensuring Competency and Professionalism Through State Medical Licensing

The primary mission of state medical boards in the United States is to protect the public interest by ensuring that the practitioners who practice medicine in their state are qualified to do so. This is done through a variety of means, including licensure, continuing education, and disciplinary actions. The American Medical Association (AMA) has long been a strong advocate for the public interest in the practice of medicine. In 1961, the AMA's Council on Medical Education and Practice (CMEP) was established to oversee the medical education and training of physicians. CMEP's primary focus is on ensuring that medical education and training meet the highest standards of quality and integrity. In 2011, a total of 4024 physicians received disciplinary actions for licensure violations, suspension or revocation, or impairment of licensure. The AMA has been instrumental in the development of the Interstate Medical Licensure Compact (IMLC), which allows physicians to practice in multiple states without the need to obtain separate licenses in each state. The IMLC is a landmark achievement that will significantly improve access to care for patients and reduce the burden on physicians. The IMLC is a voluntary compact that is currently in effect in 17 states. The IMLC is designed to ensure that all participating states have the same standards for licensure and discipline. The IMLC is a significant step towards ensuring that all patients have access to the highest quality of care, regardless of where they live. The IMLC is a testament to the commitment of the medical profession to the public interest and to the highest standards of quality and integrity. The IMLC is a significant achievement that will significantly improve access to care for patients and reduce the burden on physicians. The IMLC is a voluntary compact that is currently in effect in 17 states. The IMLC is designed to ensure that all participating states have the same standards for licensure and discipline. The IMLC is a significant step towards ensuring that all patients have access to the highest quality of care, regardless of where they live. The IMLC is a testament to the commitment of the medical profession to the public interest and to the highest standards of quality and integrity.

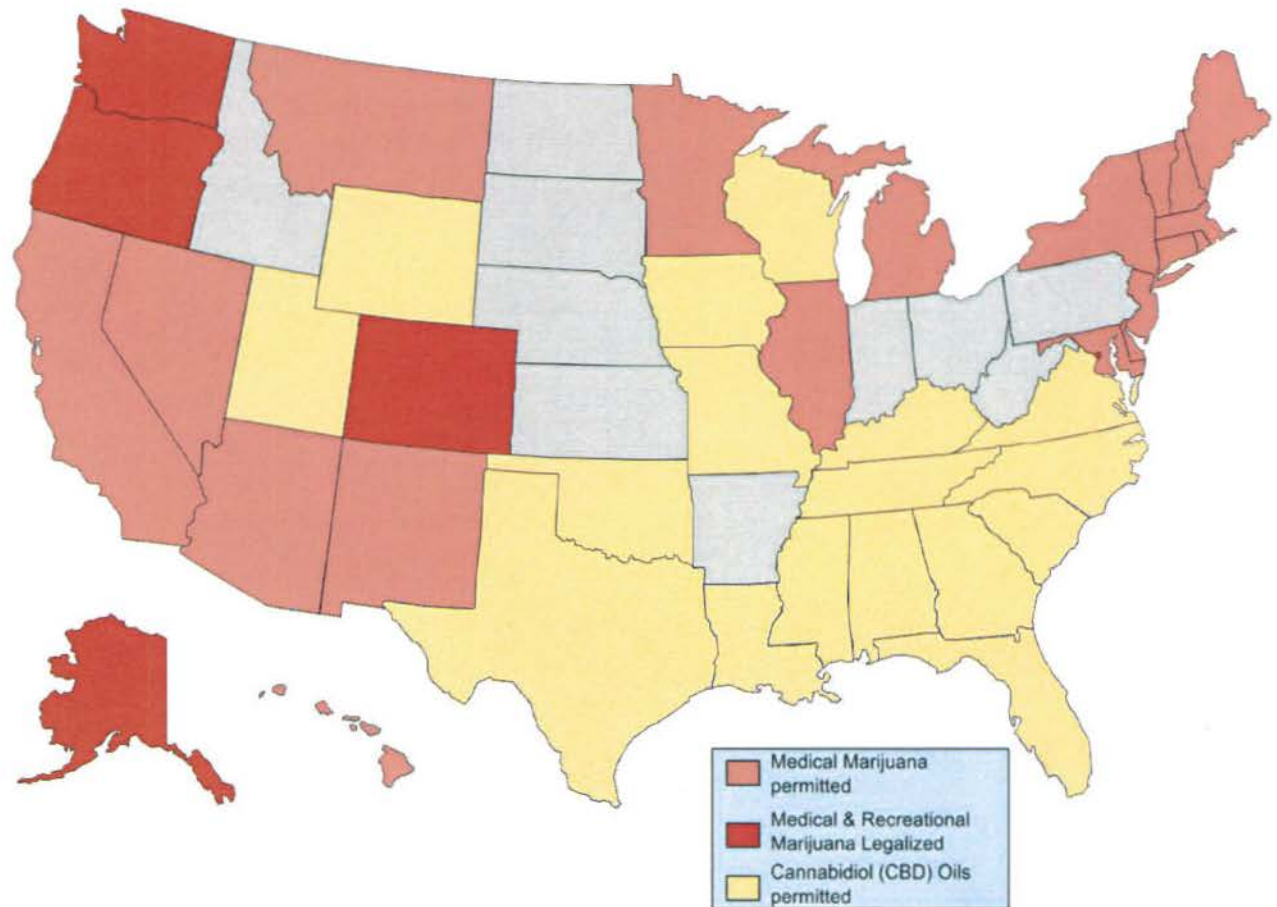
State medical boards, which also regulate physician assistants and nurse practitioners, have been among the first entities to gain statutory recognition and jurisdiction over the practice of medicine in the United States. The legal history of the states was broadly divided into the North American and the Commonwealth under the bill of rights in 1791, and government officials participated in the historical evolution of the profession. State medical boards focused on providing so-called quality and assurance from practicing medical professionals. Some have developed or implemented new licensure and regulatory requirements for medical education and training, professional high school education standards, and licensure (beginning in 1900). The passage of 1791 granted physicians and nurses the right to practice medicine and nursing in their respective states. The IMLC is a significant step towards ensuring that all patients have access to the highest quality of care, regardless of where they live. The IMLC is a testament to the commitment of the medical profession to the public interest and to the highest standards of quality and integrity.



Marijuana in Patient Care and Management

State Regulatory Landscape

- 23 States, D.C., and Guam regulate medical marijuana
- Four (4) States & D.C. have also legalized the recreational use of marijuana
- 17 states allow “Low THC - High CBD” marijuana products



2015 State Legislative Summary

- **275+ bills introduced or drafted regarding marijuana**
 - 50+ bills enacted
 - Arizona, Colorado, Delaware, Dist. of Columbia, Georgia, Illinois, Hawaii, Louisiana, Maryland, Minnesota, Nevada, New Hampshire, Oregon, Texas, Virginia, and Washington
 - Related to permitting CBD oils, reimbursement, expansion of definitions, supply shortage, dispensaries, and discrimination
 - Main focus of introduced legislation:
 - Establishing Medical Marijuana Acts (16 states)
 - AL, FL, GA, IN, KS, KY, LA, MO, MS, NC, NE, ND, OH, SC, VA, WV
 - Dispensaries
 - Registration & Regulation
 - Cultivation
 - Debilitating Medical Conditions/PTSD



FSMB Workgroup on Marijuana and Medical Regulation

- **Goal:** Develop model policy guidelines regarding the recommendation of marijuana in patient care, as well as develop a position statement regarding the regulation of licensees who use marijuana
- **Draft guidelines** were sent to Boards for comment on December 2 and the Workgroup is awaiting response
- **Final product** to be presented to the FSMB House of Delegates in April 2016

Marijuana and Medical Regulation

Proposed Guidelines

– ***Physician-Patient Relationship:***

- document that an appropriate physician-patient relationship has been established
- physicians should not authorize marijuana for themselves

– ***Evaluation:***

- documented in-person medical evaluation and collection of relevant clinical history

– ***Informed consent:***

- *discussion of risks and benefits, variability, effects*

Marijuana and Medical Regulation

Proposed Guidelines

- ***Qualifying conditions***
 - appropriateness evaluated against current standards
- ***Ongoing Monitoring and Adapting the Treatment Plan***
 - PDMP check; registry where available
 - regular assessment of patient's response to the use of marijuana and overall health and level of function
- ***Consultation and referral***
 - History of substance abuse or mental health disorder
- ***Accurate and complete medical record***
- ***Conflicts of interest***
 - Free of financial or other interest in dispensary or cultivation center

TELE-MED Act

TELEmedicine for MEDicare (TELE-MED) Act

- In July 2015, U.S. Reps. Nunes (R-CA-22) and Pallone (D-NJ-6), along with U.S. Senators Hirono (D-HI) and Ernst (R-IA), introduced *The TELEmedicine for MEDicare Act of 2015* (HR 3081 and S 1778)
- Would allow a physician to treat Medicare beneficiaries via telemedicine in another state without having to be licensed where the patient is located, drastically overhauling the current licensure system for physicians participating in Medicare
- The FSMB opposes this legislation as it would significantly compromise boards' ability to protect the public
- The FSMB urged Member Boards to write letters of opposition to Congressional delegation
- FSMB met with key Members and Committees, as well as partnered with stakeholder coalition to oppose the bill



We want you!

