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CMA POWERFULLY BENEFITS AND PROTECTS THE COMMUNITY

Legislative Wrap Up 2015

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It is difficult to imagine, but the 2015 legislative year was even more challenging than the 2014 legislative year, which included the diversion of staff

resources to defeat Proposition 46. With a third of legislators (40 out of 120) serving freshman terms, the California Medical Association's (CMA) Government Relations staff spent a considerable amount of time during the first quarter educating new legisla-

tors and their staff about the mission and policies of CMA. Through our educational efforts, we successfully stopped the introduction of a number of harmful legislative proposals and shifted focus to the passage of CMA's sponsored bill package.

School Vaccines

A majority of our resources this year went to the passage of **SB 277 (Pan and Allen)**, our sponsored bill eliminating the personal belief exemption (PBE) for school vaccination requirements.

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We faced relentlessly vocal opposition from anti-vaccine activists, who were supported by the California Chiropractic Association and the newly founded Public Health Council. As it moved through the Legislature, SB 277 had four hearings in various committees, each of which was flooded by protesters. Our strategy to overcome this deluge was to counteract on the same grassroots level from which we were attacked. CMA engaged with school districts, county boards of supervisors and all levels of local government to strengthen support for the bill. Through these and our more traditional lobbying efforts, we were able to see the bill passed out of the Legislature and sent to the Governor’s desk. Although the Governor had 12 days to pass or veto the measure, he chose to sign SB 277 into law less than 24 hours after he received it. In his signing message, he wrote that, “The science is clear that vaccines dramatically protect children against a number of infectious and dangerous diseases. While it’s true that no medical intervention is without risk, the evidence shows that immunization powerfully benefits and protects the community.”

SB 277 has also garnered tremendous support in the press and from the physician community at large. All through the year, this bill made state and even national headlines. The *New York Times*, often regarded as the national “news-

paper of record,” even editorialized in support of the bill¹. After SB 277 became law, Dr. Pan was lauded by *TIME Magazine* as a “hero of vaccine history,”² while the *Journal of the American Medical Association*³ pointed to SB 277 as a potential catalyst and model for stricter

vaccine requirements across the nation. The *New England Journal of Medicine*⁴ chronicled the entire SB 277 story, describing a sea change in the national politics of vaccination. We continue to regularly field calls from allies across the country who are seeking to learn more about what we accomplished and how we did it.

Unfortunately, our time to celebrate the hard-won victory was not long, as we quickly had to turn our attention to new attacks: a referendum to overturn the new law and a recall effort against Dr. Pan for his authorship of it. Through CMA’s political action committee, CAL-PAC, we will continue to work to defend Dr. Pan and his important law from this spurious attack.

Scope of Practice

Throughout the year, CMA dedicated a vast amount of resources to the successful defeat of several scope-of-practice expansion attempts that were before the Legislature. These measures were: **SB 323 (HERNANDEZ)**, for nurse practitioners; **SB 538 (BLOCK)**, for naturopathic doctors; and **SB 622 (HERNANDEZ)**, for optometrists. Each of the bills claimed to expand the scope of practice for allied health professionals as a means of ameliorating California’s access to care crisis, but, in reality, posed a danger to patients. Through diligent lobbying and with the engagement of

our physician members calling and writing their legislators, CMA convinced lawmakers of that truth. Each bill was successfully killed in either a policy or fiscal committee, sending an unequivocal rejection of scope expansions as an answer to access to care issues. Year after year, these expansions are rejected by the Legislature, demonstrating that the physician voice still holds sway at the Capitol.

Scope of practice fights generally play out similarly, except, this year, for one unique experience. An amicable solution was reached on **AB 1306 (BURKE)**, relating to certified nurse midwives (CNMs). Negotiations with the CNMs were productive and in time we were able to reach an agreement, moving CMA to a neutral position. Ultimately, however, this bill, too, died in committee.

Physician Aid-in-Dying

Another fruitful negotiation centered on **SB 128 (WOLK AND MONNING)**, the physician aid-in-dying bill. This controversial measure demanded a lot of attention from CMA. We began the year with a longstanding House of Delegates-established policy of opposition to this subject. It soon became clear, though, that this was no longer the overwhelming stance of the membership that it once was. CMA’s physician leaders began a conversation with our physician members so that we could update our official policy to reflect the nuanced views of our members. CMA became the first medical association in the nation to move from opposition to neutrality on physician aid-in-dying.

