

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 592**

**Introduced by Assembly Member Yee**

February 17, 2005

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An act to amend Section 2234.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 592, as amended, Yee. Physicians and surgeons.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible through its Division of Licensing and Medical Quality for licensing and regulating physicians and surgeons. Under the act, disciplinary action may be taken against a physician and surgeon for engaging in unprofessional conduct, which includes gross negligence, repeated negligent acts, and incompetence. Existing law provides that a physician and surgeon is not subject to discipline for these particular aspects of unprofessional conduct solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, as defined, if specified conditions are satisfied.

This bill would also provide that a physician and surgeon is not subject to discipline for these particular aspects of unprofessional conduct solely on the basis that the treatment or advice he or she rendered to a patient is ~~innovative~~ *emerging medical* care or conforms to a different school of medical thought, if those conditions are satisfied.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2234.1 of the Business and Professions  
2 Code is amended to read:

3 2234.1. (a) A physician and surgeon shall not be subject to  
4 discipline pursuant to subdivision (b), (c), or (d) of Section 2234  
5 solely on the basis that the treatment or advice he or she rendered  
6 to a patient is alternative or complementary medicine, or is  
7 ~~innovative~~ *emerging medical* care or conforms to a different  
8 school of medical thought, if that treatment or advice meets all of  
9 the following requirements:

10 (1) It is provided after informed consent and a good-faith prior  
11 examination of the patient, and medical indication exists for the  
12 treatment or advice, or it is provided for health or well-being.

13 (2) It is provided after the physician and surgeon has given the  
14 patient information concerning conventional treatment and  
15 describing the education, experience, and credentials of the  
16 physician and surgeon related to the alternative or  
17 complementary medicine, ~~innovative~~ *emerging medical* care, or  
18 different school of medical thought that he or she practices.

19 (3) In the case of alternative or complimentary medicine, *or*  
20 *emerging medical care*, it does not cause a delay in, or  
21 discourage traditional diagnosis of, a condition of the patient.

22 (4) It does not cause death or serious bodily injury to the  
23 patient.

24 (b) For purposes of this section, “alternative or complementary  
25 medicine,” ~~“innovative care,”~~ “*emerging medical care*,” or  
26 “conforming to a different school of medical thought” mean  
27 those health care methods of diagnosis, treatment, or healing that  
28 are not generally used but that provide a reasonable potential for  
29 therapeutic gain in a patient’s medical condition that is not  
30 outweighed by the risk of the health care method *or, in the case*  
31 *of emerging medical care, that is also published in*  
32 *evidenced-based guidelines derived by an expert panel of*  
33 *medical reviewers who are in actual clinical practice.*

34 (c) *Since the National Institute of Medicine has reported that*  
35 *it can take up to seventeen years for a new best practice to reach*  
36 *the average physician and surgeon, it is prudent to give attention*  
37 *to new developments not only in general medical care but in the*

- 1 *actual treatment of specific diseases, particularly those that are*
- 2 *not yet broadly recognized in California.*

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