- **Elected Positions for Board of Directors and Nominating Committee**
 - For more information, see “Become a Leader” and “Leadership FAQ” at <http://www.fsmb.org/about-fsmb>
- **Appointments to Other Committees/Workgroups**
 - For more information, see “FSMB Committees” at <http://www.fsmb.org/about-fsmb>
- **USMLE** – Contact David Johnson at djohnson@fsmb.org
 - Item Writing and Test Development
 - Standard Setting
 - Governance Committees
 - Quality Assurance Program
 - Special Committees and Projects



Protecting
Advocating
Serving

Thank you!



SB 643

Medical Marijuana



California
LEGISLATIVE INFORMATION

SB-643 Medical marijuana. (2015-2016)

Senate Bill No. 643

CHAPTER 719

An act to amend Sections 144, 2220.05, 2241.5, and 2242.1 of, to add Sections 19302.1, 19319, 19320, 19322, 19323, 19324, and 19325 to, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19335), Article 8 (commencing with Section 19337), and Article 11 (commencing with Section 19348) to Chapter 3.5 of Division 8 of, the Business and Professions Code, relating to medical marijuana.

[Approved by Governor October 09, 2015. Filed with Secretary of State October 09, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 643, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would, among other things, set forth standards for a physician and surgeon prescribing medical cannabis and require the Medical Board of California to prioritize its investigative and prosecutorial resources to identify and discipline physicians and surgeons that have repeatedly recommended excessive cannabis to patients for medical purposes or repeatedly recommended cannabis to patients for medical purposes without a good faith examination, as specified. The bill would require the Bureau of Medical Marijuana to require an applicant to furnish a full set of fingerprints for the purposes of conducting criminal history record checks. The bill would prohibit a physician and surgeon who recommends cannabis to a patient for a medical purpose from accepting, soliciting, or offering any form of remuneration from a facility licensed under the Medical Marijuana Regulation and Safety Act. The bill would make a violation of this prohibition a misdemeanor, and by creating a new crime, this bill would impose a state-mandated local program.

This bill would require the Governor, under the Medical Marijuana Regulation and Safety Act, to appoint, subject to confirmation by the Senate, a chief of the Bureau of Medical Marijuana Regulation. The act would require the Department of Consumer Affairs to have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation and storage, unrelated to manufacturing, of medical marijuana, and would authorize the department to collect fees for its regulatory activities and impose specified duties on this department in this regard. The act would require the Department of Food and Agriculture to administer the provisions of the act related to, and associated with, the cultivation, and transportation of, medical cannabis and would impose specified duties on this department in this regard. The act would require the State Department of Public Health to administer the provisions of the act related to, and associated with, the

manufacturing and testing of medical cannabis and would impose specified duties on this department in this regard.

This bill would authorize counties to impose a tax upon specified cannabis-related activity.

This bill would require an applicant for a state license pursuant to the act to provide a statement signed by the applicant under penalty of perjury, thereby changing the scope of a crime and imposing a state-mandated local program.

This bill would set forth standards for the licensed cultivation of medical cannabis, including, but not limited to, establishing duties relating to the environmental impact of cannabis and cannabis products. The bill would also establish state cultivator license types, as specified.

(2) This bill would provide that its provisions are severable.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meeting of public bodies or the writings of public bodies or the writings of public officials and agencies be adopted with finding demonstrating the interest protected by the limitation and the need for protecting that interest. The bill would make legislative findings to that effect.

(5) The bill would become operative only if AB 266 and AB 243 of the 2015-16 Regular Session are enacted and take effect on or before January 1, 2016.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.

- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Marijuana Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 2. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

- (1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.
- (2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.
- (3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of proscribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon proscribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.
- (4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.
- (5) Sexual misconduct with one or more patients during a course of treatment or an examination.
- (6) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 3. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of an addict.

(3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 4. Section 2242.1 of the Business and Professions Code is amended to read:

2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars (\$25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

SEC. 5. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Cannabis

2525. (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

2525.3. Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

2525.4. It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

2525.5. (a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

(b) Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

SEC. 6. Section 19302.1 is added to the Business and Professions Code, to read:

19302.1. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

(c) The director may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations.

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of medical marijuana within the state and to collect fees in connection with activities the bureau regulates. The bureau may create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this chapter. The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing and testing of medical cannabis.

SEC. 7. Section 19319 is added to the Business and Professions Code, to read:

19319. (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this chapter.

SEC. 8. Section 19320 is added to the Business and Professions Code, to read:

19320. (a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization. Local authorities shall notify the bureau upon revocation of a local license. The bureau shall inform relevant licensing authorities.

(c) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

SEC. 9. Section 19322 is added to the Business and Professions Code, to read:

19322. (a) A person or entity shall not submit an application for a state license issued by the department pursuant to this chapter unless that person or entity has received a license, permit, or authorization by a local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

(1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

(C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, or dispensing commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, or dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant's seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

(8) Provide any other information required by the licensing authority.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) Inventory procedures.

(5) Quality control procedures.

SEC. 10. Section 19323 is added to the Business and Professions Code, to read:

19323. (a) The licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) A local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license. The licensing authority shall have the authority to collect reasonable costs, as determined by the licensing authority, for investigation from the licensee or applicant.

(4) The applicant has failed to provide information required by the licensing authority.

(5) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(6) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(10) For an applicant seeking licensure as a testing laboratory, register with the State Department of Public Health and provide any information required by the State Department of Public Health.

(11) Pay all applicable fees required for licensure by the licensing authority.

(b) For applicants seeking licensure to cultivate, distribute, or manufacture medical cannabis, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

- (1) Cultivation.
- (2) Extraction and infusion methods.
- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.

SEC. 10. Section 19323 is added to the Business and Professions Code, to read:

19323. (a) The licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) A local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license. The licensing authority shall have the authority to collect reasonable costs, as determined by the licensing authority, for investigation from the licensee or applicant.

(4) The applicant has failed to provide information required by the licensing authority.

(5) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(6) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(7) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(8) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.

(9) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

SEC. 11. Section 19324 is added to the Business and Professions Code, to read:

19324. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

SEC. 12. Section 19325 is added to the Business and Professions Code, to read:

19325. An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

SEC. 13. Article 6 (commencing with Section 19331) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 6. Licensed Cultivation Sites

19331. The Legislature finds and declares all of the following:

(a) The United States Environmental Protection Agency has not established appropriate pesticide tolerances for, or permitted the registration and lawful use of, pesticides on cannabis crops intended for human consumption pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(b) The use of pesticides is not adequately regulated due to the omissions in federal law, and cannabis cultivated in California for California patients can and often does contain pesticide residues.

(c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis cultivation sites are actually safe for use on cannabis intended for human consumption.

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and

discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

19332.5. (a) Not later than January 1, 2020, the Department of Food and Agriculture in conjunction with the bureau, shall make available a certified organic designation and organic certification program for medical marijuana, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(b) The bureau may establish appellations of origin for marijuana grown in California.

(c) It is unlawful for medical marijuana to be marketed, labeled, or sold as grown in a California county when the medical marijuana was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical marijuana products unless the product was grown in that county.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 14. Article 7.5 (commencing with Section 19335) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 7.6. Unique Identifier and Track and Trace Program

19335. (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical marijuana items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(b) (1) The Department of Food and Agriculture shall create an electronic database containing the electronic shipping manifests which shall include, but not be limited to, the following information:

(A) The quantity, or weight, and variety of products shipped.

(B) The estimated times of departure and arrival.

(C) The quantity, or weight, and variety of products received.

(D) The actual time of departure and arrival.

(E) A categorization of the product.

(F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including cultivators, transporters, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licenses under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture.

(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.

(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this section are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

19336. (a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

SEC. 15. Article 8 (commencing with Section 19337) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 8. Licensed Transporters

19337. (a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.

(b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.

(2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.

(c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

(d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.

(e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

(f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the licensee.