Having received permission from our Council on Legislation and from our Board of Trustees to engage with the bill’s proponents in hopes of reaching solutions, CMA’s lobbyists, in conjunction with CMA’s Center for Legal Affairs, entered exhaustive negotiations. Although CMA had become neutral on the concept of physician aid-in-dying, there were still concerns to be addressed about the bill’s language.

Through countless meetings, a final comprehensive solution was reached and CMA officially became neutral on the bill. The crucial amendments that were secured to reach that agreement included the strongest statutory immunity protections for physicians, voluntary participation protections and mental health evaluations.

After SB 128 failed in the Assembly Health Committee, its cause was revived through a bill, **ABX2 15 (EGGMAN)**, in the special session on health care called by the Governor. This bill ultimately retained our negotiated amendments and our neutrality, and was passed by the Legislature on its last day in session. On October 5, the Governor signed the bill into law.

Workers' Compensation

The physician aid-in-dying bill was far from our only instance of exhaustive negotiations this year. CMA also took part in extensive discussions regarding **AB 1124 (PEREA)**, a bill that would require the Division of Workers' Compensation to establish a prescription formulary. After several months of diligent negotiations, we reached an agreement with the author's office that moved our position to neutral. Through negotiations on this bill, CMA solidified its standing as a full stakeholder in workers' compensation.

CURES

In the final days of the session, while almost all eyes were watching the major political fights, CMA staff went to work with Assemblymember Travis Allen to extend the **CURES** registration deadline for all prescribers and furnishers. On Thursday, September 10, CMA and Assemblymember Allen gutted and amended **AB 679** to extend the deadline from January 1, 2016, to July 1, 2016. This extension will allow the Department of Justice to roll out its automated registration process and protect doctors from being disciplined by the Medical Board of California during the system roll-out.

In two days, the bill was heard

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in Senate Business and Professions Committee, on the Senate Floor and on the Assembly Floor. **AB 679**, as amended on September 10, passed the Legislature without receiving a single “no” vote. The measure also included an urgency clause, meaning the bill goes into effect as soon as it is signed by the Governor.

“Surprise” Billing

Our other focus in the final days was the completion of a year-long fight. **AB 533**, introduced by the Chair of the Assembly Health Committee, Rob Bonta, initially seemed like a matter of negotiation. We had a good relationship with the author, and we shared his goal of addressing the “surprise billing” problem. Instead, over the course of the year, those negotiations became increasingly hostile until they finally deteriorated to an all-out war.

Going into the last week of the legislative session, **AB 533** would have drastically changed the current health care marketplace by allowing a massive transfer of negotiating power to the health plans at the expense of physicians. The bill would have required non-contracted physicians and dentists to accept Medicare rates as payment in full when performing services in a contracted or “in-network” facility. In addition, the bill would have implemented barriers for PPO patients seeking to access their out-of-network benefits. Overnight, the bill became essentially a health plan-sponsored bill, with the strong support of consumer groups and organized labor.

With myriad resources, the health plans spent tens of thousands of dol-

lars hiring contract lobbying firms to lobby in favor of **AB 533**. The California Federation of Labor, the California Firefighters and most of organized labor, who were misinformed about the full contents of the bill, also lent their political muscle to the passage of bill, for they believed it would protect patients from exorbitant, unexpected bills. Finally, the California Chamber of Commerce and consumer groups, lead by Health Access, also spent their political resources in favor of the bill.

In order to defeat **AB 533**, it was all hands on deck at CMA and we called upon our Legislative Key Contacts, CMA officers and Medical Executives asking them to call their legislators on the last night of session asking them to vote no on **AB 533**. CMA was also able to call upon the specialty societies and two of our closest allies to stand in opposition: The California Dental Association and the California Podiatric Medical Association.

After countless hours of lobbying and passionate debate in the halls and on the floors of the State Capitol, CMA and our allies defeated the measure on the floor of the State Assembly. This CMA victory was the final act taken by the Legislature in 2015, solidifying this year as one of the most challenging and one of the most successful.

ON THE FOLLOWING PAGES ARE DETAILS OF THE MAJOR BILLS THAT CMA FOLLOWED THIS YEAR.

CMA-Sponsored Legislation

AB 637 (Campos): Physician Orders for Life Sustaining Treatment Forms

This bill authorizes nurse practitioners and physician assistants under a physician's supervision to sign Physician Orders for Life Sustaining Treatment (POLST), making them immediately actionable orders.

