



IN BRIEF

Requires doctors placed on probation after July 2019 to notify their patients about their probation status prior to the patient’s first visit for the following offenses:

1. Sexual misconduct with a patient
2. Drug abuse that has / can harm patients
3. Criminal conviction involving harm to patients
4. Inappropriate prescribing resulting in patient harm and 5 or more years probation

The bill would apply to physicians and surgeons licensed by the Medical Board of California, the California Board of Podiatric Medicine, and the Osteopathic Medical Board of California; doctors licensed by the state’s Naturopathic Medicine Committee; practitioners licensed by the state Board of Chiropractic Examiners and licensees of the California Acupuncture Board.

EXAMPLE NOTICE

Example of Patient Notification

Doctor: name

Probation Status: 5 years probation / end date.

Probation Terms: Completing a medical record keeping course, a professionalism program, obtaining a practice and billing monitor, and prohibited from engaging in the solo practice of medicine.

Website: www2.mbc.ca.gov/Breeze/licenseNumber

Phone Number: Medical Board Consumer Information Unit 916-263-2382

BACKGROUND

About 140,000 physicians and surgeons are licensed to practice in the state by the Medical Board of California. The Medical Board receives over 8,000 complaints each year on physicians. They revoke the licenses of about 136 doctors each year for misconduct, but they also negotiate probation with about 129 doctors which allows them to keep practicing.

A study by the California Research Bureau found that doctors who engage in misconduct are 30 percent more likely to reoffend.

Hospitals and malpractice insurers are already notified when a doctor is placed on probation, but patients are left in the dark. The only way they can find out their doctor’s probation status is if they have computer and internet access and try to navigate the Medical Board’s website and read through lengthy legal documents.

SB 1448 breaks the silence on misconduct and ensures that future patients are fully informed.

RESPONSE TO OPPOSITION

Doctors who face probation in the future would have a choice: Either pursue a hearing by an administrative law judge or agree to terms of probation with the Medical Board. SB 1448 would require that notifying patients of their status is a condition of accepting probation. This does not infringe on a doctor’s due process. Even if a doctor decided to pursue an ALJ hearing, SB 1448 is still necessary since the ALJ might recommend probation. SB 1448 would make sure that patients are informed of the doctor’s probation status.

SUPPORT

Medical Board of California, Board of Chiropractic Examiners, Center for Public Interest Law, Consumer Attorneys of California, Consumer Federation of California, Consumer Watchdog, Consumers Union

THE SOLUTION

Senate Bill 1448 would make California the first state to require that doctors notify their patients if they are on probation by the Medical Board of California for wrongdoing, including sexual misconduct.

82% of Americans favor the idea of doctors having to tell patients they are on probation, and why. Source: 2016 Consumer Reports survey of 1,203 U.S. adults.

A doctor’s probationary status is a matter of public record that is available through an online search of the Medical Board’s website. But patients must take the initiative if they want to learn about a change in their doctor’s license status. They must look up and then sift through the information themselves. Lack of computer or internet access creates further hurdles for patients, impairing their ability to make informed choices about their medical care and safety.

RESOURCES

List of all docs on probation in the state as of 2016. It starts on page 70:

<http://sbp.senate.ca.gov/sites/sbp.senate.ca.gov/files/MBC%20Background%20Paper%202017.pdf>

Investigative reports:

<http://doctors.ajc.com/>

<http://www.consumerreports.org/cro/health/doctors-and-hospitals/what-you-dont-know-about-your-doctor-could-hurt-you/index.htm>

Olympian testimony in support:

<http://sd13.senate.ca.gov/multimedia/news-conference-senate-bill-1448-patients-right-know-act-2018>

Data from the California Medical Board:

Probation

	FY 15/16	FY 14/15	FY 13/14	FY 12/13	FY 11/12	FY 10/11	FY 09/10
Gross Negligence/Incompetence	38	41	43	47	69	36	48
Inappropriate Prescribing	25	20	12	21	8	12	15
Unlicensed Activity	5	5	2	7	2	1	1
Sexual Misconduct	8	5	14	6	4	5	6
Mental/Physical Illness	2	11	4	3	5	1	3
Self-Abuse Drugs/Alcohol	30	30	15	25	19	14	13
Fraud	1	3	2	2	11	0	2
Conviction of a Crime	5	3	25	14	2	15	9
Unprofessional Conduct	15	18	20	8	6	9	4
Misc. Violations	0	0	0	5	4	4	5
Totals by Discipline Type	129	136	137	138	130	97	106
Complaints received	8,679	8,267	8,329	7,459	6,923	7,122	6,539