19338. (a) This chapter shall not be construed to authorize or permit a licensee to transport or cause to be transported cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with this chapter.

SEC. 16. Article 11 (commencing with Section 19348) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 11. Taxation

19348. (a) (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SEC. 17. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 18. The Legislature finds and declares that Section 14 of this act, which adds Section 19335 to the Business and Professions Code, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 20. This act shall become operative only if Assembly Bill 266 and Assembly Bill 243 of the 2015-16 Session are enacted and take effect on or before January 1, 2016.

TABLE 7

Licensing & Staffing

Board Meeting – January 21, 2016

License Statistics

At the last Board meeting, staff was asked to provide a report on the age make-up of the current California DO population.

Attached is the report on the Age Demographics of Osteopathic Physicians holding a California license.

37% of the DO population in California is under the age of 40.
31% are between the ages of 40-49.
17% are between the ages of 50-59
12% are between the ages of 60-69
3% are over 70.

Additionally, the Board requested a report on the percentage of the increase in number of California DO's over the past ten years.

Increase in the number of California DO's in the past ten years

January 2006	January 2016	Percentage of Increase
4,389	7,849	78%

Increase in the number of California DO's in the past two years

January 2014	January 2016	Percentage of Increase
6,796	7,849	15%

Total number of Osteopathic Physicians' and Surgeons' license applications received in 2014 was 626; total number of applications received in 2015 was 725, which is a 14% increase in number of applications over the past year.

Staffing

OMBC's number of staff still remains at 11.5. Interviews were conducted in October and November for the cashiering position. We made our selection and Ms. J. Patrice Powe joined are staff effective December 2, 2015. With the addition of Ms. Powe, we have no vacancies at this time.

Budget

Attached are our current Analysis of Fund Condition report and our current Expenditure Projection Report.

In our Fund Condition Report, under the Budget Year 2016/2017, you will notice a huge increase in our Revenue Projection. This includes the General Fund loan repayment of \$1,350,000.

Our current Expenditure Projection shows our spending at the end of December 2015 at 47% of our budget. Notwithstanding any unforeseen expenses, the Board's budget should take us through the end of this fiscal year.

Our two Budget Change Proposals have been approved for fiscal year 16/17. We have been authorized an increase of \$50,000 for our rent, which will allow us to begin looking for a larger office space starting in July 2016. We have also been authorized an increase in our personnel fund of \$175,000, to cover the cost of the three staff we were authorized to hire in FY 14/15. Copies of these Budget Change Proposals are included in this packet and can also be found on the Department of Finance's website under the "Governor's Budget Change Proposals.

CURES (Controlled Substances Utilization Review and Evaluation System)

Included in this packet are two documents, the CURES 2.0 Update and CURES 2.0 Frequently Asked Questions. These documents can be found on the Department of Justice website. There is a link to their website on the Osteopathic Medical Board website. Mr. Michael Small and Deputy Attorney General Robert Sumner from Department of justice will be presenting an update on CURES 2.0.

Enforcement

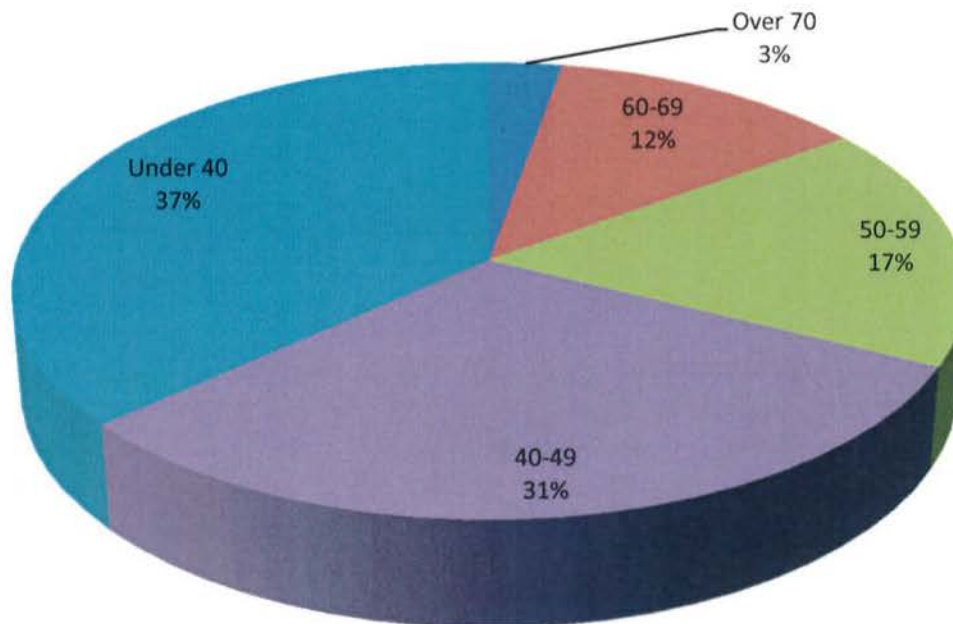
Mr. Corey Sparks, Lead Enforcement Analyst/Probation Monitor will provide the enforcement update report, copy of which is included in this packet.

Report Date: 1/13/2016

Age of DOs		%
Over 70	222	3%
60-69	963	12%
50-59	1,357	17%
40-49	2,429	31%
Under 40	2,872	37%
Total Lic	7,843	100%

Maximum Age	93
Minimum Age	26
Average Age	46

Age Demographics of CA DOs



Budget

OSTEOPATHIC MEDICAL BOARD - 0264
BUDGET REPORT
FY 2015-16 EXPENDITURE PROJECTION
Dec-2015

FISCAL MONTH 6

OBJECT DESCRIPTION	FY 2014-15		FY 2015-16				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES 12/30/2014	BUDGET STONE 2014-15	CURRENT YEAR EXPENDITURES 12/30/2015	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	541,588	260,223	531,000	279,301	53%	558,602	(27,602)
Statutory Exempt (EO)	82,728	40,464	76,000	41,678	55%	83,356	(7,356)
Temp Help Reg (Seasonals)	3,240	16,940	0	500	0%	1,000	(1,000)
Board Member Per Diem	500	0	3,000	200	7%	2,700	300
Committee Members (DEC)	0	0	0	0		0	0
Overtime	0	0	0	0		0	0
Staff Benefits	299,428	150,935	314,000	155,883	50%	311,766	2,234
TOTALS, PERSONNEL SVC	927,484	468,562	924,000	477,562	52%	957,424	(33,424)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	14,474	7,813	112,000	2,717	2%	5,434	106,566
Fingerprint Reports	33,497	15,024	25,000	15,484	62%	30,968	(5,968)
Minor Equipment	0	0	2,000	0	0%	0	2,000
Printing	9,917	7,222	5,000	6,724	134%	13,448	(8,448)
Communication	4,901	1,512	16,000	1,816	11%	3,632	12,368
Postage	15,866	15,717	6,000	1,010	17%	2,020	3,980
Travel In State	7,126	3,396	14,000	3,659	26%	7,678	6,322
Travel, Out-of-State	0	0	0	0		0	0
Training	762	762	5,000	0	0%	1,000	4,000
Facilities Operations	69,455	67,606	60,000	60,953	102%	60,953	(953)
Utilities	0	0	0	0		0	0
C & P Services - Interdept.	4,000	44,000	7,000	0	0%	0	7,000
C & P Services - External	53,343	50,410	77,000	82,404	107%	82,404	(5,404)
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	98,171	48,040	159,000	78,500	49%	159,000	0
Admin/Exec	96,016	46,192	139,000	67,500	49%	139,000	0
DOI-ProRata Internal	2,686	1,446	4,000	2,000	50%	4,000	0
Public Affairs Office	3,125	1,412	9,000	2,000	22%	9,000	0
PCSD Pro Rata	3,004	1,542	0	2,500	#DIV/0!	0	0
INTERAGENCY SERVICES:							
Consolidated Data Center	20,214	8,733	1,000	7,651	765%	15,302	(14,302)
DP Maintenance & Supply	1,583	1,583	4,000	0	0%	0	4,000
Central Admin Svc-ProRata	78,244	39,122	82,000	40,946	50%	82,000	0
EXAM EXPENSES:							
Exam Supplies	0	0	0	0		0	0
Exam Freight	0	0	0	0		0	0
Exam Site Rental	0	0	0	0		0	0
C/P Svcs-External Expert Administrative	0	0	0	0		0	0
C/P Svcs-External Expert Examiners	0	0	0	0		0	0
C/P Svcs-External Subject Matter	0	583	0	0		0	0
ENFORCEMENT:							
Attorney General	280,719	108,937	269,000	99,727	37%	199,454	69,546
Office Admin. Hearings	48,345	10,300	19,000	29,908	157%	59,816	(40,816)
Court Reporters	1,792	546	0	1,575		3,150	(3,150)
Evidence/Witness Fees	73,468	20,603	8,000	25,204	315%	50,408	(42,408)
Invest SVS - MBC ONL	98,332	47,895	94,000	32,984	35%	65,968	28,032
Major Equipment	0	0	0	0		0	0
Special Items of Expense	0	0	0	0		0	0
Other (Vehicle Operations)	0	0	0	0		0	0
TOTALS, OE&E	1,019,040	550,396	1,117,000	565,262	51%	994,635	122,365
TOTAL EXPENSE	1,946,524	1,018,958	2,041,000	1,042,824	102%	1,952,059	88,941
Sched. Reimb. - External/Private							0
Sched. Reimb. - Fingerprints	(33,697)	(19,404)	(25,000)	(19,894)	80%	(25,000)	0
Sched. Reimb. - Other	(4,710)	(2,125)	(28,000)	(2,350)		(28,000)	0
Distributed - From Naturopathic			(14,000)			(14,000)	
Unsched. Reimb. - Other	(122,795)	(58,144)	0	(88,299)			0
NET APPROPRIATION	1,785,322	939,285	1,974,000	932,281	47%	1,885,059	88,941
SURPLUS/(DEFICIT):							4.5%

