

**Selected Assembly and Senate Bills
Referred to the Assembly Business and Professions Committee
During the 2003-04 Session of the California State Legislature**

Following is a summary of 30 selected Assembly and Senate bills referred to the Assembly Business and Professions Committee during the 2003-04 legislative session. These 30 legislative proposals are a small (less than 10%) sample of the many significant bills considered by the Committee. All 30 bills passed both houses of the State Legislature, although the Governor vetoed some of them. (See the next two sections of this report for a summary of all Assembly bills and all Senate bills referred to the Committee.)

AB 68 (Simitian) Online Privacy Protection Act of 2003.

Enacts the Online Privacy Protection Act of 2003, requiring disclosure of online privacy policies. Requires an operator of a commercial website or online service that collects personally identifiable information about individual consumers residing in California, who use or visit its commercial website or online service, to conspicuously post its privacy policy on its website. Also specifies requirements for the privacy policies posted on the websites.

Last Action: Chapter 829, Statutes of 2003.

AB 186 (Correa) Optometric pharmaceutical samples.

Permits manufacturers, wholesalers and pharmacies to provide complementary samples of pharmaceuticals to optometrists. Consequently, optometrists will be able to give complementary samples of prescription drugs to their patients.

Last Action: Chapter 426, Statutes of 2003.

AB 320 (Correa) Department of Consumer Affairs licensees: lawsuit settlement gag clauses.

Creates a prohibition against the use of a "gag clause" in civil litigation by licensed professionals under the jurisdiction of boards or bureaus at the California Department of Consumer Affairs (DCA). A gag clause prevents a consumer from notifying or filing a complaint with the appropriate DCA board or bureau that regulates the licensed professional who is the defendant in a malpractice or malfeasance lawsuit. Professionals who violate the prohibition on gag clauses would be subject to disciplinary action by their respective board or bureau.

Last Action: Vetoed.

AB 514 (Kehoe) Water meters.

Requires certain urban water suppliers that receive water from the federal Central Valley Project under a water service contract or subcontract, on or before January 1, 2013, to install water meters on all service connections to residential and nonagricultural commercial buildings constructed prior to January 1, 1992, that are located in their service area. Also requires these water suppliers, on or

after March 1, 2013, or according to the terms of the Central Valley Project water contract or subcontract in operation, to charge customers for water, based on the actual volume of deliveries as measured by a water meter. Also authorizes these water suppliers to recover the cost of providing services related to the purchase, installation, operation, and maintenance of water meters from rates, fees, or charges.

Last Action: Chapter 680, Statutes of 2003.

AB 653 (Nunez) Extension of State Energy Conservation Program.

Extends the sunset date and eligibility requirements by five years for bonding authority related to the "Energy Conservation in Public Buildings Program" administered by the State Public Works Board. Also expands the Program's eligibility to include projects that combine conservation and alternative energy equipment. Also requires the Public Works Board, in determining whether to issue funding, to evaluate each proposed project in its entirety and analyze the costs and financial and energy savings over the full life of the project.

Last Action: Vetoed.

AB 663 (Lieber) Pelvic examinations.

Prohibits any person, including a physician and surgeon or a student undertaking a course of professional instruction or a clinical training program, from performing a pelvic examination on an anesthetized female patient unless the patient has consented to the examination.

Last Action: Chapter 644, Statutes of 2003.

AB 827 (Business and Professions Committee) Department of Consumer Affairs: board membership qualifications: public members.

Prohibits a member of a regulatory board at the Department of Consumer Affairs who is appointed to represent the "public" (rather than the regulated business or profession) from providing representation to the business or profession during the period of his or her appointment or during five years preceding the time of appointment.

Last Action: Chapter 563, Statutes of 2003.

AB 932 (Koretz) Podiatric medicine.

Makes substantive changes to laws regulating the scope of practice of doctors of podiatric medicine. Among other provisions, this bill deletes the prohibition against podiatrists performing amputations and instead authorizes podiatrists to perform a partial amputation of the foot no further proximal than the Chopart's joint.

Last Action: Chapter 88, Statutes of 2004.

AB 938 (Yee) Mental health professions: educational loan reimbursement.

Establishes the Licensed Mental Health Provider Education Program and the Mental Health Practitioner Education Fund to increase the number of mental health professionals. Further provides that any mental health provider who

provides patient care in a publicly funded facility or a health manpower shortage area that is multicultural and linguistically diverse, may apply for grants to reimburse his or her loans related to a career as a licensed mental health service provider.

Last Action: Chapter 437, Statutes of 2003.

AB 1467 (Negrete McLeod) Foreign dental school graduates: Joint Committee on Boards, Commissions, and Consumer Protection.

