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AB-1954 Physicians and surgeons: treatment and medication of patients using cannabis. (2021-2022)

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Assembly Bill No. 1954

CHAPTER 232

An act to add Section 2228.5 to the Business and Professions Code, relating to cannabis.

[Approved by Governor September 02, 2022. Filed with Secretary of State September 02, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1954, Quirk. Physicians and surgeons: treatment and medication of patients using cannabis.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs and sets forth its powers and duties over the licensure and regulation of physicians and surgeons. The act authorizes the board to take action against all persons guilty of violating the act. The act makes it a misdemeanor for any person, whether licensed under the act or not, to violate specified provisions of the act.

This bill would prohibit a physician and surgeon from automatically denying treatment or medication to a qualified patient, as defined, based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes a determination that the qualified patient's use of medical cannabis is medically significant, as defined, to the treatment or medication. The bill would provide that use of medical cannabis that has been recommended by a licensed physician and surgeon shall not constitute the use of an illicit substance in such an evaluation. The bill would provide that a physician and surgeon shall not be punished, or denied any right or privilege, for having administered treatment or medication to a qualified patient pursuant to the bill and consistent with the standard of care. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2228.5 is added to the Business and Professions Code, to read:

2228.5. (a) A physician and surgeon shall not automatically deny treatment or medication to a qualified patient based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes, but is not limited to, a determination that the qualified patient's use of medical cannabis is medically significant to the treatment or medication.

(b) The use of medical cannabis that has been recommended by a licensed physician and surgeon shall not constitute the use of an illicit substance in the evaluation described in subdivision (a).

(c) No physician and surgeon shall be punished, or denied any right or privilege, for having administered treatment or medication to a qualified patient within the requirements of this section and consistent with the standard of care.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Medically significant" means that a physician and surgeon has made a clinical determination that may include, but is not limited to, any of the following:

(A) The treatment or medication is contraindicated or is likely, or expected, to cause an adverse reaction or physical or mental harm to the qualified patient if administered or used in conjunction with THC or medical cannabis, based on the known clinical characteristics of the patient and the known characteristics and history of the patient's treatment or medication regimen.

(B) The treatment or medication is expected to be ineffective based on the known clinical characteristics of the qualified patient and the known characteristics and history of the patient's treatment or medication regimen.

(C) The treatment or medication, when administered or used in conjunction with THC or medical cannabis, is not clinically appropriate for the qualified patient because the treatment or medication is expected to do any of the following, as determined by a physician and surgeon:

(i) Worsen a comorbid condition.

(ii) Decrease the capacity to maintain a reasonable functional ability in performing daily activities.

(iii) Pose a significant barrier to adherence to, or compliance with, the qualified patient's drug regimen or plan of care.

(D) Any other clinically or medically relevant determination.

(2) "Qualified patient" has the same meaning as defined in Section 11362.7 of the Health and Safety Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.