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 6-17	Business Unit 1440 1111	Department Consumer Affairs	Priority No. 1
Budget Request Name 1110-022-BCP-BR-2016-GB 1111		Program 1200 - OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA	Subprogram 1200010 - OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA STATE OPERATIONS

Budget Request Description
 Expenditure Authority Augmentation

Budget Request Summary

The Osteopathic Medical Board of California (OMBC) is requesting a budget augmentation of \$175,000 to fund the costs for three positions authorized in FY 2014-15 (BCP 1110-26). The OMBC did not request funding for the three positions due to its existing reversions at the time of the FY 2014-15 BCP. The OMBC can no longer absorb the position costs and is requesting budget authority to fund the positions.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
 Attach comments of affected department, signed and dated by the department director or designee.

Prepared By <i>William P. ...</i>	Date 8/31/15	Reviewed By <i>Mark M. ...</i>	Date 8/31/15
Department Director <i>William P. ...</i>	Date 8-31-15	Agency Secretary <i>Alma ...</i>	Date 9-1-15

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

Type: Policy Workload Budget per Government Code 13308.05
 Original signed by

PPBA Jeff Carosone	Date submitted to the Legislature 1-7-16
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BCP Fiscal Detail Sheet

BCP Title: Board of Osteopathic Medicine: Office Technicians' Expenditure Authority Request

DP Name: 1111-022-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Salaries and Wages						
Earnings - Permanent	0	107	107	107	107	107
Total Salaries and Wages	\$0	\$107	\$107	\$107	\$107	\$107
Total Staff Benefits	0	68	68	68	68	68
Total Personal Services	\$0	\$175	\$175	\$175	\$175	\$175
Total Budget Request	\$0	\$175	\$175	\$175	\$175	\$175

Fund Summary

Fund Source - State Operations

0264 - Osteopathic Medical Board of
California Contingent Fund

	0	175	175	175	175	175
Total State Operations Expenditures	\$0	\$175	\$175	\$175	\$175	\$175
Total All Funds	\$0	\$175	\$175	\$175	\$175	\$175

Program Summary

Program Funding

1200010 - Osteopathic Medical Board of
California

	0	175	175	175	175	175
Total All Programs	\$0	\$175	\$175	\$175	\$175	\$175

Personal Services Details

	CY	BY	BY+1	BY+2	BY+3	BY+4
Salaries and Wages						
1139 - Office Techn (Typing)	0	107	107	107	107	107
Total Salaries and Wages	\$0	\$107	\$107	\$107	\$107	\$107
Staff Benefits						
5150350 - Health Insurance	0	34	34	34	34	34
5150500 - OASDI	0	8	8	8	8	8
5150600 - Retirement - General	0	23	23	23	23	23
5150800 - Workers' Compensation	0	3	3	3	3	3
Total Staff Benefits	\$0	\$68	\$68	\$68	\$68	\$68
Total Personal Services	\$0	\$175	\$175	\$175	\$175	\$175

Analysis of Problem

A. Budget Request Summary

The Osteopathic Medical Board of California (OMBC) is requesting a budget augmentation of \$175,000 to fund the costs for three positions authorized in FY 2014-15 (BCP 1110-26). The OMBC did not request funding for the three positions due to its existing reversions at the time of the FY 2014-15 BCP. The OMBC can no longer absorb the position costs and is requesting budget authority to fund the positions.

B. Background/History

The Board is the licensing and regulatory board for osteopathic physicians and surgeons in California. Business and Professions Code (BPC) Section (§) 3600 and the California Code of Regulations § 1600 authorizes the OMBC to license qualified osteopathic physicians and surgeons to practice osteopathic medicine, and exercise fair and judicious enforcement of laws and regulations governing their practice. The Medical Practice Act (BPC § 2001.1) requires the OMBC to ensure that protection of the consumers is the highest priority in exercising its licensing, regulatory and disciplinary functions.

The OMBC's workload has significantly increased due to the population of licensed osteopathic physicians and surgeons substantially increasing. Since 2005, the number of Osteopathic Colleges in the United States has increased from twenty three (23) to thirty six (36). During that same timeframe, the population of licensed osteopathic physicians in the United States increased from 56,500 to 92,028; and the population of licensed osteopathic physicians in California increased from 4,200 to 7,440. The American Osteopathic Association states that osteopathic physicians is the fastest growing medical profession in the United States.

The OMBC's FY 2014-15 BCP requested position authority for the three Office Technicians to address the workload associated with significant growth in its licensing population and to reduce the backlog of 252 open complaints. The OMBC is currently able to process this additional workload in an appropriate timeframe with the addition of the three positions authorized in FY 2014-15. However, the OMBC can no longer absorb the position costs and is requesting budget authority to fund the positions.

Resource History
(Dollars in thousands)

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY	CY*
Authorized Expenditures	\$1,869	\$1,968	\$1,752	\$1,899	\$1,922	\$1,936
Actual Expenditures	\$1,234	\$1,519	\$1,373	\$1,729	\$1,918	\$1,936
Revenues	\$1,443	\$1,458	\$1,569	\$1,641	\$2,117	\$1,891
Authorized Positions	11.9	13.0	8.5	8.4	11.4	11.4
Filled Positions	6.7	7.2	6.6	7.9	11.4	10.4
Vacancies	5.2	5.8	1.9	0.5	0.0	1.0

* Projected

C. State Level Considerations

State licensing boards are required to protect the consumers by licensing qualified candidates and enforcing professional laws and regulations in a fair and judicious manner as required under Business and Professions Code § 2450. With the OMBC's current level of staffing, we are able to meet these expectations; however, because of the redirection of funds within our budget, it has become impossible to maintain the level of enforcement necessary. The Board had to limit the amount of cases that were processed due to the redirection of funds from its enforcement line-items, specifically, it's expert witness budget. Approval of the request to augment OMBC's budget to cover the costs of the three

Analysis of Problem

positions authorized in FY 2014-15 would allow OMBC to continue to meet its mission, which is to protect the public.

D. Justification

The OMBC requested position authority for three positions in a FY 2014-15 BCP (1110-26). The OMBC did not request funding for these positions because, at the time, there was a sufficient amount of appropriation to absorb the costs of the additional positions within their existing resources. The licensing population of osteopathic physicians is steadily increasing. There has been an increase in enforcement costs due to an increased volume of cases referred to field investigations and the Attorney General's office for prosecution. As of March 2015, there were 53 cases pending at the Attorney General's office. In the event that the OMBC is unable to secure additional funding, it may be necessary for the OMBC to cease work on enforcement cases until the beginning of the next fiscal year. This would be inconsistent with the Consumer Protection Enforcement Initiative that DCA has undertaken to overhaul the enforcement and disciplinary processes of its healing arts boards.

The table below illustrates the OMBC's *annual* reversion since FY 2011-12. Prior to receiving authorization for the additional three positions in FY 2014-15, the OMBC's annual reversion was sufficient to absorb the additional costs within their existing resources. Due to the steady growth of the OMBC, additional funding is necessary to maintain its current service level.

