



June 13, 2016

Assemblymember Rudy Salas, Chair
Business & Professions Committee
Legislative Office Building
1020 N Street, Room 383
Sacramento, CA 95814

Re. SB 1177 (Galgiani) – Physician substance abuse – OPPOSE

Dear Assemblymember Salas,

Consumer Watchdog must oppose SB 1177 (Galgiani). For 27 years, the California Medical Board ran a program that allowed drug and alcohol-addicted doctors to hide substance abuse problems from their patients and the Medical Board.

That program created a revolving door for drunk and high physicians who went in and out of treatment, avoiding discipline while their patients were unaware of their ongoing problem. The California Highway Patrol, 60 Minutes, the Center for Public Interest Law, and five separate state audits found that the diversion program failed to monitor substance abusers and let substance-abusing doctors off the hook for failing to comply with rehabilitation terms.

SB 1177 does not do enough to assure the public that the former diversion program's worst outcomes will not be repeated.

Physician substance abuse is an endemic, but too-often hidden problem. The Medical Board has estimated substance abuse afflicts 15 to 18 percent of doctors during their lifetime and 1 to 2 percent at any given time. National reports suggest that physicians abuse alcohol at the same frequency as the general population, and are more likely to abuse prescription drugs. By whatever measure, Californians are placed in harm's way every time a drug or alcohol-addicted doctor goes to work.

For example, a Sonora family doctor arrested last July for overprescribing controlled substances finally surrendered her license in January, four years after her dangerous behavior was first reported to the Medical Board. The Medical Board accusation notes that she "appeared to be always under the influence while practicing...would slur her words, would drool, and her eyes would roll back during conversations." Several of her patients were arrested for selling the narcotics she prescribed, she left signed prescription pads for her staff to fill out for patients, and undercover investigators observed that she was always "high." She was administered an in-office drug test that came back positive for six drugs,

including Fentanyl and Oxycodone. Multiple patients were harmed by her drug use and resultant negligent care.

Usually, these doctors are never caught. Of the approximately 110,000 physicians in California, 1,100 – 2,200 are likely to be abusing substances at any given time. Yet the Medical Board's 2014-2015 annual report notes just 47 disciplinary actions taken against physicians for self-abuse of drugs or alcohol, including 26 physicians given probation but allowed to continue practicing. Over a 10-year period the Medical Board disciplined just 149 doctors for substance abuse, 27 for using drugs or alcohol at work and 104 for DUIs.

We agree with the author that identifying physicians with substance abuse problems, and removing them from practice when they are a danger to patients, is crucial to patient safety. This bill will not do so.

- SB 1177 does not require proactive intervention, like random drug testing, to identify physicians with substance abuse problems. It does not create a system of education and training at hospitals to teach employers how to identify physicians abusing medications, or prevent that abuse in the first place. The bill's single line stating that the Board shall educate licensees about physicians' physical, emotional and psychological problems is so vague that the Board could satisfy it by advertising a workshop on their website that no doctors attend.
- While SB 1177 does not *prohibit* the Medical Board from pursuing disciplinary action against a physician with substance abuse issues that has entered the program, the emphasis on confidentiality will throw serious roadblocks before the Board if it seeks to act.
- SB 1177 does nothing to speed lengthy Medical Board investigations of physicians suspected of substance abuse who have not entered treatment. Patients are at risk as these investigations drag on for years and physicians continue to practice.

Patient safety demands that physician substance abuse not be kept secret from the Medical Board, and that patients be notified if their physician has ongoing substance abuse problems. This bill does neither.

- SB 1177 does not require that the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees – mandated by this Legislature – apply in every circumstance. In one place the bill states the Uniform Standards will apply. Yet it contains numerous other provisions for confidentiality of the data in the program that conflict directly with the Uniform Standards. This ambiguity raises grave concerns about secrecy, a hallmark of the problems with the last diversion program. For example, the Standards require that the Board be notified if a physician fails a drug test or any other provision of a drug treatment program. However, the bill language states that the Board should be notified only when a physician “withdraws

or is terminated” – meaning quits or gets fired – from the program, not when they don’t meet the requirements of a treatment program.

- SB 1177 does not require patients be notified about their physician’s history of substance abuse, even if their physician has entered and failed a substance abuse program multiple times while continuing to practice medicine.

The former diversion program was a shameful chapter for the Medical Board. Any new substance abuse program should free itself of any connections to that terminated program. This bill fails to do so.

- SB 1177 would not prohibit the same individuals and organizations who ran the failed diversion program from running any new program created under this bill.

SB 1177 does not remove doctors from practice when they enroll in rehab, or take away the prescribing ability of a doctor caught abusing prescription drugs. The bill does not require the Medical Board be notified of physicians entering the program, and contains no consequences for a physician who fails the program (except notification to the Medical Board if the Board referred them) – no matter how often they fail or even if patients are harmed. The bill does not require doctors to suspend practice or surrender their license if they repeatedly fail treatment for addiction. And the bill fails to clearly require compliance with the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees that are mandated by statute for all health care providers.

For these reasons, Consumer Watchdog must oppose SB 1177. We would be happy to support an effective doctor drug and alcohol treatment program, but only one that does not keep the Medical Board and the public in the dark about substance-abusing doctors.

Sincerely,



Carmen Balber
Executive Director