Provides for an extension of current law to allow qualified graduates of foreign dental schools to become eligible for the California licensure examination. (Foreign-trained dentists have composed the majority of dentists in numerous under-served areas in California, providing services to low-income populations with limited English speaking capabilities, and there remains a critical need to provide services to these populations.) Also revises numerous sections of law to rename the Joint Legislative Sunset Review Committee to the Joint Committee on Boards, Commissions, and Consumer Protection.

Last Action: Chapter 33, Statutes of 2004.

AB 1721 (Koretz) Prices: overcharges.

Prohibits any business or person, at the time of the sale of a product, from charging an amount greater than the lowest price posted on the commodity itself, or on the shelf tag corresponding to that product, notwithstanding any limitation of the time period for which the posted price is in effect.

Last Action: Chapter 752, Statutes of 2004.

AB 1829 (Liu) Public contracts: services: domestic workers.

Prohibits state agencies and local governments from using state funds to contract for services unless the contractor has certified that the work will be performed within the United States, and provides for the termination of the contract, criminal punishment and reimbursement if the contractor fails to comply as specified.

Last Action: Vetoed.

AB 1957 (Frommer) Prescription drugs.

Requires the Department of General Services to coordinate a review of state agencies to determine potential savings if prescription drugs are purchased from Canada and to establish pilot programs. Requires the Department of Health Services to establish a California Rx Program, including a website to facilitate purchasing prescription drugs at reduced prices. Requires the website to include price comparisons, including Canadian prices and links to approved Canadian pharmacies.

Last Action: Vetoed.

AB 1960 (Pavley) Pharmacy benefits management.

Requires pharmacy benefits managers (PBMs) to disclose to purchasers or prospective purchasers specified information. Requires certain provisions to be

included in contracts between a PBM and a purchaser. Prohibits pharmacy and therapeutics committee members, working for a PBM, from working for a pharmaceutical company or having more than a nominal financial interest in a pharmaceutical company. Requires authorization to be obtained from a prescriber prior to a PBM switching a patient from one drug to another. Also requires that certain disclosures are made to the prescriber prior to authorization being granted, and requires certain disclosures to be made to a patient when a drug is switched.

Last Action: Vetoed.

AB 1975 (Bermudez) Physicians and surgeons.

Requires the Medical Board of California to revoke the license of any person subject to the registered sex offender law on or after January 1, 1947, except in the case of certain misdemeanor convictions or when the duty to register as a sex offender has been terminated. Also modifies provisions of law that allow for an appeal process whereby the licensee whose license was revoked can petition for reinstatement.

Last Action: Chapter 756, Statutes of 2004.

AB 2252 (Montanez) Vacation Ownership and Time-share Act of 2004.

Creates a comprehensive vacation ownership resort (time-share) regulatory and consumer protection program for both in-state and out-of-state projects.

Establishes a consolidated body of law for regulating vacation ownership development and sales in California and expands consumer protection through the creation of standards for sales and marketing practices, including extending the current "cooling off" or rescission period for purchases from three to seven days.

Last Action: Chapter 697, Statutes of 2004.

AB 2682 (Negrete McLeod) Pharmacy: out-of-state wholesalers.

Requires the California Board of Pharmacy to adopt regulations governing out-of-state prescription drug wholesalers, and mandates that the regulations contain numerous, specific requirements. Requires out-of-state drug wholesalers to acquire and maintain, at all times, a valid California nonresident license, as well as a separate license for each place of business owned or operated by an out-of-state distributor. Also requires a nonresident wholesaler to have a surety bond of at least \$100,000, or an equivalent means of security, for each place of business owned or operated. Does not hinder an out-of-state business from operating in the state, but protects California consumers by requiring out-of-state wholesalers to be licensed so the Pharmacy Board has the ability and authority to identify wholesalers that are bad actors whose licenses can be revoked.

Last Action: Chapter 887, Statutes of 2004.

AB 2723 (Laird) Consumer warranties: service and repair.

Requires a manufacturer of a consumer product under warranty to either replace and reinstall the good, or reimburse the purchase and installation price, minus

use, if the good cannot practicably be serviced or repaired because of its method of installation.

Last Action: Chapter 331, Statutes of 2004.

SB 186 (Murray) Electronic mail advertising.

Modifies current law that allows the recipient of unsolicited electronic mail (email) advertisements to contact the sender to remove his or her email address from the sender's mailing list, and additionally prohibits the sending of unsolicited email ads from California or to a California email address. Authorizes a recipient, an email service provider, or the Attorney General to bring an action to recover actual damages, and/or liquidated damages, of \$1,000 per unsolicited commercial email, up to \$1 million per incident, as defined. Provides for an award of reasonable attorney's fees and costs to a prevailing plaintiff.

Last Action: Chapter 487, Statutes of 2003.

SB 364 (Figueroa) Review of all state boards by Joint Legislative Sunset Review Committee: Department of Consumer Affairs: licensing and regulatory boards.