Expenditures	2011-12	2012-13	2013-14	2014-15
Authorized Expenditures	\$1,968	\$1,752	\$1,899	\$1,922
Actual Expenditures	\$1,234	\$1,373	\$1,729	\$1,918
Reversion	\$734	\$379	\$170	\$4

E. Outcomes and Accountability

Approval of this proposal would allow the OMBC to fully fund all aspects of its program resulting in improved efficiencies in licensing and enforcement. If the OMBC receives the funding necessary for the three positions authorized in FY 2014-15, the OMBC will be able to maintain its current service level. This would be consistent with the OMBC's mission of protecting the public.

F. Analysis of All Feasible Alternatives

Alternative 1: Approve the request for a budget augmentation in FY 2016-17 and ongoing for \$175,000 to fund the costs associate with the three positions authorized in FY 2014-15.

Pro: Approval of this proposal would allow the OMBC to fully fund all aspects of its operations, maintain its current service level and meet its mission of protecting the public.

Con: The OMBC would not have the necessary funding to maintain its current operations. This is not consistent with the Board's mission of protecting the public.

Alternative 2: Approve a budget augmentation of \$100,000 to fund a portion of the costs associated with the three positions authorized in FY 2014-15.

Pro: Approval of this proposal would allow the OMBC to temporarily fund all aspects of its operations, maintain its current service level and meet its mission of protecting the public.

Con: Osteopathic physicians is the fastest growing medical profession in the United States. As a result, the OMBC's expenditures are projected to increase as their licensee population increases. This

Analysis of Problem

alternative does not address the ongoing funding necessary for the OMBC to maintain its current operations. If this alternative is approved, the OMBC may be required to request additional funding in the near future.

Alternative 3: Approve a budget augmentation of \$50,000 to fund a portion of the costs associated with the three positions authorized in FY 2014-15.

Pro: Approval of this proposal would allow the OMBC to fund all aspects of its operations, maintain its current service level and meet its mission of protecting the public.

Con: Osteopathic physicians is the fastest growing medical profession in the United States. As a result, the OMBC's expenditures are projected to increase as their licensee population increases. This alternative does not address the ongoing funding necessary for the OMBC to maintain its current operations. If this alternative is approved, the OMBC will be required to request additional funding in the near future.

Alternative 4: Status Quo. Continue to redirect money from other budget line items.

Pro: Will not require additional funding for the three positions authorized in FY 2014-15.

Con: This not a viable option because this will create insufficient funds in mission critical line items, which could ultimately cause consumer harm. This would be inconsistent with the OMBC's mission of protecting the public.

G. Implementation Plan

Augment the OMBC's budget by \$175,000 effective July 1, 2016.

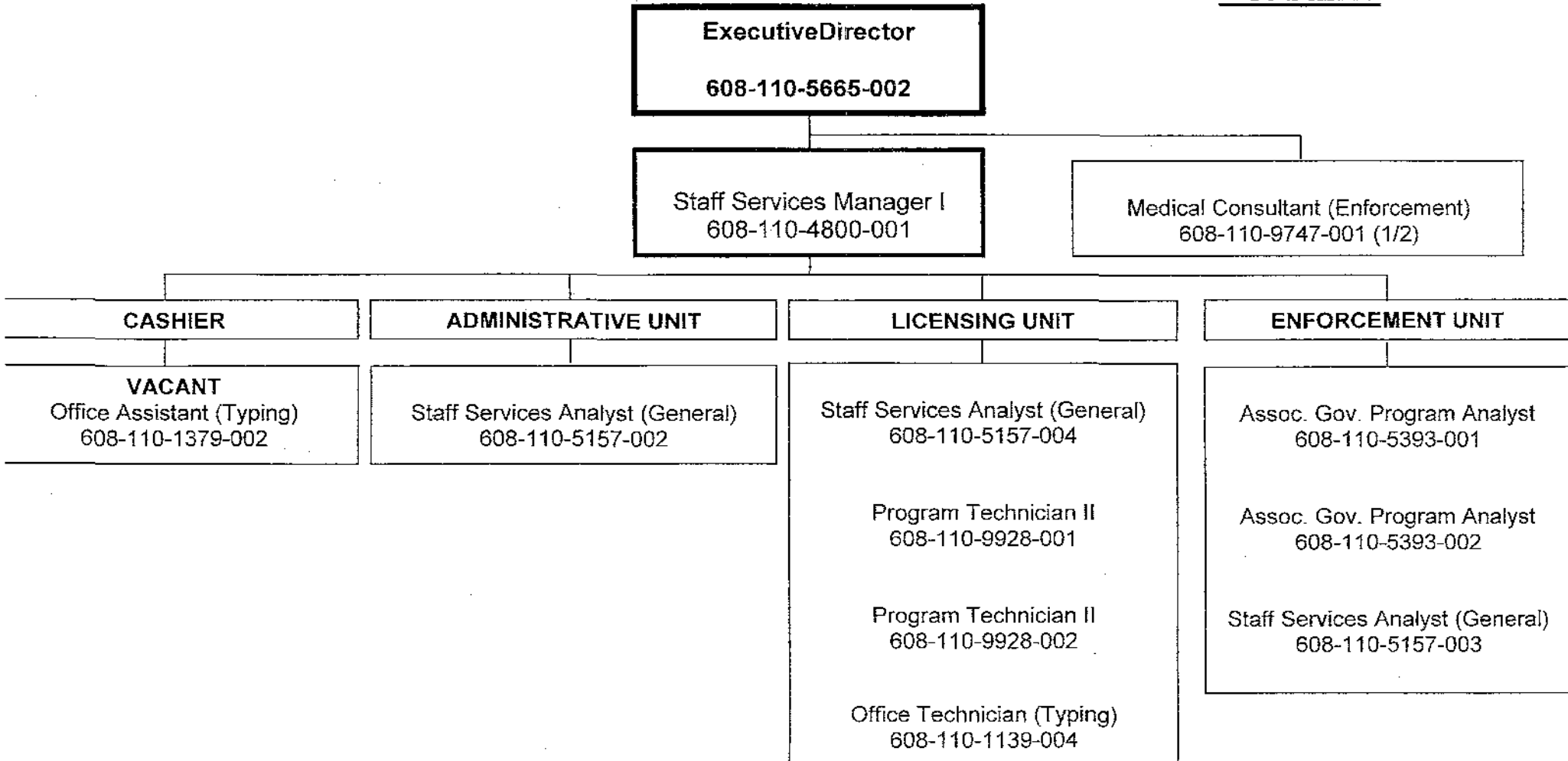
H. Supplemental Information

See attached Fund Condition and Org Chart

I. Recommendation

The OMBC recommends alternative 1. This would allow the OMBC to fully fund all aspects of its operations, maintain its current service level and meet its mission of protecting the public.

CURRENT



Angelina Burton, Executive Director

Date

Personnel Analyst

Date

*CORI Cleared **CORI Cleared/ Custodian of Records

0264 Osteopathic Medical Board Analysis of Fund Condition

8/31/15

(Dollars in Thousands)

2015-16 Budget Act w/ 2014-15 Actuals; and Expenditure Authority BCP, Rent BCP and proposed AG/OAH Augmentation	Budget			
	ACTUAL 2014-15	Act CY 2015-16	BY 2016-17	BY + 1 2017-18
BEGINNING BALANCE	\$ 2,979	\$ 3,152	\$ 3,108	\$ 2,824
Prior Year Adjustment	\$ 2	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,981	\$ 3,152	\$ 3,108	\$ 2,824
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 17	\$ 20	\$ 20	\$ 20
125700 Other regulatory licenses and permits	\$ 324	\$ 307	\$ 307	\$ 307
125800 Renewal fees	\$ 1,592	\$ 1,545	\$ 1,545	\$ 1,545
125900 Delinquent fees	\$ 14	\$ 11	\$ 11	\$ 11
141200 Sales of documents	\$ 3	\$ 3	\$ 3	\$ 3
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 8	\$ 9	\$ 8	\$ 7
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,958	\$ 1,895	\$ 1,894	\$ 1,893
Transfers to Other Funds				
Transfers from Other Funds				
Totals, Revenues and Transfers	\$ 1,958	\$ 1,895	\$ 1,894	\$ 1,893
Totals, Resources	\$ 4,939	\$ 5,047	\$ 5,002	\$ 4,517
EXPENDITURES				
Disbursements:				
1110 Program Expenditures (State Operations)	\$ 1,785	\$ 1,936	\$ 2,078	\$ 2,014
0840 SCO (State Operations)	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System of CA (State Operations)	\$ 2	\$ 3	\$ -	\$ -
Expenditure Authority BCP	\$ -	\$ -	\$ 175	\$ 175
Rent BCP	\$ -	\$ -	\$ 50	\$ 50
Proposed AG/OAH Augmentation	\$ -	\$ -	\$ 75	\$ 75
Total Disbursements	\$ 1,787	\$ 1,939	\$ 2,378	\$ 2,314
FUND BALANCE				
Reserve for economic uncertainties	\$ 3,152	\$ 3,108	\$ 2,624	\$ 2,203
Months in Reserve	19.5	15.7	13.6	12.9

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 16-17	Business Unit 1440 	Department Consumer Affairs	Priority No. 2
Budget Request Name 1440-032-BCP-BR-2016-GB 		Program 1200 - OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA	Subprogram 1200010 - OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Budget Request Description
 Rent Augmentation

Budget Request Summary

The Osteopathic Medical Board of California (OMBC) is requesting a budget augmentation of \$50,000 in FY 2016-17 and ongoing to address the Board's need to move to a larger office space. The OMBC's office is at full capacity due to the increased number of staff.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
 Attach comments of affected department, signed and dated by the department director or designee.

