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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129] (*Division 2 enacted by Stats. 1937, Ch. 399.*)

CHAPTER 1. General Provisions [500 - 865.2] (*Chapter 1 enacted by Stats. 1937, Ch. 399.*)

ARTICLE 7.5. Health Care Practitioners [680 - 688] (*Article 7.5 added by Stats. 1998, Ch. 1013, Sec. 1.*)

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Public Health, or the State Department of Health Care Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Public Health, and the State Department of Health Care Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(Amended by Stats. 2013, Ch. 23, Sec. 1. (AB 82) Effective June 27, 2013.)

680.5. (a) (1) A health care practitioner licensed under Division 2 (commencing with Section 500) shall communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree, by one or both of the following methods:

(A) In writing at the patient's initial office visit.

(B) In a prominent display in an area visible to patients in his or her office.

(2) An individual licensed under Chapter 6 (commencing with Section 2700) or Chapter 9 (commencing with Section 4000) is not required to disclose the highest level of academic degree he or she holds.

(b) A person licensed under Chapter 5 (commencing with Section 2000) or under the Osteopathic Act, who is certified by (1) an American Board of Medical Specialties member board, (2) a board or association with requirements equivalent to a board described in paragraph (1) approved by that person's medical licensing authority, or (3) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in the person's specialty or subspecialty, shall disclose the name of the board or association by either method described in subdivision (a).

(c) A health care practitioner who chooses to disclose the information required by subdivisions (a) and (b) pursuant to subparagraph (A) of paragraph (1) of subdivision (a) shall present that information in at least 24-point type in the following format:

HEALTH CARE PRACTITIONER INFORMATION

1. Name and license

2. Highest level of academic degree

3. Board certification (ABMS/MBC)

(d) This section shall not apply to the following health care practitioners:

(1) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(2) A person who works in a facility licensed under Section 1250 of the Health and Safety Code or in a clinical laboratory licensed under Section 1265.

(3) A person licensed under Chapter 3 (commencing with Section 1200), Chapter 7.5 (commencing with Section 3300), Chapter 8.3 (commencing with Section 3700), Chapter 11 (commencing with Section 4800), Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990.1), or Chapter 16 (commencing with Section 4999.10).

(e) A health care practitioner, who provides information regarding health care services on an Internet Web site that is directly controlled or administered by that health care practitioner or his or her office personnel, shall prominently display on that Internet Web site the information required by this section.

(Amended by Stats. 2011, Ch. 381, Sec. 5. (SB 146) Effective January 1, 2012.)

681. (a) Commencing July 1, 2000, every person licensed pursuant to this division who collects human biological specimens for clinical testing or examination, shall secure, or ensure that his or her employees, agents, or contractors secure, those specimens in a locked container when those specimens are placed in a public location outside of the custodial control of the licensee, or his or her employees, agents, or contractors.

(b) Containers used for human biological specimens put into use on or after January 1, 2001, shall be marked "Caution: Biohazardous Material - Please Do Not Touch or Handle," or words of similar meaning.

(c) This section shall not apply where the biological specimens have been placed in the mail in compliance with all applicable laws and regulations.

(d) The licensing board having jurisdiction of the licensee may impose appropriate sanctions for violations of this section, including, if otherwise authorized by the licensing act, the imposition of a fine not to exceed one thousand dollars (\$1,000).

(e) As used in this section, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

(Added by Stats. 1999, Ch. 748, Sec. 1. Effective January 1, 2000.)

682. An individual authorized to prescribe emergency contraception who issues a prescription or order for emergency contraception drug therapy as a result of a patient contact by telephone or electronic means may not charge an administrative fee or fees totaling more than ten dollars (\$10) for emergency contraception drug therapy services. This limitation is not intended to interfere with other contractually agreed-upon terms between an individual prescriber and a health care service plan, insurer, or disability insurer for payment directly to the prescriber by the plan or insurer.

(Added by Stats. 2003, Ch. 652, Sec. 2. Effective January 1, 2004.)

683. (a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing their profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the California State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Behavioral Sciences, the California Board of Podiatric Medicine, and the California Board of Occupational Therapy.

(c) This section shall become operative on January 1, 2015.

(Amended by Stats. 2021, Ch. 630, Sec. 13. (AB 1534) Effective January 1, 2022.)

684. (a) For the purpose of this section:

(1) "FDA" means the United States Food and Drug Administration.

