

# Daily Journal

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## NEW CALIFORNIA LAWS 2019

California laws passed in 2018 and the codes they modified



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### SB 1448: Doctors must disclose discipline for sexual misconduct

By Molly M. McKibben

A new law makes a doctor's patients as important as their employers and malpractice insurers. California is now the first state in the nation to require physicians to inform patients before treating them that they have been disciplined for sexual assault or other serious misconduct.

Prior to the law being signed by Gov. Jerry Brown in September, doctors in California accused of wrongdoing such as assaulting patients or overprescribing addictive medications could settle with the medical board and be put on probation. They were then required to inform their hospital or clinic and their malpractice insurer but weren't required to tell their patients. While California law required that doctors disclose information regarding their misconduct online, the online system to search for such information is very difficult to use.

Senator Jerry Hill, D-San Mateo, sponsored the bill twice and was unsuccessful due to strong opposition from the California Medical Association, which represents 41,000 doctors in the state. However, this year the bill was supported by several high-profile athletes, including women who had accused incarcerated doctor Larry Nassar of sexual abuse as well as women who reported abuse by University of Southern California gynecologist George Tyndall.

The Patient Right to Know Act requires physicians placed on probation for a serious offense after July 2019 to ask patients, before their first visit, to sign a form that discloses the length and end date of their probation, any restrictions placed on their ability to practice, contact information for their licensing board and information on how to access additional details about the disciplinary action. It applies to physicians, surgeons, and practitioners

licensed by the Medical Board of California, California Podiatric Medicine, Osteopathic Medical Board of California, Naturopathic Medicine Committee, Board of Chiropractic Examiners and the California Acupuncture Board. The law applies only to doctors to physicians on probation for sexual abuse or misconduct, drug or alcohol abuse, a criminal conviction involving harm to patient health or safety, or inappropriate prescription of medications.

In a perfect world, regulators would act quickly on any accusation of serious misconduct by a doctor; in reality, any investigation spurred by a complaint often takes a long time for regulators to address, and other patients continue to be treated by that doctor during any investigation often unaware of any accusation of misconduct. A study by the California Research Bureau found that doctors who engage in misconduct are 30 percent more likely to reoffend. This law corrects

the problem of doctors accused of misconduct being able to hide their misdeeds for years or even decades, as was the case with Mr. Nassar and Mr. Tyndall.

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