Prepared By <i>[Signature]</i>	Date 8/31/15	Reviewed By <i>Mark M. Ito</i>	Date 8/31/15
Department Director <i>[Signature]</i>	Date 8-31-15	Agency Secretary <i>[Signature]</i>	Date 9-1-15

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

P Type: Policy Workload Budget per Government Code 13308.05

PPBA Original signed by Jeff Carosone	Date submitted to the Legislature 1-7-16
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BCP Fiscal Detail Sheet

BCP Title: Osteopathic Medical Board: Rent Augmentation

DP Name: 1111-032-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Operating Expenses and Equipment						
5324 - Facilities Operation	0	50	50	50	50	50
Total Operating Expenses and Equipment	\$0	\$50	\$50	\$50	\$50	\$50
Total Budget Request	\$0	\$50	\$50	\$50	\$50	\$50

Fund Summary

Fund Source - State Operations

0264 - Osteopathic Medical Board of California Contingent Fund	0	50	50	50	50	50
Total State Operations Expenditures	\$0	\$50	\$50	\$50	\$50	\$50
Total All Funds	\$0	\$50	\$50	\$50	\$50	\$50

Program Summary

Program Funding

1200010 - Osteopathic Medical Board of California	0	50	50	50	50	50
Total All Programs	\$0	\$50	\$50	\$50	\$50	\$50

A. Budget Request Summary

The Osteopathic Medical Board of California (OMBC) is requesting a budget augmentation of \$50,000 in FY 2016-17 and ongoing to address the Board's need to move to a larger office space. The OMBC's office is at full capacity due to the increased number of staff.

B. Background/History (Provide relevant background/history and provide program resource history. Provide workload metrics, if applicable.)

The Board is the licensing and regulatory board for osteopathic physicians and surgeons in California. Business and Professions Code (BPC) Section (§) 3600 and the California Code of Regulations § 1600 authorizes the OMBC to license qualified osteopathic physicians and surgeons to practice osteopathic medicine, and exercise fair and judicious enforcement of laws and regulations governing their practice. The Medical Practice Act (BPC § 2001.1) requires the OMBC to ensure that protection of the consumers is the highest priority in exercising its licensing, regulatory and disciplinary functions.

The OMBC's FY 2014-15 BCP requested position authority for the three Office Technicians to address the workload associated with significant growth in its licensing population and to reduce the backlog of 252 open complaints. As a result, the OMBC does not have sufficient space to accommodate the new positions and will need to move to a larger office space in the near future.

Resource History
(Dollars in thousands)

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	\$1,869	\$1,968	\$1,752	\$1,899	\$1,922
Actual Expenditures	\$1,234	\$1,519	\$1,373	\$1,729	\$1,918
Revenues	\$1,443	\$1,468	\$1,569	\$1,641	\$2,117
Authorized Positions	11.9	13.0	8.5	8.4	11.4
Filled Positions	6.7	7.2	6.6	7.9	11.4
Vacancies	5.2	5.8	1.9	0.5	0.0

C. State Level Considerations

State licensing boards are required to protect the consumers by licensing qualified candidates and enforcing professional laws and regulations in a fair and judicious manner as required under Business and Professions Code § 2450. With the OMBC's current level of staffing, we are able to meet these expectations; however, because of the redirection of funds within our budget, the Board is unable to support a move into a larger office space without a budget augmentation.

D. Justification

The OMBC's office is at full capacity due to the increased number of staff at the OMBC. Due to these increased numbers, the Board is required to move to a bigger office in FY 2016-17. The OMBC's current annual rent cost is \$70,996. The annual cost for the OMBC to move to an office suitable for their staff will be approximately \$50,000 greater than the annual cost of their current office.

The table below illustrates the OMBC's annual reversion since FY 2011-12. Prior to receiving authorization for the additional three positions in FY 2014-15, the OMBC's annual reversion was sufficient to absorb any additional costs within their existing resources. Due to the steady growth of the OMBC, additional funding is necessary to maintain its current service level.

Expenditures	2011-12	2012-13	2013-14	2014-15
Authorized Expenditures	\$1,968	\$1,752	\$1,899	\$1,922
Actual Expenditures	\$1,234	\$1,373	\$1,729	\$1,918
Reversion	\$734	\$379	\$170	\$4

E. Outcomes and Accountability

Approval of this proposal would allow the OMBC to fully fund all aspects of its program resulting in improved efficiencies to help implement OMBC's mandate.

Analysis of All Feasible Alternatives

The OMBC only considered two alternatives to be feasible with this proposal:

Alternative 1: Approve the request for a budget augmentation in FY 2016-17 and ongoing for \$50,000: to fund the costs to move to a larger office space in the near future.

Pro - This will allow the OMBC to fully fund all aspects of its operations, maintain its current service level and meet its mission of protecting the public.

Con - This will require a budget augmentation of \$50,000 and will increase the annual ongoing costs for the OMBC.

Alternative 2: Status Quo.

Pro - This alternative will not require a budget augmentation to move to an office suitable for their staff needs.

Con - The OMBC will remain in its existing office space which is not suitable for its current authorized staffing levels.

G. Implementation Plan

Augment the OMBC's budget by \$50,000 in FY 2016-17 and ongoing. Move to a larger office space in FY 2016-17.

H. Supplemental Information (*Describe special resources and provide details to support costs including appropriate back up.*)

See attached fund condition.

I. Recommendation

The OMBC recommends Alternative 1.

0264 Osteopathic Medical Board

Analysis of Fund Condition

8/31/16

(Dollars in Thousands)

2015-16 Budget Act w/ 2014-15 Actuals; and Expenditure Authority BCP, Rent BCP and proposed AG/OAH Augmentation	ACTUAL 2014-15	Budget Act CY 2015-16	BY 2016-17	BY + 1 2017-18
BEGINNING BALANCE	\$ 2,979	\$ 3,152	\$ 3,108	\$ 2,624
Prior Year Adjustment	\$ 2	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,981	\$ 3,152	\$ 3,108	\$ 2,624
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 17	\$ 20	\$ 20	\$ 20
125700 Other regulatory licenses and permits	\$ 324	\$ 307	\$ 307	\$ 307
125800 Renewal fees	\$ 1,592	\$ 1,545	\$ 1,545	\$ 1,545
125900 Delinquent fees	\$ 14	\$ 11	\$ 11	\$ 11
141200 Sales of documents	\$ 3	\$ 3	\$ 3	\$ 3
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 8	\$ 9	\$ 8	\$ 7
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,958	\$ 1,895	\$ 1,894	\$ 1,893
Transfers to Other Funds				
Transfers from Other Funds				
Totals, Revenues and Transfers	\$ 1,958	\$ 1,895	\$ 1,894	\$ 1,893
Totals, Resources	\$ 4,939	\$ 5,047	\$ 5,002	\$ 4,517
EXPENDITURES				
Disbursements:				
1110 Program Expenditures (State Operations)	\$ 1,785	\$ 1,936	\$ 2,078	\$ 2,014
0840 SCO (State Operations)	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System of CA (State Operations)	\$ 2	\$ 3	\$ -	\$ -
Expenditure Authority BCP	\$ -	\$ -	\$ 175	\$ 175
Rent BCP	\$ -	\$ -	\$ 50	\$ 50
Proposed AG/OAH Augmentation	\$ -	\$ -	\$ 75	\$ 75
Total Disbursements	\$ 1,787	\$ 1,939	\$ 2,378	\$ 2,314
FUND BALANCE				
Reserve for economic uncertainties	\$ 3,152	\$ 3,108	\$ 2,624	\$ 2,203
Months In Reserve	19.5	15.7	13.6	12.9

CURES



CURES 2.0 UPDATE

Notice: All California-licensed health care practitioners authorized to prescribe Schedule II-IV controlled substance, and all pharmacists with an active license must be registered to use CURES before July 1, 2016. You must register for CURES access if you meet these criteria, even if you do not actively prescribe or dispense.