(2) "HCT/PS" means human cells, tissues, or cellular or tissue-based products, as defined in Section 1271.3 of Title 21 of the Code of Federal Regulations, as amended August 31, 2016, as published in the Federal Register (81 Fed. Reg. 60223).

(3) "Stem cell therapy" means a therapy involving the use of HCT/Ps, but shall not include a therapy involving HCT/Ps that meets the criteria set out in Section 1271.10 of Title 21 of the Code of Federal Regulations, as amended May 25, 2004, as published in the Federal Register (69 Fed. Reg. 29829), or that qualifies for any of the exceptions described in Section 1271.15 of Title 21 of the Code of Federal Regulations, as amended May 25, 2004, as published in the Federal Register (69 Fed. Reg. 29829).

(b) (1) A health care practitioner licensed under this division who performs a stem cell therapy that is subject to FDA regulation, but is not FDA-approved, shall communicate to a patient seeking stem cell therapy the following information in English:

"THIS NOTICE MUST BE PROVIDED TO YOU UNDER CALIFORNIA LAW. This health care practitioner performs one or more stem cell therapies that have not been approved by the United States Food and Drug Administration. You are encouraged to consult with your primary care physician prior to undergoing a stem cell therapy."

(2) The information in paragraph (1) shall be communicated to the patient in all of the following ways:

(A) In a prominent display in an area visible to patients in the health care practitioner's office and posted conspicuously in the entrance of the health care practitioner's office. These notices shall be at least eight and one-half inches by 11 inches and written in no less than 40-point type.

(B) Prior to providing the initial stem cell therapy, a health care practitioner shall provide the patient with the notice described in paragraph (1) in writing. The notice shall be at least eight and one-half inches by 11 inches and written in no less than 40-point type.

(c) This section does not apply to a health care practitioner licensed under this division who has obtained approval or clearance for an investigational new drug, or an investigational device exemption, from the FDA for the use of HCT/Ps.

(d) (1) The licensing board having jurisdiction of the health care practitioner may cite and fine the health care practitioner, not to exceed one thousand dollars (\$1,000) per violation of this section.

(2) No citation shall be issued and no fine shall be assessed upon the first complaint against a health care practitioner who violates this section.

(3) Upon a second or subsequent violation of this section, a citation and administrative fine not to exceed one thousand dollars (\$1,000) per violation may be assessed.

(e) The Medical Board of California shall indicate in its annual report, commencing with the 2018–19 annual report, all of the following with regard to licensees who provide stem cell therapies:

(1) The number of complaints received.

(2) Any disciplinary actions taken.

(3) Any administrative actions taken.

(Amended by Stats. 2018, Ch. 424, Sec. 1. (SB 1495) Effective January 1, 2019.)

686. A health care practitioner licensed under Division 2 (commencing with Section 500) providing services via telehealth shall be subject to the requirements and definitions set forth in Section 2290.5, to the practice act relating to his or her licensed profession, and to the regulations adopted by a board pursuant to that practice act.

(Added by Stats. 2012, Ch. 782, Sec. 1. (AB 1733) Effective January 1, 2013.)

688. (a) A health care practitioner authorized to issue a prescription pursuant to Section 4040 shall have the capability to issue an electronic data transmission prescription, as defined under Section 4040, on behalf of a patient and to transmit that electronic data transmission prescription to a pharmacy selected by the patient.

(b) (1) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall have the capability to receive an electronic data transmission prescription on behalf of a patient.

(2) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall not refuse to dispense or furnish an electronic data transmission prescription solely because the prescription was not submitted via, or is not compatible with, the proprietary software of the pharmacy, pharmacist, or other dispensing practitioner.

(3) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 may decline to dispense or furnish an electronic data transmission prescription submitted via a software that fails to

meet any of the following:

(A) Adheres to the National Council for Prescription Drug Programs SCRIPT standard, as modified from time to time.

(B) Complies with the prescription content requirements set forth in Section 4040.

(C) For a controlled substance prescription, complies with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(D) Complies with the federal Health Insurance Portability and Accountability Act of 1996, the California Confidentiality of Medical Information Act, or the security and confidentiality requirements prescribed to by the pharmacy, pharmacist, or other practitioner authorized pursuant to Section 4040.

(c) For a prescription for a controlled substance, as defined by Section 4021, generation and transmission of the electronic data transmission prescription shall comply with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(d) A prescription prescribed by a health care practitioner shall be issued as an electronic data transmission prescription. This subdivision shall not apply to prescriptions issued pursuant to subdivision (e).

