



LEGISLATIVE REPORT #306

End of Session Report - Bills Headed to the Governor - Governor Takes Executive Action on Vaping

September 18, 2019: The first year of the two-year session wrapped up early Saturday morning. Governor Newsom now has until October 13th to act on the 771 bills on his desk. To date, he has already signed 563 and vetoed only six.

As you may have read, the last night was interrupted by some “anti-vaccine” individuals who had been protesting the Governor signing SB 276 (Pan). This bill establishes a process to address the sharp increase in medical exemptions to the vaccination requirement for children. The protestors were in the Senate Gallery when they dumped a menstrual cup of fluid over the edge and onto six Senators seated below on the Floor. The Senate immediately shut down while the protestors were arrested leading to a three-hour delay in the Senate Floor session. The Senate reconvened in a committee room to continue its session which lasted until nearly 3AM on Saturday morning.

The Governor continues to get some criticism over how he handled SB 276 whether it was how he came back and asked for amendments after indicating he was okay with the bill or with how he did not take stronger actions to control the anti-vaccine protestors in the Capitol. The hallway discussions on the last night of the session was how the Legislature was growing more and more frustrated with the Governor which may have contributed to the Legislature passing SB 1 (Atkins) when the Governor had been communicating, he did not want the bill. SB 1 is the bill that would codify in state law certain federal regulations that President Trump has indicated he wants to change.

Just after the session ended Governor Newsom took an executive order to address the growing concerns over vaping. His order does the following:

- **Increased enforcement of e-cigarettes:** The Department of Tax and Fee Administration (CDTFA) will develop recommendations to remove illegal or counterfeit vaping products from stores and reducing youth vaping consumption through increased enforcement and incorporating nicotine content into the calculation of the existing tax on electronic cigarettes. CDTFA shall consider revenues currently derived from taxation of electronic cigarettes and the revenues that may be collected from a nicotine-based tax, the potential for evasion and the feasibility of instituting a stamping requirement to maximize compliance.
- **Warning signs at retailers and on advertisements:** The California Department of Public Health (CDPH) is directed to develop recommendations to reduce the availability of vaping devices to persons under 21 years of age, which includes the establishment of warning signs about the health risks of vaping at retailers where any vaping product is sold and in any vaping advertisements. This includes increased enforcement regarding sales of vaping products and specifically e-liquid flavors, to youth. In addition, the CDPH shall make recommendations regarding the establishment of standards for nicotine content and uniform packaging for purposes of including nicotine content in the calculation of the existing tax on electronic cigarettes.
- **Program Funds for Vaping Awareness Campaign:** The CDPH is immediately directed to allocate a total of at least \$20 million in tobacco and cannabis program funds for a vaping awareness campaign, including digital and social media messaging focused on youth, young adults and parents. This will build upon the award-winning and longest running anti-tobacco program in the nation.

Many, including CA-ACC, had hoped the Governor would take stronger action to ban the sale of certain vaping products. The Governor was quoted as being supportive of banning the sale of flavored e-cigarette products, but he didn't feel he had the authority to place a ban on sales without legislation.

Looking back at the legislative session, I have listed below several bills CA-ACC advocacy engaged in lobbying. I will continue to update everyone as the Governor takes actions on the bills.

- **AB 890 (Wood) – CA-ACC Position – Oppose – Held on Suspense File – Dead for this year**
- AB 890 would expand the scope of practice for nurse practitioners (NPs) who have obtained a national certification from a national certifying body to practice medicine without the supervision of a physician as long as they practice in one of the following settings: a clinic, a healthcare facility, an accountable care organization, or a medical group. NPs would be allowed to perform activities including but not limited to ordering and interpreting diagnostic procedures, assess and establish diagnosis of patients to determine a plan of care, and order, furnish, and prescribe drugs and devices.

- **SB 697 (Caballero) - CA-ACC Position – Oppose unless Amended – To the Governor**
- This bill was initially introduced to allow PAs to practice independently. After strong opposition the bill was then amended to increase the supervision ratio for the number of PAs a physician can supervise from 4:1 to 6:1 when a PA is prescribing and unlimited when PA is not prescribing. The bill also deleted the requirement for physicians to review and countersign medical records of patients seen by PA. CA-ACC continued to have an Oppose unless Amended stating the patient ratios should be consistent when prescribing or not and to put back the requirement for medical record review. The bill was subsequently amended to change back the ratios to 4:1 for both prescribing and not prescribing supervision. We were not able to have the author and sponsors agree to put back the medical review component so we remain opposed as the bill goes to the Governor.