On January 8, 2016, the Department of Justice (DOJ) will release the upgraded Controlled Substances Utilization Review and Evaluation System, also referred to as **CURES 2.0**.

In order to utilize CURES 2.0, a user must access the system through a secure browser. The following browsers are considered secure:

- Microsoft Internet Explorer version 11 or greater
- Google Chrome
- Mozilla Firefox
- Safari

CURES 2.0 offers a significantly improved user experience and increased functionality, including:

- Allowing approved delegates to run patient report queries that prescribers and dispensers can access,
- Sending peer-to-peer communications; and,
- Receiving patient alerts.

For those without a secure browser, access to CURES 1.0 will continue; however, none of the new CURES 2.0 performance or functionality features will be available in CURES 1.0.

In order to access CURES 2.0, a new streamlined registration process is being implemented. This new process will allow prescribers and dispensers to request and receive approval to access CURES entirely online.



For new users (those who have never accessed the CURES system):

- Regardless of the browser you utilize, you must register for CURES access via a secure browser.
- To register, visit <http://www.oag.ca.gov/cures>, click on the registration link, and follow the instructions.
- Only California-licensed prescribers and dispensers can register. You will need your state license information and prescribers must provide federal DEA license information to register. You must provide your information for CURES access specifically as directed by DOJ. This information will be verified with the Drug Enforcement Agency and the regulatory board issuing your license. Failure to provide accurate information may result in a delay of approval for accessing CURES.
- Once you have been approved for CURES access by DOJ, you can access CURES 1.0 or 2.0 depending on which browser you utilize to query the system.

For existing CURES users:

- If you do not utilize a secure browser, you can continue accessing CURES 1.0 on your current browser.
- Regardless of what browser you will utilize, you will need to confirm your account with DOJ and update security information the first time you access CURES on January 8.

For those who have submitted a paper application to DOJ:

- You can either apply for CURES access on a secure browser as a new user or continue to wait for processing and approval from DOJ for access to CURES, at which point, you can utilize either CURES 1.0 or 2.0 depending on your browser.

To learn more, visit <http://oag.ca.gov/cures-pdmp/faqs>. For assistance, contact the CURES helpdesk at (916) 227-3843 or cures@doj.ca.gov.

CURES 2.0 X

FREQUENTLY ASKED QUESTIONS

What information may be obtained from CURES?

The Controlled substance Utilization Review and Evaluation System (CURES) stores Schedule II, III, and IV controlled substance prescription information reported as dispensed in California. CURES contains the following information: patient name, patient date of birth, patient address, prescriber name, prescriber DEA number, pharmacy name, pharmacy license number, date prescription was dispensed, prescription number, drug name, drug quantity and strength, and number of refills remaining.

Who has access to CURES information?

As outlined in Health & Safety Code section 11165.1(a)(1)(A), prescribers authorized to prescribe, order, administer, furnish, or dispense Schedule II, III, or IV controlled substances, and pharmacists, may access CURES data for patient care purposes.

Additionally, pursuant to Health & Safety Code section 11165(c)(2), CURES data is available to appropriate state, local, and federal public agencies, law enforcement, and regulatory boards for disciplinary, civil, or criminal purposes. The Department of Justice (DOJ) may also provide data to other agencies and entities for educational, peer review, statistical, or research purposes, provided that patient identity information is not disclosed.

Who is required to register for CURES?

Prescribers must submit an application before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later. Registration requirements are not based on dispensing, prescribing, or administering activities but, rather, on possession of a Drug Enforcement Administration Controlled Substance Registration Certificate AND valid California licensure as any one of the following:

Dentist

Medical Physician

Physician Assistant

Podiatrist

Naturopathic Physician
Optometrist
Osteopathic Physician

Registered Certified Nurse Midwife
Registered Nurse Practitioner (Furnishing)
Veterinarian

Pharmacists must submit an application before July 1, 2016, or upon licensure, whichever occurs later. Registration requirements are not based on dispensing, prescribing, or administering activities but, rather, on valid California licensure as a Pharmacist.

What do I do if the information in CURES is not correct?

Data contained in CURES is reported to the DOJ by pharmacies and direct dispensers. If you are a patient with incorrect information on your CURES report, please notify the reporting pharmacy of the error. Only the original reporting pharmacy or dispenser may submit prescription corrections to the DOJ.

For information on how to submit controlled substance prescription data or data corrections, pharmacies and direct dispensers may contact Atlantic Associates, Inc. by email at CACures@aainh.com or by phone at (800) 539-3370.

What Internet browsers are required for CURES 2.0 access?

CURES 2.0 users must use Microsoft Internet Explorer version 11.0 or higher, Mozilla Firefox, Google Chrome, or Safari. Earlier versions of Internet Explorer are not supported by CURES 2.0 for security considerations.

CURES 1.0 will continue to be made available to clinical users for an indeterminate time to facilitate uninterrupted access to CURES data while health care systems upgrade to CURES 2.0-compatible browsers.

What is the registration process for access to CURES 2.0?

Registration, for California licensed prescribers and pharmacists, is fully automated. Applicants must complete the online registration form and provide a valid email address, medical or pharmacist license number, and DEA registration certificate number (prescribers only.) DOJ will validate identity and license electronically with the Department of Consumer Affairs and the Drug Enforcement Administration.

Do current CURES 1.0 users need to re-apply for CURES 2.0 access?

No. Existing CURES users do not need to apply for access to CURES 2.0. These users are able to access the CURES 2.0 with their current User ID and password. Upon initial login to CURES 2.0, users are required to update their security questions and answers and re-establish a new password. The user must also review their CURES account profile to verify their information is accurate, make necessary updates, and acknowledge CURES Terms and Conditions. Once this has been completed, the user may begin searching patient prescription information in CURES 2.0.

What happens to providers who have submitted application documents under the old registration requirements but have not yet been granted access?

Prescribers and pharmacists who submitted application documents using the old registration method will continue to have their registrations processed. If approved, these applicants will be granted access to CURES.

If a current CURES user is locked out of the system, how can he/she regain access?

CURES 2.0 users are provided easy, intuitive, online assistance for password reset, forgot UserID and forgot password. Links to these services are on the CURES 2.0 login page. Additionally, users may contact the CURES Help Desk at (916) 227-3843 or cures@doj.ca.gov.

Enforcement/ Disciplinary

TAB 8

Section 1604.10
(Notice to Consumers)

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

PROPOSED LANGUAGE

The Osteopathic Medical Board of California hereby amends its regulations in Division 16 of Title 16 of the California Code of Regulations to read as follows:

1. Adopt Section 1604.10 of Division 16 of Title 16 of the California Code of Regulations to read as follows:

1604.10 Notice to Consumers.

(a) A licensee engaged in the practice of medicine shall provide notice to each patient of the fact that the licensee is licensed and regulated by the board. The notice shall include the following statement and information:

NOTICE TO CONSUMERS
Osteopathic physicians & surgeons
are licensed and regulated
by the Osteopathic Medical Board of California
(916) 928-8390
www.ombc.ca.gov

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in an area visible to patients on the premises where the licensee provides the licensed services, in which case the notice shall be in at least 48 point type in Arial font.

(2) Including the notice in a written statement, signed and dated by the patient or the patient's representative and retained in that patient's medical records, stating the patient understands the physician & surgeon is licensed and regulated by the board.

(3) Including the notice in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14 point type font.

NOTE: Authority cited: Section 2018, Business and Professions Code; Reference: Sections 138, Business and Professions Code.

Section 1610
(Application; Refund of Fee;
Expirations; Renewals)

Article 4. Physician and Surgeon Applications

§1610. Applications; ~~and Refund of Fee;~~ Expirations; Renewals.

