

STONE ADVOCACY

2023-2024 SESSION REPORT

CALIFORNIA ORTHOPAEDIC ASSOCIATION

OCTOBER 2023 (END OF YEAR 1)

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HIGHLIGHTS:

- Single payor did not pass; nor did new antitrust consolidation bill. The civilian majority provision on the Medical Board was removed.
- Represented COA before legislators and staff with enthusiasm, passion, and integrity.
- Opposed 10 bills; killed or amended to satisfaction 7 of them – 70 % kill rate.
- Supported 6 bills; 0 became law– a 0% success rate with supported bills.
- Read each of the 3030 bills introduced (1974 in Assembly and 1056 in Senate) in 2023 and each of the amendments to each of the bills to issue spot for COA. Provided background information and analysis to Diane, Legislative Committee, and Board.
- Monitored meetings of the AB 890 working group of the Bureau of Registered Nursing and the Board Meetings of the Board of Registered Nursing.
- Monitored meetings and represented COA before the newly created Office of Health Care Affordability.
- Represented COA at PAC events.
- Responded promptly and professionally to member inquiries.

OPPOSE BILLS: 70 % KILL RATE

COA opposed or opposed-unless-amended ten bills in 2023 and killed or amended to our satisfaction seven of them:

- [AB 616 \(Rodriguez\)](#) would have required disclosure of audited financial statements beyond what is required to measure costs. This bill was part of the union/Kaiser fight and was supported by the Labor Fed, SEIU, and the Nurses Association, among others. The bill passed both houses but was vetoed by the Governor for the same reason COA opposed: because the newly created Office of Health Care Affordability will be tracking cost data and so additional requirements on top of that are unnecessary.
- [AB 1091 \(Wood\)](#) would have added additional Attorney General involvement in provider/insurer contracts and medical group mergers. The bill became a two-year bill and could be eligible to move again in January 2024.

- [AB 1570 \(Low\)](#) would have expanded optometrist scope of practice to certain surgeries. COA sided with the ophthalmologists and CMA and opposed last year as well. This bill became a two-year bill and could be eligible to move again in January 2024.
- [AB 1617 \(Wallis\)](#) would have allowed recreational off highway vehicles to have even bigger, faster engines, leading to more injuries. COA was able to talk informally to the author about our concerns for driver safety and injury and the author voluntarily held the bill. It became a two-year bill and could move again in January 2024.
- [AB 1690 \(Kalra\)](#) would have created single payor health care for California. The bill died in both 2021 and 2022. This year it became a two-year bill and could move in January 2024.
- [AB 1751 \(Gipson\)](#) was sponsored by the chiropractors and would have required additional disclosures, consent, and non-pharmacological prescriptions for pain relief when a physician prescribed an opioid for pain relief.
- [SB 524 \(Caballero\)](#) would have allowed pharmacists to prescribe medicines for problems they are allowed to perform tests for. COA joined CMA in opposing and the bill made it all the way through the first house but was held in Assembly Appropriations committee. It has become a two-year bill and could move again at any time in 2024.

FIGHTING THE GOOD FIGHT: OPPOSE BILLS THAT BECAME LAW ANYWAY

- [AB 1007 \(Ortega\)](#) deems surgical plume as a workplace safety issue so that by December 1, 2026 the Occupational Safety and Health Standards Board (under DIR) must promulgate regulations regarding plume scavenging.
- [SB 525 \(Durazo\)](#) COA and its members engaged actively in opposing this bill to increase the medical minimum wage to \$25 an hour. Members signed letters that COA delivered and members weighed in with their elected officials. COA, CMA, the hospitals and multiple other health care groups opposed the bill and it was amended at the end of session to supersede local minimum wage ordinances for a decade and to phase in implementation.
 1. Employers with over 10K employees or part of an integrated health care delivery system, or large county health care systems have a \$23 minimum wage from June 1, 2024 to May 31, 2025; \$24 for the next year and \$25 in 2026 with upward adjustments after that.
 2. Hospitals with government payors and rural hospitals have an \$18 minimum wage with an increase of 3.5 % a year until 2033 and \$25 after that.
 3. Primary care, rural, and urgent care clinics have a \$21 minimum wage from 2024-2026; \$22 an hour for 2026-27; \$25 an hour from 2028 on, with upward adjustments after that.
 4. Implementing regulations will be "emergency" so able to go into effect faster than if not.
- [SB 815 \(Roth\)](#) This was the bill to extend the sunset on the California Medical Board. Among other things, the bill included a significant licensure fee increase and a civilian (non-doctor) majority on the Board. COA and others opposed the public majority on the Board and it was removed. The higher licensure fee remained in the bill. The bill also included other important changes to the Medical Board, including repealing a CMA sponsored bill that passed last year to deem disseminating inaccurate information about Covid unprofessional conduct, requiring the

Board to talk to complaining patients when they make a complaint against a physician, and to remove a requirement that the Board use an expert witness to Board to establish the connection between a felony sexual assault or drug conviction and unprofessional conduct regarding the practice of medicine.

SUPPORT BILL THAT WAS SIGNED INTO LAW

- [SB 2 Portantino. Firearms.](#) SB 2 made it illegal to carry a concealed weapon in specified settings, even if you have a concealed firearm permit. The settings include: schools, courts, government buildings, correctional institutions, **hospitals and other medical service facilities**, airports, public transportation, specified public gatherings, businesses where liquor is sold for onsite consumption, public parks or athletic facilities, casinos, sports arenas, libraries, churches, zoos, museums, amusement parks, banks, voting centers, and any other privately-owned commercial establishment open to the public unless that establishment has a sign indicating licensees are allowed to possess their firearm, or if the firearm is transported as authorized by law. We believe that this includes physicians medical offices. It should be noted that physicians can also post a sign prohibiting firearms in their offices.