Status: Signed by the Governor (Chapter 217, Statutes of 2015).

AB 679 (Allen): CURES Enrollment

This bill extended by six months the deadline for licensees required to enroll in the Controlled Substance Utilization Review and Evaluation (CURES), from January 1, 2016 to July 1, 2016. This change will hopefully avoid confusion among licensees should the Department of Justice implement, as is currently planned, the streamlined CURES application process in October 2015. Absent this bill, this new application process would have been released during a time when there would have been a high volume of licensees attempting to enroll. This extension provides a cushion before the application dead-

line to troubleshoot any problems that arise with a new automated enrollment process.

Status: Signed by the Governor (Chapter 778, Statutes of 2015)

AB 1086 (Dababneh): Assignment of Benefits

This bill sought to obtain parity in the law by proposing language that would require health plans that are exempt from current law to issue payments directly to out-of-network providers whose patients have requested and signed assignment of benefits agreements with their provider.

Status: Held in Assembly Health Committee

SB 277 (Pan and Allen): Elimination of the Personal Belief Exemption for Vaccination

This bill removed the personal belief exemption that was previously allowed for immunizations required for school or child care enrollment. The new vaccination requirements do not apply to families who homeschool or take advantage of independent study through a school district.

Status: Signed by the Governor (Chapter 35, Statutes of 2015).

SB 289 (Mitchell): Reimbursement for Telephonic and Electronic Patient Management Services

This bill would have required health insurance companies licensed in the State of California to pay providers for telephone and electronic patient management telehealth services, which would have helped to increase patient access to care, especially in underserved areas.

Status: Held in Senate Appropriations Committee.

SB 563 (Pan): Workers' Compensation Utilization Review

This bill would have clarified that injured workers' previously authorized medical care, agreed to with their employer as part of a future medical award, must be honored and requests to maintain such care cannot be sent back through utilization review, unless the employer shows the treatment is no longer evidence-based. The bill will also increase transparency regarding workers' compensation utilization review processes by requiring utilization review organizations to disclose their compensation methodologies for those involved in reviewing requests related to providing medical services to injured workers.

Status: Held in Senate Appropriations Committee.

Successfully Negotiated Legislation

AB 159 (Calderon): Investigational Drugs, Biological Products and Devices

This bill would have allowed terminally ill patients access to investigational drugs outside of current U.S. Food and Drug Administration (FDA) processes related to clinical trials and compassionate use, upon a physician's recommenda-

tion and a manufacturer's authorization. AB 159 is similar to 'right to try' legislation that has been introduced in a number of states recently, and is one of three bills that were introduced in California addressing the issue, and the only one to pass the Legislature to reach the Governor's desk. CMA took a neutral position after amendments were made to ensure proper protections for both patients and physicians participating in the process. Specifically, those amendments required Institutional Review Board (IRB) involvement and oversight to ensure this new route to streamlined access to

investigational drugs and devices under the bill had appropriate patient safety protections. Currently, any FDA expanded access request for any investigational drug must be reviewed by an IRB in order to understand the risks of an experimental treatment and ensure that the patient understands them as well. Additionally, the author accepted CMA amendments to ensure that physicians who wish to recommend investigational drugs, products or devices consistent with this process are protected from any related liability.

Status: Vetoed by the Governor.

AB 216 (Garcia): Vapor Products

This bill prohibits the sale or furnishing of any device that delivers a non-nicotine substance by vapor to minors. It is intended to address the sale to minors of e-cigarettes that do not contain nicotine; however, the original language as drafted would have also applied to medical products like asthma inhalers and tobacco cessation products. CMA obtained amendments to clarify that the bill's sales prohibition does not apply to products regulated by the U.S. Food and Drug Administration as a drug or medical device.

Status: Signed by the Governor (Chapter 769, Statutes of 2015).

AB 266 (Bonta): Medical Marijuana

This bill is the key bill in a three-bill package designed to institute a regulatory structure for medical marijuana cultivation, transportation and distribution. This bill creates the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs to oversee much of the medical marijuana regulatory activities such as licensing cannabis production.

Status: Signed by the Governor (Chapter 689, Statutes of 2015).