Significantly expands the jurisdiction of the Joint Legislative Sunset Review Committee (JLSRC), and generally authorizes JLSRC to review all state boards whose members are appointed by the Governor or the Legislature. Also establishes the Sunset Review process for the Bureau of Automotive Repair (BAR) and makes other changes affecting BAR. Also makes various changes to other professional and vocational boards at the Department of Consumer Affairs, including the Medical Board of California, the Contractors' State License Board, the Structural Pest Control Board, the Bureau of Naturopathic Medicine, the Osteopathic Medical Board, the Speech-Language Pathology and Audiology Board, the Board for Professional Engineers and Land Surveyors, the Bureau for Private Postsecondary and Vocational Education, and the Optometry Board.

Last Action: Chapter 789, Statutes of 2003.

SB 545 (Speier) Emergency contraception drug therapy.

Establishes a \$10 cap on the administrative fee charged by licensed pharmacists and prescribers of telephone or electronic prescriptions that is paid by patients requesting emergency contraception drug therapy. Also prohibits a pharmacist from requiring a patient to provide individually identifiable medical information, except as specified. Also requires a pharmacist, upon request, to disclose the total retail drug price for therapy. Also revises pharmacists' training requirements regarding emergency contraception.

Last Action: Chapter 652, Statutes of 2003.

SB 640 (Burton) Public contracts: expatriate corporations.

Prohibits a state agency from entering into any agreement or contract with a publicly held expatriate corporation, or its subsidiary, unless the corporation provides specified shareholder rights and other legal and financial arrangements or the contract serves a compelling public interest.

Last Action: Chapter 657, Statutes of 2003.

SB 907 (Burton) Naturopathic doctors.

Establishes, until July 1, 2009, the Naturopathic Doctors Act, to be administered by a newly created State Bureau of Naturopathic Medicine within the Department of Consumer Affairs. Specifies various standards for the licensure and regulation of naturopathic medicine.

Last Action: Chapter 485, Statutes of 2003.

SB 1154 (Figueroa) Consumer rebates.

Regulates the offering and fulfillment of rebates for consumer products, including requirements that consumers have a minimum of 30 days to submit a rebate request and companies have a maximum of 60 days to deliver the rebate. Also provides for restrictions on what evidence and personal information a company may require the consumer to provide.

Last Action: Vetoed.

SB 1307 (Figueroa) Wholesalers and manufacturers of dangerous drugs and devices.

Significantly strengthens licensing requirements for pharmaceutical wholesalers and establishes bonding requirements for wholesalers. Also requires all prescription drugs to have a "pedigree," as defined, which tracks the ownership of drugs from manufacturer to the ultimate ownership by the pharmacy. Also gives the Board of Pharmacy stronger enforcement tools for violations of laws governing dangerous drugs and devices.

Last Action: Chapter 857, Statutes of 2004.

SB 1336 (Burton) Oral and maxillofacial surgery.

Authorizes oral and maxillofacial surgeons licensed by the Dental Board of California to perform elective facial cosmetic surgery under specified circumstances.

Last Action: Vetoed.

SB 1436 (Murray) Computer spyware.

Establishes the Consumer Protection Against Spyware Act, which prohibits an unauthorized person or entity from installing software on a consumer's computer that would take over control of the computer, modify its security settings, collect the user's personally identifiable information, interfere with its own removal, or otherwise deceive the authorized user.

Last Action: Chapter 843, Statutes of 2004.

SB 1520 (Burton) Force fed birds.

Prohibits, effective July 1, 2012, the force-feeding of a bird for the purpose of enlarging the bird's liver beyond normal size. Prohibits a product (e.g., foie gras or "fatty liver") from being sold in California if it is the result of such force-feeding.

Last Action: Chapter 904, Statutes of 2004.

SB 1544 (Figueroa) Private postsecondary and vocational education.

Extends the repeal date of the Private Postsecondary and Vocational Education Reform Act to January 1, 2008, and makes other changes pursuant to recommendations of the Joint Legislative Sunset Review Committee. Requires the Director of the Department of Consumer Affairs to appoint an Operations and Administrative Monitor for the Bureau of Private Postsecondary and Vocational Education, and requires the Monitor to, among other things, assess the Bureau's administrative operations and submit reports to the Legislature and others by October 1, 2005.

Last Action: Chapter 740, Statutes of 2004.

SB 1765 (Sher) Pharmaceutical companies: marketing practices: gifts to healthcare professionals.

Requires pharmaceutical companies to adopt and update a Comprehensive Compliance Program (CCP) for interactions with healthcare professionals. Requires a CCP to include, among other provisions, a company's policies on interactions with healthcare professionals and limits on gifts and incentives to medical or healthcare professionals. Also requires each pharmaceutical company to establish explicitly in its CCP a specific annual dollar limit on gifts, promotional materials, or items or activities that the company may give or provide to an individual healthcare professional. Also requires pharmaceutical companies to annually declare in writing that they are in compliance with their CCPs.

Last Action: Chapter 927, Statutes of 2004