FIGHTING THE GOOD FIGHT: 6 SUPPORTED BILLS THAT DID NOT BECOME LAW (YET!)

- [AB 765 \(Wood\)](#) was a CMA sponsored bill regarding “truth in advertising” to limit the use physician words and titles by non-physicians. COA joined CMA, anesthesiologists, dermatologists, ophthalmologists, plastic surgeons, cardiologists, psychiatrists, and others to appropriately limit the use of these titles to those who have earned them. The bill was opposed by the California Nurses Association, optometrists, nurse anesthetists, and naturopathic doctors. Despite passing Assembly Business and Professions with a 16-0 vote with two abstentions, the bill was held in the Assembly Appropriations committee. It became a two-year bill and could move again in January 2024.
- [AB 796 \(Weber\)](#) would have helped professionalize athletic trainers by creating a licensing requirement for trainers and prohibiting anyone other than a licensed trainer from using the term. The bill was opposed by the California Nurses Association, the physical therapists, physician assistants, and others. It passed the Assembly but was held in the Senate Business and Professions Committee, becoming a two-year bill that could move again in 2024.
- [SB 70 \(Weiner\)](#) would have prohibited insurance companies from denying coverage for off label use for a life threatening condition, if the medicine is necessary to treat a chronic or debilitating condition, and if the medicine has been found to be safe and reliable. The bill was then amended down to prohibit an insurer from changing coverage regarding dosage of a previously covered prescription. COA joined CMA and others in support, but the bill was opposed by the insurers. It passed the Senate but was held in the Assembly Appropriations committee. It is a two-year bill so could return in 2024.
- [SB 481 \(Niello\)](#) would have required the Medical Board to post a list of medical specialties and Board certifications. COA supported the bill but it was never set for hearing. It has become a two-year bill so could move in January 2024.
- [SB 598 \(Skinner\)](#) was CMA's prior authorization bill, which got farther this year than it has in previous years, but still failed passage. COA supported the bill that was based on the Texas model, allowing doctors who have higher approvals for prior authorization this year to be

exempt from prior authorization next year. The bill passed the Senate but was held in Assembly Appropriations committee. It could return as a two-year bill in 2024.

- [SB 802 \(Roth\)](#) would have required the Medical Board to notify applicants within 30 days if their denial of licensure was due to a criminal conviction. Although instances of this are hopefully rare, COA believed the commonsense bill was worthy of support. The bill passed the Senate but didn't move in the Assembly; it has become a two-year bill.

WATCH BILLS OF NOTE

- [AB 931 \(Irwin\)](#) was sponsored by the physical therapists and would have allowed 12 visits to be paid by insurance without requiring prior authorization. COA was neutral on the bill. The bill passed but Governor Newsom vetoed it, saying "prior authorization, when applied appropriately, can be an important tool to contain health care costs."
- [SB 770 \(Weiner\)](#) requires California to talk to the federal government about receiving a waiver creating a single payor system in California. It also creates a working group around the costs and how to implement single payor. This bill passed and was signed into law.

INCREASINGLY IMPORTANT: AGENCIES AND REGULATIONS: NURSES, NURSE PRACTITIONERS, AND THE NEW OFFICE OF HEALTH CARE AFFORDABILITY

COA monitored meetings of the Nurse Practitioner Advisory Committee and the Board Meetings of the Board of Registered Nursing to ensure that no scope creep for Nurse Practitioners was happening in their proposed regulations which would have allowed nurse practitioners to perform surgery. Regulations were adopted to clarify that the recently enacted nurse practitioner scope of practice law did not allow them to perform surgery. Nothing horrible happened this year with either group.

COA also monitored and attended meetings of the Office of Health Care Affordability (OCHA), submitted comments on proposed regulations, and attended and commented to the Health Care Affordability Advisory Committee (HCAI) on proposed regulations exempting groups of 25 or less physicians from data reporting requirements. The initial draft regulations did not make this exemption clear. This new regulatory board will become increasingly important as they plan to create health care cost targets and plan to require disclosure of cost information. COA will need to remain vigilant and continue to weigh in to try to influence the regulations so that they do not go beyond what is allowed in statute.

FEDERAL ISSUES OF NOTE

- Medicare Physician Fee Schedule – 2024

Physicians nationwide continue to face grueling hours, rising costs, and widespread burnout that is undermining our nation's health care workforce and could soon threaten patient access and affordability. What's more, many physicians today are working under an unsustainable Medicare payment system that fails to adequately reimburse them for the critical services they provide. When adjusted for inflation, Medicare physician payments declined by 26 percent from 2001 to 2023. CMS is again proposing approximately 4% in reductions in reimbursement for 2024. COA opposes these reductions. COA leaders also met with members of the California

Congressional Delegation to urge them to stop these reductions. Orthopaedic surgeons are now starting to drop out of the Medicare system. Congress will need to act by the end of 2023.

LOOKING AHEAD: ISSUES I EXPECT TO SEE IN 2024

- Implementation issues with the Office of Health Care Affordability – will want to continue weigh in on the implementation and regulations.
- COA sponsored initiative to automate the Radiologic Health Branch certification process for new licentiates and for certification renewals. The RHB has been trying to automate their process for at least the last 10 years. This is causing delays for new surgeons getting into practice, limiting patients' access to fluoroscopy, and incurring higher administrative costs for surgeons to renew their certifications.
- I expect a return of issues we killed this session including single payor and antitrust issues. I think issues of cost and cost containment will return.
- Scope of practice fights!
- Insurer payment fights.
- The qualifications that an allied health professional must meet in order for them to be deemed equivalent to an MD. This has been an ongoing issue raised by podiatrists on a state and federal level for the last several years.

December, 2023