AB 1124 (Perea): Workers' Compensation Prescription Medication Formulary

The bill was substantially amended in the final weeks of the legislative session to reflect stakeholder conversations that CMA participated in over several months and includes guidance and direction to the Administrative Director (AD) of the Division of Workers' Compensation on how to develop, implement and maintain an evidence-based drug formulary, which will go into effect by July 1, 2017. Amendments ensure physician involvement in the creation of the formulary, in addition to a requirement that the AD publishes at least two interim reports on its website regarding the status of that process and the formulary's creation. Amendments also allow the AD to make changes to the list of drugs in an expedient manner, with

the requirement that the AD establish a pharmacy and therapeutics committee to ensure physician involvement on such updates to the formulary. Lastly, the language states the Legislature's intent that the formulary be created with maximum transparency and include guidance on how workers may access off-label use of prescription drugs, pain management prescription drug therapies, both generic and brand name medications, and how the formulary should further the goal of expediting access to medications while minimizing administrative burden and associated costs. The intent language also says that the formulary shall not apply to care provided in an emergency department or inpatient setting. Given the current ability of the AD to create a drug formulary for use within the workers' compensation system without the above assurances, the bill provided a positive opportunity for CMA to garner proper physician involvement in the creation and maintenance of the formulary, in addition to inclusion of key principles related to access to necessary medications and reduced administrative burdens.

Status: Signed by the Governor (Chapter 525, Statutes of 2015).

AB 1177 (Gomez): Primary Care Clinics Written Transfer Agreements

This bill removes the current requirement that all clinics must have a hospital transfer agreement in place as a condition of licensure. Clinics may currently apply for an exemption from this requirement, except for clinics that provide abortions or specialty birthing centers. After CMA's negotiations with the author and sponsor, amendments to the bill clarified that with the removal of the hospital transfer agreement as a condition for primary care clinic licensure, that such clinics will now be required to directly send with each patient, at the time of transfer or in the case of emergency, all medical records and pertinent information related to the patient's transfer. The amendments also preserved the ability for clinics that

currently have, or would like to have, a written transfer agreement with a local hospital, to maintain that agreement in lieu of the new requirements. Alternative birth centers would still need to have a hospital transfer agreement in place as a condition of licensure, as required under current law.

Status: Signed by the Governor (Chapter 704, Statutes of 2015).

AB 1223 (O'Donnell): Ambulance Transportation

A previous version of the bill would have allowed a local Emergency Medical Services (EMS) agency to develop a plan that would allow paramedics to divert patients that the paramedics deem non-critical away from an emergency department without a physician ever conducting an initial medical screening exam. Additionally, the previous version would have allowed paramedics to seek reimbursement from the Maddy Emergency Medical Services Fund, a fund established to help alleviate the high percentage of charity care provided by emergency physicians. AB 1223 now only provides a methodology for collecting data regarding emergency services if a local EMS agency voluntarily decides to initiate a program to collect the referenced data.

Status: Signed by the Governor (Chapter 379, Statutes of 2015).

AB 1306 (Burke): Certified Nurse Midwives

This bill would have removed the physician supervision requirement and would have authorized a certified nurse midwife to manage a full range of primary care health services for women from adolescence to beyond menopause. These services included, but were not limited to, primary health care, gynecologic and family planning services, preconception care, care during pregnancy, child birth, and the post partum period, immediate care of the new born, and treatment of male partners for sexually transmitted infections. The bill also would have authorized certified nurse midwives to

practice in all settings, including, but not limited to, private practice, clinics, hospitals, birth centers, and homes. CMA proposed and secured amendments that brought us to a neutral position, including: the corporate practice of medicine bar, self-referral and anti-kickback prohibitions, Medical Board of California involvement to ensure a single standard of medical care and making independently practicing nurse practitioners subject to medical staffs and other peer review bodies in this state to establish controls that ensure the achievement and maintenance of high standards of professional practice.

Status: Failed in Senate Business, Professions, and Economic Development Committee.

AB 1370 (Medina): Student Residency

This bill would have limited the total number of nonresident students at UC undergraduate campuses from exceeding the number of in-state students. As introduced, this bill would have applied to the number of nonresident students attending UC's premier medical programs, thereby threatening the success and prestige of UC medical schools.

Status: Failed in Assembly Education Committee.

SB 128 (Wolk and Monning)/ABX2 15 (Eggman): Physician Aid-in-Dying

Based on CMA's Board of Trustees' adoption of a position of oppose unless amended, CMA worked with the authors on amendments to this legislation to ensure concerns around proper protections for patients and physicians that do or do not want to participate in the End of Life Option Act were addressed. Specifically, the amendments taken do the following:

- **IMMUNITY.** Provide immunity to providers, including physicians, for participating or refusing to participate in the End of Life Act. The immunity includes protection for the terminal illness diagnosis, providing end of life counseling and any other activities related to the Act.