- **SB 446 (Stone) – CA-ACC Position – Oppose – Held on Suspense File – Dead for this year**
- This bill would authorize Medi-Cal to pay pharmacists for providing hypertension medication management services. This is a repeat of SB 1264 (Stone) that was also defeated last year. SB 446 bill failed to pass out of the Appropriations Committee.

- **SB 706 (Galgiani) – CA-ACC Position – Support – To the Governor**
- SB 706 would create a task force to develop and update a comprehensive strategic plan to improve health outcomes for individuals with a diagnosis of pediatric or pulmonary hypertension, including recommendations on how to advance research on pulmonary hypertension, increase public awareness and recognition of pulmonary hypertension, improve health care delivery for patients with pulmonary hypertension, and improve early and accurate diagnosis of pulmonary hypertension. The task force shall submit report to the Governor by January 1, 2021

- **AB 387 (Gabriel) – CSPS Position – Change from Oppose to Neutral – Held in Senate Appropriations Committee**
- This bill was introduced requiring a physician and surgeon, when providing a prescription for a drug or device to a patient, to discuss with the patient the opportunity to opt in to having the physician indicate the purpose for the drug or device on its prescription so that the purpose may be included on the prescription drug container label. CA-ACC strongly opposed the bill and the author amended the bill to create a task force to study medical prescription adherence.
- **AB 407 (Santiago) CA-ACC Position – Support – Held on Senate Appropriations Suspense File**
- Allows physicians who have completed a radiation safety course provided by a hospital to provide fluoroscopy and radiation services in that hospital. This pathway provides an alternative to the current requirement for physicians to obtain a fluoroscopy and radiation permit through the state.
- **SB 347 (Monning) – CA-ACC Position – Support – Assembly Health Committee – 2-yr Bill**
- This bill will allow consumers to make informed purchasing decisions by requiring anyone who distributes, sells, or offers for sale a sugar-sweetened beverage to include a safety warning on the product. The bill would also require a similar warning label be placed on vending machines or beverage dispensing machines where a sugar-sweetened beverage is sold. The bill was not heard in the Assembly Health Committee due to the author not having the votes to pass the bill. The bill is still eligible for a vote in 2020.
- **AB 138 (Bloom) – CA-ACC Position – Support – Stalled in Rev and Tax Committee – Dead for this year**
- AB 138 would establish a 2-cents per fluid ounce tax on sugary drinks at the distributor level. The revenues would be deposited in the California Community Health Fund, which would provide funding for programs to promote health equity, reduce health disparities, improve oral health, and prevent the leading causes of illness and premature death, especially those caused by sugary drink consumption. These illnesses include obesity, diabetes, heart disease, tooth decay and certain cancers.
- **AB 1268 (Rodriguez) – CA-ACC Position – Support – Held on Suspense File – Dead for this year**
- This bill would require health plans to report their top 30 health care services for which prospective was approved or denied to the Department of Managed Health Care (DMHC). This transparency

into a health plan's prior authorization process will help lawmakers understand where changes are needed to improve patient care.

- **SB 38 (Hill) – CA-ACC Position – Support – Senate Floor – 2-yr Bill**
- Would prohibit the sale of flavored tobacco products. The author did not take the bill up on the Senate Floor for a vote.

- **AB 1639 (Gray) – CA-ACC Position – Changed from Oppose unless Amended to Neutral – Senate – 2-yr Bill**
- This bill prohibits anyone under 21 years of age from entering a tobacco store but exempts active duty military personnel who are 18 years of age or older. AB 1639 also penalizes any person who knowingly furnishes any tobacco product, cigarette product, wraps or rolling papers, or any item designed for smoking or ingestion of tobacco products or controlled substances to anyone under 21 years of age with a fine, community service, or both and increases fines for persons, companies, or other entities that commit the described offense.

This was a highly politicized bill which saw the author, who had blocked other bills attempting to ban the sale of flavored tobacco products, try to find an alternative approach to addressing the increasing problem with e-cigarettes.