(e) Subdivision (d) shall not apply to any of the following:

(1) The prescription is issued pursuant to Section 11159.2 of the Health and Safety Code.

(2) An electronic data transmission prescription is unavailable due to a temporary technological or electrical failure. For purposes of this paragraph, "temporary technological or electrical failure" means failure of a computer system, application, or device, or the loss of electrical power to that system, application, or device, or any other service interruption affecting the certified electronic data transmission prescription application used to transmit the prescription.

(3) The prescribing health care practitioner is issuing a prescription to be dispensed by a pharmacy located outside California.

(4) (A) The prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:

(i) The patient resides outside California.

(ii) The patient resides outside the geographic area of the hospital.

(iii) The patient is homeless or indigent and does not have a preferred pharmacy.

(iv) The prescription is issued at a time when a patient's regular or preferred pharmacy is likely to be closed.

(B) Under any of the conditions described in subparagraph (A), a prescription shall be electronically issued but does not require electronic transmission and may be provided directly to the patient.

(5) The prescription is issued by a veterinarian.

(6) The prescription is for eyeglasses or contact lenses.

(7) The prescription is issued by a prescribing health care practitioner serving as a volunteer in a free clinic and receives no remuneration for their services.

(8) The prescribing health care practitioner and the dispenser are the same entity.

(9) The prescription is issued by a prescribing health care practitioner under circumstances whereby the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by an electronic data transmission prescription in a timely manner, and the delay would adversely impact the patient's medical condition.

(10) The prescription that is issued includes elements not covered by the latest version of the National Council for Prescription Drug Programs' SCRIPT standard, as amended from time to time.

(11) (A) The prescriber registers with the California State Board of Pharmacy in a manner and format determined by the board, stating that they meet one or more of the following criteria:

(i) Their practice is located in the area of an emergency or disaster declared by a federal, state, or local government.

(ii) They issue 100 or fewer prescriptions per calendar year.

(iii) They are unable to issue electronic data transmission prescriptions due to circumstances beyond their control.

(B) The prescriber shall annually submit the registration required in subparagraph (A) to the California State Board of Pharmacy and maintain documentation of the circumstances qualifying them for exemption under subparagraph (A).

(C) The California State Board of Pharmacy shall post a list of prescribers meeting the requirements of subparagraph (A) on its internet website.

(f) A health care practitioner who issues a prescription for a controlled substance but does not transmit the prescription as an electronic data transmission prescription shall document the reason in the patient's medical record as soon as practicable and within 72 hours of the end of the technological or electrical failure that prevented the electronic data transmission of the prescription.

(g) (1) A pharmacy that receives an electronic data transmission prescription from a prescribing health care practitioner who has issued the prescription but has not dispensed the medication to the patient shall, at the request of the patient or a person authorized to make a request on behalf of the patient, immediately transfer or forward the electronic data transmission prescription to an alternative pharmacy designated by the requester, unless one of the following applies:

(A) The action would result in a violation of any state or federal law.

(B) The action is not supported by the latest version of the National Council for Prescription Drug Programs SCRIPT standard, as amended from time to time.

(2) If a pharmacy is prohibited from transferring or forwarding electronic data transmission prescriptions, as specified in paragraph (1), to a designated alternative pharmacy, and that prohibition is subsequently removed, then that pharmacy shall implement, within one year from the date the prohibition is removed, the necessary provisions to allow for the transferring or forwarding of an electronic data transmission prescription.

(h) If a pharmacy, or its staff, is aware that an attempted transmission of an electronic data transmission prescription failed, is incomplete, or is otherwise not appropriately received, the pharmacy shall immediately notify the prescribing health care practitioner.

(i) A pharmacist who receives a written, oral, or faxed prescription shall not be required to verify that the prescription properly falls under one of the exceptions in subdivision (e). Pharmacists may continue to dispense medications from legally valid written, oral, or fax prescriptions pursuant to this division.

(j) A health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements of this section shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. This section does not create a private right of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(k) This section shall not apply to a health care practitioner, pharmacist, or pharmacy when providing health care services to an inmate, individual on parole, or youth under the jurisdiction of the Department of Corrections and Rehabilitation.

(Amended by Stats. 2022, Ch. 518, Sec. 1. (AB 852) Effective January 1, 2023.)