- **VOLUNTARY PARTICIPATION.** The amendments make clear that a physician cannot be forced to participate in the End of Life Option Act or provide counseling regarding physician aid-in-dying, including through retaliation or discriminatory practices.
- **HOSPICE OR PALLIATIVE CARE.** These amendments seek to ensure that the individual has received a consultation regarding available palliative care and hospice care prior to making the second verbal request for the End of Life Option Act.
- **MENTAL HEALTH EVALUATION.** The amendments require a referral to a mental health specialist (California licensed psychiatrist or psychologist) if indicated by a mental disorder. Upon referral, the mental health specialist will determine whether the individual has capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
- **DEATH CERTIFICATE.** Delete all references in the bill to death certificates and how a physician should or should not fill out a death certificate in these circumstances.
- **CAPACITY.** Clarify that the appropriate standard is to demonstrate "capacity" rather "competence" to ensure the individual has the ability to understand the nature and consequences of a health care decision and its significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision.
- **CHECKLIST.** Provide for the development and use of a check list that the attending physician can use to verify that he or she has complied with all the requirements of the End of Life Act, including the notice requirements, prior to issuing a prescription for the aid-in-dying drug.
- **SELF-ADMINISTER.** Clarify the term "self-administer" to ensure that this Act only applies to individuals who

are capable of self administering and ingesting the aid-in-dying drug without any assistance.

Status: SB 128 failed in Assembly Health Committee, ABX2 15 signed by the Governor (Chapter 1, Statutes of 2015 Second Extraordinary Session).

SB 337 (Pavley): Physician Assistants

This bill requires physicians hold "medical records review meetings" with their physician assistants (PAs). SB 377 defines "medical records review meeting" as a meeting between the supervising physician and surgeon and the PA during which medical records are reviewed to ensure adequate supervision of the PA functioning under protocols. Under this bill, medical records review meetings may occur in person or by electronic communication, the medical record must identify the physician and surgeon who is responsible for the supervision of the PA for each episode of patient care, and a supervising physician and surgeon must conduct a medical records review meeting at least once a month during at least 10 months of the year. During any month in which a medical records review meeting occurs, the supervising physician and surgeon and PA shall review an aggregate of at least 10 medical records of patients treated by the PA functioning under protocols.

Status: Signed by the Governor (Chapter 536, Statutes of 2015).

SB 396 (Hill): Ambulatory Surgery Centers

This bill makes changes to the regulation of accredited ambulatory surgery centers (ASC). As originally introduced, the bill would have established new regulatory requirements for ASCs that would have resulted in significant hardship for small ASCs without a corresponding increase in patient safety. Amendments taken at the request of CMA removed the requirement to report data to the Office of Statewide Health and Planning Development, clarified the peer review

standard being added to the statutorily-established accreditation standards and made unannounced visits an option for accreditation agencies when performing their regular facility surveys. The new peer review language ensures that peer review is a required component of accreditation, but clarifies that the ASC governing body is the appropriate entity to receive the peer review reports. The language also clarifies that the accrediting agency is responsible for reviewing the peer review process to ensure that the ASC meets accreditation standards. Unannounced visits are allowed but not required. If the accrediting agency chooses to use unannounced visits, it is required to notify the ASC that an inspection will occur within 60 days. The bill also requires ASCs to request an 805 report from the Medical Board of California prior to credentialing or renewing privileges to a physician, psychologist, podiatrist or dentist and extends the deadline for the Medical Board of California to report to the Legislature on vertical enforcement.

Status: Signed by the Governor (Chapter 287, Statutes of 2015).

SB 407 (Morrell): Licensed Midwives
SB 407 adds licensed midwives to the list of individuals who qualify to be a

comprehensive perinatal provider and a comprehensive perinatal practitioner within the Medi-Cal Comprehensive Perinatal Services Program. The bill does not revise or expand a licensed midwife's scope of practice.

Status: Signed by the Governor (Chapter 313, Statutes of 2015).