- (a) All applications (~~Application for Osteopathic Physician's and Surgeon's Certificates OMB-1 Rev.01/92~~) for a ~~Physician and Surgeon Certificate~~ shall be accompanied by the appropriate fees set forth in Section 1690.
- (b) An application shall be denied without prejudice and the applicant shall be refunded whatever fee is due as set forth by Section 1690 when an applicant's credentials are insufficient or the examination is not taken.
- (c) Applications shall be valid for one (1) year.
- (d) The processing times for original Physicians and Surgeons applications are set forth in Section 1691.
- (e) When an application is deemed complete and approved, the applicant's initial license fee and renewal shall be determined based on the applicant's birth month, as follows:

~~(i)(1)~~ The initial licensing fee shall be prorated based on the number of months of licensure, based on license expiration at midnight on the last day of the applicant's birth month for no less than three months and no more than twenty-four months;

~~(ii)(2)~~ Applicants with even-numbered birth months shall be billed for a license expiring in an even year. ~~Applicants whose birth months are in February, April, June, August, October, December, shall renew every even-numbered year;~~

~~(iii)(3)~~ Applicants with odd-numbered birth months shall be billed for a license expiring in an odd year. ~~Applicants whose birth months are in January, March, May, July, September, November, shall renew every odd-numbered year;~~

~~(iv)(4) A prorated license fee shall be no less than \$25 and no more than \$400. The license fee shall be prorated monthly based on a biennial fee of \$400 for a two year license, renewable every other year in their birth month.~~

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Section 3600-1, Business and Professions Code. Reference: Sections 152.5, 152.6, 2099.5, 2454 and 2455, and 2456.1. Business and Professions Code.

HISTORY

1. Repealer of chapter 16 (sections 1600-1697, not consecutive) and new chapter 16 (sections 1600-1697, not consecutive and Appendix) filed 12-10-87; operative 1-9-88 (Register 87, No. 52). For prior history, see Registers 81, No. 50; 81, No. 36; 81, No. 9; 80, No. 40; 78, No. 15; 77, No. 21; and 63, No. 25.

2. Amendment of subsections (b) and (d) filed 9-28-90; operative 10-28-90 (Register 90, No. 45).
3. Amendment of subsections (a), (b), and (f) filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4).

Section 1616
(Sponsored Free Health Care)

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Proposed Language

Add Article 5.1 and sections 1616, 1616.1, 1616.2, and 1616.3 to Division 16 of Title 16 of the California Code of Regulations to read as follows:

Article 5.1 Sponsored Free Health-Care Events – Requirements for Exemption

§1616. Definitions.

For the purposes of Section 901 of the Code:

(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) “Out-of-state practitioner” means a person who is not licensed by the Osteopathic Medical Board of California (Board) but holds a current, active and valid license or certificate in good standing in another state, district, or territory of the United States to engage in the practice of osteopathic medicine.

(c) “In good standing” means that a person:

(1) Is not currently the subject of any investigation by any governmental entity and/or has not been charged with an offense for any act substantially related to the practice or which the applicant is licensed by any public agency;

(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person’s professional conduct or practice, including any voluntary surrender of license;

(3) Has not been the subject of an adverse action or judgment resulting from the practice of osteopathic medicine that the Board determines constitutes evidence of a pattern of incompetence or negligence.

Note: Authority cited: Sections 901 and 3600 (initiative measure, Stats. 1923, p. xciii), Business and Professions Code; Reference: Section 901, Business and Professions Code.

§1616.1. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under Section 901 of the Code shall register with the Board not later than ninety (90) calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Board by submitting to the Board

a completed "Registration of Sponsoring Entity Under Business and Professions Code section 901 for Sponsored Free Health Care Events" Form 901-A (DCA/2016), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The Board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form 901-A (DCA/2016) on behalf of the Board. The Board or its delegate shall inform the sponsoring entity, in writing within fifteen (15) calendar days of receiving Form 901-A (DCA/2016) that either the form is complete and the sponsoring entity is registered; or the form is deficient and what specific information or documentation is required to complete the form in order to be registered. The Board or its delegate shall reject the sponsoring entity's registration if all of the identified deficiencies have not been corrected at least thirty (30) days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by Section 901 of the Code as well as a copy of the authorization for participation issued by the Board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five (5) years after the date on which a sponsored event ended or the provision of health-care services, whichever is later. The records may be maintained in either paper or electronic form, and the sponsoring entity shall notify the Board at the time of registration as to the form in which it will maintain the record. In addition, the sponsoring entity shall keep a copy of all records required by Section 901 (g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Board.

(d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an out-of-state practitioner engaging in the practice of osteopathic medicine. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information;

NOTICE

Osteopathic physicians and surgeons providing health care services at this health fair are either licensed and regulated by the Osteopathic Medical Board of California or hold a current, valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information:

Osteopathic Medical Board of California
(916) 928-8390
www.ombc.ca.gov

(e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the Board confirming that the out-of-state practitioner has been approved to participate in the event.

(f) Report. Within fifteen (15) calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number issued by the Board of that practitioner.

Note: Authority cited: Sections 901 and 3600 (initiative measure, Stats. 1923, p. xciii), Business and Professions Code; Reference: Section 901, Business and Professions Code.

§1616.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Board to provide those services. The applicant shall request and obtain authorization for each sponsored event in which the applicant seeks to participate.

(1) An applicant shall request authorization by submitting to the Board a completed "Request for Authorization to Practice Without a California License at a Sponsored Free Health Care Event," Form 901-B (OMBC/2011), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of one hundred dollars (\$100).

(2) The applicant shall also furnish a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the Board to conduct a criminal history record check.

(b) Response to Request for Authorization to Participate. Within twenty (20) calendar days of receiving a completed request for authorization, the Board shall notify the applicant and sponsoring entity whether the request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The Board shall deny a request for authorization to participate if:

(A) The submitted Form 901- B (OMBC/2011) is incomplete and the applicant has not responded within seven (7) calendar days to the Board's request for additional information or documentation.

(B) The applicant has not met the following education and experience requirements:

(i) The applicant has not graduated from an accredited school or college of osteopathic medicine approved or recognized by the Board; or

(ii) The applicant has not completed at least one (1) year of postgraduate training at a facility approved by the Accreditation Council for Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA).

(C) The Board has been unable to obtain a timely report of the results of the applicant's criminal history check.

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the Board.

(E) The applicant does not possess a current, active, and valid license in good standing. The term "good standing" means that the applicant:

(i) Has not been charged with an offense for any act that is substantially related to the practice for which the applicant is licensed by another public agency; and

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person's professional conduct or practice, including any voluntary surrender of license; and

(iii) Has not been the subject of an adverse action or judgment resulting from the practice of osteopathic medicine that the Board determines constitutes evidence of a pattern of incompetence or negligence.

(2) The Board may deny a request for authorization to participate if:

(A) The request is received less than twenty (20) calendar days before the date on which the sponsored event will begin; or

(B) The applicant has been previously denied a request for authorization by the Board to participate in a sponsored event; or

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Board; or

(D) The applicant has participated in three (3) or more sponsored events during the 12 month period immediately preceding the current application.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1616.3.

(e) Notice. An out-of-state practitioner who receives authorization to engage in the practice of osteopathic medicine at an event sponsored by a local government entity shall place a notice visible to patients at every station at which that person will be seeing patients. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:

NOTICE

I hold a current valid license to engage in the practice of osteopathic medicine in a state other than California. I have been authorized by the Osteopathic Medical Board of California to provide health-care services in California only at this specific health fair.

For more information:

Osteopathic Medical Board of California
(916) 928-8390
www.ombc.ca.gov

Note: Authority cited: Sections 901 and 3600 (initiative measure, Stats. 1923, p. xciii), Business and Professions Code; Reference: Section 901, Business and Professions Code.

§1616.3. Termination of Authorization and Appeal.

(a) Grounds for Termination. The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article or any applicable practice requirement or regulation of the Board.

(2) The out-of-state practitioner has committed an act that would constitute ground for discipline if done by a licensee of the Board.

(3) The Board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The Board shall provide both the sponsoring entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination.

If the written notice is provided during a sponsored event, the Board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination

(1) An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

(2) Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the Board's decision to terminate an authorization in the manner provided by Section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer of the Board regarding the reasons for the termination of authorization to participate. The executive officer shall, within thirty (30) days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of the finding and decision to the out-of-state practitioner within ten (10) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

Note: Authority cited: Sections 901 and 3600 (initiative measure, Stats. 1923, p. xciii), Business and Professions Code; Reference: Section 901, Business and Professions Code.

TABLE 9

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TABLE 10

Osteopathic Medical Board

Future Agenda Items

Agenda Item	Requestor

TAB II

Osteopathic Medical Board

Future Meeting Dates

Date	Place	Time
May 5, 2016	Pomona, CA	10 a.m. – 5 p.m.
October 6, 2016	TBD	10 a.m. – 5 p.m.

**Please note that all meetings should be held in the best interest of the Board. Meetings in resorts or vacation areas should not be made. Using Conference areas that do not require contracts and or payment is the best option for the Board. No overnight travel. If an employee chooses a mode of transportation which is more costly than another mode, a Cost Comparison form must be completed. Reimbursement by the State will be made at the lesser of the two costs. Taxi Service should be used for trips within but not over a 10-mile radius. Receipts are required for taxi expenses of \$10.00 and over. Tips are not reimbursable.*