

The Medical Board of California is committed to consumer protection through the licensing and regulation of doctors and certain allied healthcare professionals.

Carlos Villatoro (CV): My name is Carlos Villatoro and this is Medical Board Chat, the official podcast of the Medical Board of California. And today on Medical Board Chat we are talking about a law that takes effect on January 1st, 2022, that requires all prescribers to adopt an e prescribe model. The law is called AB 2789 and with me today is the Chief of Legislative and Public Affairs Mr. Aaron Bone. Aaron, welcome to Medical Board Chat

Aaron Bone (AB): Thanks Carlos great to be with you.

CV: So Aaron, tell us a little bit about AB 2789. What is going to be required of prescribers at the beginning of next year?

AB: AB 2789 was actually a law that was approved by the Legislature and signed by the Governor back in 2018 and like you said it takes effect January 1, 2022, so just a few months away from this recording. And the goal is to get all prescribers electronically prescribing their medications, sending them to pharmacies so that way they can be delivered that way. The reasons behind that is the Legislature and the Governor were trying to reduce fraud and forgery of prescription medications, medication errors was also a big issue that was on their mind. Prescription opioid abuse in particular was a huge concern a few years ago, and still is right? And this is a way that the Legislature is hoping to end those types of medication errors and prescription drug abuses.

CV: To address some of those issues. OK. So, Aaron is there a grace period regarding AB 2789 or are we in that grace period now?

AB: We're in the grace period now, Carlos. So like I said the bill was signed back in 2018 and the Legislature put a delayed implementation in there, which was intended to provide physicians and hospitals and you know health facilities up and down the state to give them time to comply with this requirement. And that's now, that grace period is ending so come January 1, 2022, that's when that requirement takes effect. Now you may already be in a facility or your medical practices may already have this in place. If so there's nothing that you need to do, but there are a number of physicians out there who have yet to do this and the time is running short.

CV: You know one of the reasons that we're doing this podcast is to get our licensees ready for this change. Now a lot of our licensees have already adopted an e-prescribe model but then there are some who still write their prescriptions on appropriate pads. What happens however if there is a practice not set up on a e-prescription model by January 1st, will their prescriptions be accepted by pharmacies throughout the state? What are your thoughts on that?

AB: Well, so there's a couple parts to your question. So first is if you are not prepared and not issuing electronic prescriptions come January 1, you would be out of compliance with the law. Now that does not necessarily require a pharmacist to reject a prescription that is not issued electronically. In fact, the law specifically states that a pharmacist who get a written or an oral or a fax prescription for example does not, is not required to verify that the physician met the requirements of the e-prescribing laws. So this law will not require a pharmacist to reject a prescription that doesn't, that isn't submitted electronically. But you would be out of compliance with the law and if that information, we get a complaint for example or it's otherwise brought to the Medical Board's attention, then we could do an investigation and the physician could get fined, something that we call a citation and fine. Or possibly even have their license disciplined.

CV: And we don't want that and that's why we're doing this podcast as well as putting out other communication regarding AB 2789. So what happens in the situation, Aaron, where it's impossible to transmit a prescription electronically. Maybe there's a power outage or maybe, you know, we're caught in a fire I know that wildfires have been raging across California. What happens when the physician's practice no longer has that ability to transmit the prescription electronically?

AB: Yeah great questions, common questions that gets asked of us. So in short, you are, that's one of the exemptions that the bill allows for. So if you have a temporary technological or electrical failure as the law calls which could mean, you know basically what it sounds like, your computer crashes, your power is out, you know, the service that you rely upon, they have an outage, you know that sort of thing. Then you're going to be fine to issue that prescription through some other means maybe paper, maybe faxed, maybe oral. You are not going to be subject to the requirements of the law when you are experiencing that type of a technological failure, power failure for example. There's other exemptions in the law as well and this is all going to be on our website and so we really encourage you to read through it. There will be a link to the statute itself where you can read all these things in depth, but there are many other exemptions that are there, so we really encourage you to get familiar with them. Things that might relate to, if your patient lives in another state or if the patient is being seen in the emergency room or urgent care clinic. So there's a number of things that we really encourage you to pay close attention to and, and get familiar with the law.

CV: And that's why the Board recommends physicians and practitioners, prescribers, to maintain a pad of paper prescriptions just in case there is an electronic failure.

AB: Definitely.

CV: Especially in rural clinics where, you know, the internet may not be as fast or as reliable as in urban areas where it is more reliable.

AB: You know, one of the other areas where we get some questions on Carlos is whether or not the Board can waive this requirement. There are a number, there are

certain regulations that the Board does create and those are some things we have flexibility on – this is not one of them. This is a requirement that was placed by the Legislature in the statute so this is not the sort of thing that unfortunate we're able to say 'Hey because of your situation you don't have to worry about complying with this law. This is going to apply to every physician. And not just physicians, dentists, podiatrists, you know, any other health-care professional that has prescribing authority they are – except for veterinarians – they are going to be required to comply with the law.

CV: And where can somebody go to get additional information about AB 2789 and its requirements?

AB: So the first place I would suggest you is go to our website www.mbc.ca.gov. We'll have a webpage there that you'll be able to find that will provide some guidance. It will provide a link to the law. There's also newsletters, so we've been talking about this actually for a couple years now even though this requirement, like we said, like we've been saying, even though the requirement doesn't take effect until January 1 of 2022 we've been talking about this, I think, since 2019. So you'll be able to go back and you can look at prior newsletter issues over these last two years or so and you'll be able to see some information that we've been providing here as well. So one of the questions that we get sometimes are folks who are looking for guidance on what type of a system that they should purchase, what type of hardware should they get or software should they subscribe to. Unfortunately, though that's not something that we can give them any guidance on. We can't recommend certain software packages or hardware so one of the things that we've been encouraging folks to do is to reach out to colleagues that you trust that are already prescribing electronically. Or institutions that you may be familiar with or affiliated with that are already engaged into doing this. Check with them, they may be able to provide some information that's going to be really useful to you. The other thing that's important for folks to know is that if you write prescriptions for controlled substances then the law does have some particular requirements that pertain to federal regulations that are issued by the Drug Enforcement Agency and again we'll have a little bit of information in there on our website. But again, when you are choosing a solution for your practice please be sure to do your research, do your homework to make sure that it's going to not only meet your needs but it's going to be in compliance with this law. So that way you don't run into any issues in the future.

CV: And that's excellent advice and once again Aaron, thank you very much for sharing this information with the listeners of Medical Board Chat and if you have any questions pertaining to this law what you could do is send us an email. Our email addresses webmaster@mbc.ca.gov. Or you can call or call center toll-free Monday through Friday 8 a.m. to 5 p.m. at 800-633-2322 and that is going to be it, Aaron thank you.

AB: Thanks for having me, it's been fun.