SB 408 (Morrell): Midwife Assistants
SB 408 creates a midwife assistant certification similar to the medical assistant certification in California statute. The certified midwife assistant will perform midwife technical supportive services and additional procedures authorized by a licensed midwife through a specific authorization, which is a standing order that is placed in a patient's medical record. The bill defines "midwife technical supportive services" to mean simple routine medical tasks and procedures that may be safely performed by a midwife assistant who has limited training and who functions under the supervision of a licensed midwife. These services include the ability to (1) administer medications orally, sublingually, topically, vaginally or rectally or by providing a single dose to a patient for immediate self-administration and to administer oxygen; (2) assist in performing neonatal resus-

citation, assist in auscultation of fetal heart tones when a licensed midwife is engaged in a concurrent activity that precludes the licensed midwife from doing so; (3) collect by non-invasive techniques and preserve specimens for testing, including but not limited to, urine; (4) assist patients to and from a patient examination room, bed, or bathroom; (5) assist patients in activities of daily living; (6) provide patient information and instructions, as authorized by the licensed midwife; (7) collect and record patient data, including height, weight, temperature, pulse, respiration rate, blood pressure, and basic information about the presenting and previous conditions; (8) perform simple laboratory and screening tests customarily performed in a medical or midwife office. Additionally, this bill allows a midwife assistant to administer medication by intradermal, subcutaneous, or intramuscular injections, skin tests and additional technical support services upon the specific authorization of a licensed midwife. The duties performed by a midwife assistant are consistent with the duties performed by a medical assistant.

Status: Signed by the Governor (Chapter 280, Statutes of 2015).

Opposed Legislation

AB 352 (Garcia): University Admissions
This bill would have limited the number of nonresident students enrolled at a UC campus from exceeding 10 percent of total enrollment, which would include nonresident medical students.

Status: Failed in Assembly Higher Education Committee.

AB 533 (Bonta): Surprise Billing
Although this bill sought to address the issue of surprise billing, the language of the bill in fact would

have caused major problems across the healthcare delivery system much more significant than those it aimed to solve. The bill would have effectively denied patients access to preferred provider organization (PPO) out-of-network benefits by creating a three-day delay. It also would have forced physicians and dentists to accept Medicare rates as payment in full or fight for higher rates in a dispute resolution process that the bill left undefined. In order to actually solve the surprise billing issue, health plans must be incentivized sufficiently to carry adequate networks, so that patients will not find themselves in a

situation where a gap in care is filled by an out-of-network provider.

Status: Failed on the Assembly Floor.

AB 579 (Oberholte): Free-Standing ERs
AB 579 would have created a statewide standard allowing hospitals to operate "Free-Standing Emergency Rooms" (FER) with no limitations. This bill would have allowed hospitals licensed under a single, consolidated license to operate a free standing emergency department that is more than 15 miles away from the physical plant of the hospital. This bill was associated with AB 911 (Brough) and SB 787 (Bates), which called for allowing Saddleback San Cle-

mente Hospital to operate an FER.

Status: Failed in Assembly Health Committee.

AB 611 (Dahle): CURES Reporting

This bill would have allowed non-sworn investigators for boards, bureaus, or programs within the Department of Consumer Affairs the ability to submit requests for information from the CURES database to investigate allegations of substance abuse by regulated licensees.

Status: Failed in Assembly Business and Professions Committee.

AB 821 (Gipson): Medical Marijuana Taxation

This bill would have exempted terminally ill patients (defined as having less than a year to live) from paying sales tax on medical cannabis. The bill would have required a qualified patient to apply to the Board of Equalization for a medical marijuana sales tax exemption certificate and would have required the patient to submit various documents in order to receive the certificate.

Status: Failed in Assembly Revenue and Taxation Committee.

AB 911 (Brough): Hospital Closures

This bill would have required a general acute care hospital that provides emergency medical services that is scheduled for closure to conduct public hearings for public review and comment. The bill would have also authorized Saddleback Memorial Medical Center, San Clemente to continue, under its existing license, to provide emergency medical services to patients in the region if it otherwise transforms its delivery of services. This bill was identical to SB 787 (Bates) and similar to AB 579 (Oberholte), which sets a statewide standard authorizing free-standing emergency rooms.

Status: Failed in Assembly Health Committee.

SB 24 (Hill): Electronic Cigarettes

This bill would have added electronic cigarettes (e-cigarettes) to the Stop

Tobacco Access to Kids Enforcement (STAKE) Act. Through its definition of e-cigarettes, SB 24 suggested that e-cigarettes are not tobacco products.

Status: Failed on the Senate Floor.

