



## OVERVIEW

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Requires physicians, podiatrists, acupuncturists, and chiropractors on probation for serious offenses to notify patients of their probationary status before visits take place.

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.

On average, 500 to 600 of the 137,000 licensed physicians in California are on probation at any given time for serious offenses. This is less than half of one percent of the total active licensee population.

Physicians, podiatrists, acupuncturists, and chiropractors are gatekeepers for healthcare, and patients expect that these professionals are functioning with a clean license. Many patients may not know they can look up their provider's disciplinary history online, have the time to do so, or lack Internet access.

Only up to 0.6% of these licensed professionals are on probation at any given time. While this bill will not affect many practitioners, these doctors' actions affect tens of thousands of patients.

Physicians and podiatrists are already required to inform hospitals and malpractice insurers of their probation status, but their patients have to seek out the information for themselves on the state's license database.

Patients deserve to be proactively informed if their doctor has been placed on probation by the Medical Board, Osteopathic Board, Podiatry Board, Acupuncture Board, or Board of Chiropractic Examiners for serious offenses such as sexual misconduct, substance abuse, gross negligence, or a felony conviction related to patient care and treatment. This bill will make it a requirement for them to do so.

## BACKGROUND

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In November 2015, the Medical Board of California (MBC) voted down a petition by Consumers Union that would have required doctors placed on probation to inform their patients verbally and in writing, of their

probationary status. The MBC instead formed a task force to consider less "prescriptive" ways to notify patients when their doctor is on probation for medical misdeeds, including Web site enhancements and advertising campaigns, but not direct notification. The MBC declined to comment on SB 1033, but said it would discuss the matter at its meeting in early May.

A subcommittee of the Board of Chiropractic Examiners recently voted to require patient notification when a licensee is on probation, and this bill now includes doctors of chiropractic, podiatrists, and acupuncturists, to more fully capture the top-level, patient-facing healthcare gatekeepers.

The California Medical Association has voiced concern that a notification requirement would be bad for business. "This would put a burden on the physician-patient relationship and take time away from important patient appointments that are already limited," "This information is already public and available online and can be accessed by anyone. This is a duplicative burden that will interfere with patient care."

On average, 500 to 600 of the 137,000 licensed physicians in California are on probation at any given time for serious offenses. This is less than half of one percent of the total active licensee population. The reasons for probation range from physicians whose mismanagement of medical records rose to the level of gross negligence to doctors whose treatment resulted in multiple patient deaths. One such case involved a physician whose practice was linked in a news investigation to fatal overdoses of 16 patients. The MBC pursued two overdose cases against the doctor, who did not contest the charges, and was placed on five years of probation.

There are currently 21 acupuncturists (0.1% of the total licensee population), 15 podiatrists (0.6%), and no naturopathic physicians on probation.

California licensing boards post information on their websites related to licensee discipline, but patients may not know about this resource or have the ability to check the databases. These websites are difficult to navigate and often people have to review complicated

legal documents to find out why their doctor was placed on probation. SB 1033 would also require a straightforward listing of the reasons for the probation order to be included on the regulatory boards' websites.

## **SUPPORT**

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Consumers Union  
Center for Public Interest Law  
Consumer Federation of California  
Californians for Patients Rights  
Consumer Watchdog

## **EDITORIAL SUPPORT**

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### **Patients need to know about doctor malpractice**

LA Times Editorial Board – 2-6-16

<http://www.latimes.com/opinion/la-ed-0207-doctors-probation-20160204-story.html>

When the California Medical Board puts doctors on probation for drug use, negligence, sexual harassment or other violations, it requires them to inform the hospitals where they practice and their malpractice insurers. Yet they are not required to inform the people most likely to be harmed if their misdeeds or mistakes continue — patients.

Patients have a legal right to this information, so that's not at issue. The sticking point is whether physicians should have to reach out to patients or the other way around. So far, the board has favored the latter approach, focusing on improvements to its website that make it easier for people to research their physicians' disciplinary records and keep track of their licensing status.

While this is certainly a benefit to consumers, it's no substitute for active notification. No matter how snazzy and functional the website may be, it's hard to imagine that even a significant fraction of Californians will head to [www.mbc.ca.gov](http://www.mbc.ca.gov) every time they have a doctor's appointment — especially elderly people, who are less likely to use a computer or have Internet access.

Medical board officials insist that the task force hasn't finished its work and that patient notification is still on the table. But given the board's history of rejecting similar proposals, we're skeptical that it will get a fair consideration at its next meeting in May.

Board President David Serrano Sewell certainly seems to have his mind made up. "We decided on balance not to pursue what was requested" by Consumers Union, Sewell said in at the board's meeting in January. He cited concerns about how such notification would be a "burden," clog up the administrative review process

and impact the physician-patient relationship. That sounds an awful lot like a brush off.

If the medical board is unwilling to force wrongdoing doctors to inform their patients, then the state Legislature ought to step in. The inconvenience and discomfort of a small percentage of physicians must not trump what's in the best interest of patients.

### **Police, doctors' discipline should be made public**

Mercury News Editorial Board – 2-26-16

[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)

For far too long police and doctors, with help from powerful lobbying in Sacramento, have been able to hide their own bad behavior from public view.

It's time to stop it. Lawmakers need to put the public good ahead of special interests and require disclosure. SB 1033 by Jerry Hill, D-San Mateo, would require doctors on probation for serious offenses to notify their patients. When individuals with life and death power abuse that trust, the public should know.

Doctors are shielded from disclosure when they're placed on probation by the California Medical Board. They have to notify their employers and the hospitals where they practice, but not their patients.

The medical board's answer is a clunky website where patients can look up their doctors, presumably before making every appointment. It's ridiculous. The proper remedy is obvious, but the board, dominated by doctors, has no interest in transparency.

So Hill proposes requiring that doctors on probation for serious offenses provide patients with written notification before each visit.

These are reasonable bills that most Californians would support. The question now is whether their elected representatives will side with them or special interests.

### **TV Coverage: Proposed bill requires doctors to tell probation status to patients**

<http://www.kcra.com/news/local-news/news-sacramento/proposed-bill-requires-doctors-to-tell-probation-status-to-patients/38159616>

SACRAMENTO, Calif. (KCRA) —Tina Manasian of Sacramento underwent a botched plastic surgery in 2002 and it wasn't until after she went under the knife that she learned her doctor was on probation with the Medical Board of California.

"He was a drunk, an alcoholic, it was awful,"

Manasian said. "I would have never chosen him if I knew he had a substance abuse problem."

She filed a complaint with the board and seven years after her surgery, that doctor's license was revoked.

During the time he practiced, he never had to disclose his probation status to patients.

Last October, the board had a chance to make that kind of disclosure mandatory for doctors but opted against it. "We're talking doctors with sexual misconduct, drug abuse, over-prescribing controlled substances,"

Manasian said. "Wouldn't you want to know?"

State Sen. Jerry Hill, D-San Mateo, recently introduced SB 1033, a bill that would require doctors to disclose their probation status to patients.