License Revocations & Surrenders

	FY 15/16	FY 14/15	FY 13/14	FY 12/13	FY 11/12	FY 10/11	FY 09/10
Gross Negligence/Incompetence	24	22	39	34	37	17	29
Inappropriate Prescribing	25	24	18	18	9	11	12
Unlicensed Activity	3	4	2	1	2	0	1
Sexual Misconduct	13	6	12	16	3	13	14
Mental/Physical Illness	21	25	14	21	18	8	13
Self-Abuse Drugs/Alcohol	10	17	13	17	20	4	16
Fraud	7	8	5	14	7	1	9
Conviction of a Crime	9	3	10	7	12	18	5
Unprofessional Conduct	24	21	15	10	9	12	6
Misc. Violations	0	0	0	0	0	0	0
Totals by Discipline Type	136	130	128	138	117	84	105

Patients deserve to know if their doctors are on probation

MAY 22, 2018 | <http://www.latimes.com/opinion/editorials/la-ed-doctors-probation-20180521-story.html>

Dr. Van H. Vu was put on probation in 2015 by the California Medical Board after being accused of gross negligence in the cases of two patients who fatally overdosed. If you were about to go into Vu's pain management clinic for treatment, you'd be pretty interested in that information, wouldn't you? Just as you'd want to know if your surgeon had been put on probation for performing an operation under the influence of drugs or if your daughter's pediatrician had been put on probation for sexually abusing patients.

But in California, you probably wouldn't know. That's because although California requires physicians who are placed on probation to inform their insurance companies and the hospitals and clinics where they practice, they don't have to tell the people who may be harmed the most — their patients.

This is outrageous. People have a right to know if their doctor is on probation for serious misconduct. Probation only results when investigations have turned up evidence of misconduct. Yet efforts to require physicians to inform their patients that they have been placed on probation — and why — have gone nowhere. The medical board has refused to force them to, and last year a bill by state Sen. Jerry Hill (D-San Mateo) to bypass the board and put those requirements into law was blocked after intense lobbying by physicians' associations. Hill is back with the proposal again year, and it faces opposition once again. The California Medical Assn. and other opponents argue that forcing doctors to tell patients upfront about their probationary status would interfere with patient care.

Yes, it probably would. But if a doctor is afraid of telling patients about why he is on probation, perhaps there's good reason. Perhaps it is so serious a violation that patients would choose to find another doctor. The doctor-patient relationship is intimate and profound and requires trust on both sides.

Besides, this information isn't secret. It's available to patients — if they know where to look. But most people wouldn't even think of searching for their doctor on the Medical Board's website before a visit. Understandably, since most doctors aren't on probation, and most patients don't even know that such information is available.

At any given time, 500 to 600 of the state's 140,000 licensed physicians are on probation with the medical board. But it takes only one bad doctor to hurt many people. Take the case of Larry Nassar, the former physician to the USA Gymnastics national team, who was convicted of sexually abusing girls in his care. Or George Tyndall, the USC gynecologist accused, among other things, of conducting inappropriate pelvic exams on young students. If we've learned nothing else from the #MeToo movement, it is that secrecy around misconduct allows perpetrators to continue hurting people.

SB 1448, the Patient's Right to Know Act, is up for a key committee vote this week, and legislators should endorse it.

Sacramento Bee, August 15, 2017:

[Doctors and Nurses Unions Fight Disclosure. What They Don't Want You to Know](http://www.sacbee.com/opinion/editorials/article167413457.html)

<http://www.sacbee.com/opinion/editorials/article167413457.html>

Los Angeles Times, July 27, 2017

[Patients Have a Right to Know When a Doctor is on Probation for a Serious Violation](http://www.latimes.com/opinion/editorials/la-ed-docs-probation-patient-notification-20170727-story.html)

<http://www.latimes.com/opinion/editorials/la-ed-docs-probation-patient-notification-20170727-story.html>

Bay Area News Group/East Bay Times, July 13, 2017

[Borenstein: Legislature Keeps Patients in the Dark About Bad Doctors](https://www.eastbaytimes.com/2017/07/13/borenstein-legislature-keeps-patients-in-the-dark-about-bad-doctors/)

<https://www.eastbaytimes.com/2017/07/13/borenstein-legislature-keeps-patients-in-the-dark-about-bad-doctors/> San

Francisco Chronicle, June 7, 2016

[State Senators Walk Away from Duty on Doctors' Misconduct](https://www.sfchronicle.com/opinion/editorials/article/State-senators-walk-away-from-duty-on-doctors-7968947.php)

<https://www.sfchronicle.com/opinion/editorials/article/State-senators-walk-away-from-duty-on-doctors-7968947.php>

Mercury News February 25, 2016

[Doctors' Discipline Should Be Made Public](http://www.mercurynews.com/opinion/ci_29563203/mercury-news-editorial-police-doctors-discipline-should-be)

http://www.mercurynews.com/opinion/ci_29563203/mercury-news-editorial-police-doctors-discipline-should-be

Los Angeles Times, October 15, 2015

[Do You Want to Know If Your Doctor is on Probation?](http://www.latimes.com/opinion/editorials/la-ed--doctor-probation-20151030-story.html)

<http://www.latimes.com/opinion/editorials/la-ed--doctor-probation-20151030-story.html>