SB 149 (Stone): Investigational Drugs, Biological Products or Devices

This bill would have allowed terminally ill patients access to investigational drugs outside of current U.S. Food and Drug Administration (FDA) processes related to clinical trials and compassionate use, upon a physician's recommendation and a manufacturer's authorization. SB 149 was similar to "right to try" legislation that had been introduced in a number of states recently, and is one of the three bills that were introduced in California addressing the issue. Amendments were taken to require Institutional Review Board (IRB) involvement and oversight to ensure this new route to streamline access to investigational drugs and devices under the bill had appropriate patient safety protections. Currently, any FDA expanded access request for any investigational drug must be reviewed by an IRB in order to understand the risks of an experimental treatment and ensure that the patient understands them as well. However, the author had not yet accepted CMA amendments to ensure that physicians that wish to recommend investigational drugs, products or devices consistent with this process are protected from any related liability before the bill stalled in committee, so CMA remained opposed to the bill, unless amended.

Status: Failed in Assembly Appropriations Committee.

SB 323 (Hernandez): Nurse Practitioners

This bill would have deleted the statutory requirement that nurse practitioners perform certain medical procedures only under standardized procedures developed and implemented under the supervision of a physician and surgeon in certain settings

Status: Failed in Assembly Business and Professions Committee.

SB 402 (Mitchell): Pupil Vision Examinations

This bill would have required during the kindergarten year or upon first enrollment in a public elementary school, and at least every second year thereafter until the eighth grade, that a pupil's vision be examined by a physician, optometrist, or ophthalmologist. The bill would have also required that the examination be consistent with the most current standard, policy, or guideline adopted by the American Academy of Pediatrics, the American Academy of Ophthalmology, or the American Optometric Association. SB 402 would have been costly to both the state General Fund and to families, and would have legislated the practice of medicine by taking the decision of whether to refer a child, who is not presenting symptoms of poor vision and has passed a comprehensive vision screening, to a subspecialist for further eye examination out of the hands of the family and the physician.

Status: Failed in Senate Appropriations Committee.

SB 483 (Beall): Observation Services

This bill would have required a hospital to receive approval from the State Department of Public Health to provide observation services outside of an inpatient unit as a supplemental service. The bill defined observation services to include outpatient services provided by a general acute care hospital to patients who have unstable or uncertain conditions potentially serious enough to warrant close observation, but not so serious as to warrant inpatient admission to the hospital. The bill also would have limited observation services to 24 hours and required a patient to be notified when being provided such services and the impact that may have on their insurance coverage. This requirement was inconsistent with the current federal "two midnights" rule and consequently would have set up a conflict between state and federal law, placing emergency physicians in the difficult position of trying to provide proper care to patients while

threading the needle between conflicting state law and Centers for Medicare and Medicaid Services payment rules.

Status: Failed in Senate Appropriations Committee.

SB 482 (Lara): CURES Database

This bill would have established a mandatory check of the Controlled Substance Utilization Review and Evaluation (CURES) database prior to first prescribing a Schedule II or Schedule III controlled substance once the Department of Justice certifies that CURES is ready for statewide use. It would have also required an annual CURES consultation thereafter for patients for whom that controlled substance remains a part of treatment. It would have limited prescribing of an additional controlled substance unless there is a determination of legitimate need. It would have made failure to check the database cause for disciplinary action. The bill also would have excluded dispensers from the duty to check CURES, which would reduce the bill's efficacy in addressing drug diversion.

Status: Author held the bill in the Assembly Rules Committee.

SB 538 (Block): Naturopathic Doctors

SB 538 would have allowed naturopathic doctors (NDs) to prescribe Schedule V drugs and drugs that are not classified on the DEA schedule, without physician supervision. SB 538 also would have modified under what circumstances an ND may order diagnostic imaging studies and dispense, administer, order, prescribe, provide or furnish devices and durable medical equipment.

Status: Failed in Assembly Appropriations Committee.

SB 586 (Hernandez): Children's Services

This bill would have created an integrated delivery system for children in the California Children's Services (CCS) program. This bill would have allowed for the creation of regional Accountable Care Organizations (ACOs), each anchored by a children's hospital that

would contract with the Department of Health Care Services for the provision of medical services to treat the whole child, beyond the CCS eligible conditions. Under the legislation, certain characteristics of the existing CCS program would have remained (such as CCS provider quality measures, readiness criteria and network adequacy standards). The bill was an attempt to get ahead of the impending end of the carve-out of the CCS from Medi-Cal managed care, set to expire at the end of 2015. Due to ongoing pilot projects already in existence, CMA opposed the bill, believing that the data from those pilot projects is crucial to the development of any solution.

Status: Failed in Assembly Health Committee.

SB 622 (Hernandez): Optometrists

This bill would have expanded optometrists' scope of practice to include a range of services that optometrists simply do not have the education, training and experience to provide. This bill would have removed almost all specific educational standards currently in law for obtaining licensure and various certifications and allows the Board of Optometry to establish by regulation. It would have:

- Expanded the ocular inflammations treatable by an optometrist from the anterior (front) portion of the eye to include the entire eye, adding the retina, choroid, sclera and vitreous, with no specific educational requirements provided for the addition.
- Expanded the conditions treated by optometrist to include eyelid disorders, including but not limited to hypotrichosis and blepharitis.
- Allowed administration of injections for the diagnosis or treatment of conditions of the eye and adnexa, excluding intraorbital injections and injections administered for cosmetic effect, provided that the optometrist had satisfactorily received four hours of continuing education on performing all injections authorized by the bill.

- Added "increase in intraocular pressure caused by steroid medication" to the glaucoma types optometrists may treat.
- Allowed use of anterior segment lasers by glaucoma certified optometrists for the treatment of glaucoma and posterior capsulotomy after cataract surgery after a 16 hour training course and exam on specific topics as well as performing a minimum of 14 anterior segment laser procedures on live humans.
- Allowed the removal, destruction or drainage of lesions of the eyelid and adnexa clinically evaluated by an optometrist to be noncancerous, not involving the eyelid margin, lacrimal supply or drainage systems, no deeper than the orbicularis muscle, and smaller than five millimeters in diameter and closure of a resulting wound. The required training would have been a 32 hour course and exam on specific topics as well as performing a minimum of 5 minor procedures on a live human.
- Allowed an optometrist to independently initiate and administer vaccines listed on the routine immunization schedules recommended by the federal Advisory Committee on Immunization Practices (ACIP), in compliance with individual ACIP vaccine recommendations, and published by the federal Centers for Disease Control and Prevention for persons three years of age and older.
- Asked that the Office of Statewide Health Planning and Development, under the Health Workforce Pilot Projects Program, would designate a pilot project to test, demonstrate, and evaluate expanded roles for optometrists in the performance of management and treatment of diabetes mellitus, hypertension, and hypercholesterolemia.

Status: Failed in Assembly Business and Professions Committee.

SB 715 (Anderson): Investigational Drugs, Biological Products, or Devices

This bill would have allowed terminal-ly ill patients access to investigational drugs outside of current U.S. Food and Drug Administration processes related to clinical trials and compassionate use, upon a physician's recommendation and a manufacturer's authorization. SB 715 was similar to "right to try" legislation that had been introduced in a number of states recently, and is one of the three bills that were introduced in California addressing the issue; however, it was never heard in committee.

Status: Failed without Hearing.

SB 787 (Bates): Hospitals Closures

This bill would have required a general acute care hospital that provides emergency medical services that is scheduled for closure to conduct public hearings for public review and comment, as specified. The bill would have also authorized Saddleback Memorial Medical Center, San Clemente to continue, under its existing license, to provide emergency medical services to patients in the region if it otherwise transforms its delivery of services. This bill was specifically aimed at the closure of San Clemente Hospital by Memorialcare, who plans to turn the current site into an urgent care

center. This bill was identical to AB 911 (Brough), and similar to AB 579 (Ober-nolte), which sets a statewide standard authorizing free-standing emergency rooms. SB 787 was sent to an interim study in Senate Health Committee, effectively defeating the bill.

Status: Failed in Senate Health Committee.

1 <http://www.nytimes.com/2015/04/21/opinion/vaccine-phobia-in-california.html>

2 <http://time.com/3977055/vaccine-heroes-villains>

3 Y. Tony Yang, Leila Barraza, and Kim Weidenaar. "Measles Outbreak as a Catalyst for Stricter Vaccine Exemption Legislation." *Journal of the American Medical Association* 314, no. 12 (Sept. 2015): 1229-1230.

4 Michelle M. Mello, J.D., Ph.D., David M. Studdert, L.L.B., Sc.D., and Wendy E. Parmet, J.D., "Shifting Vaccination Politics – The End of Personal-Belief Exemptions in California." *The New England Journal of Medicine* 373: 785-787. <http://www.nejm.org/doi/full/10.1056/NEJMp1508701>