AGENDA ITEM 21

DISCUSSION ON AB 1028.

Please Note: All bills can be found at:

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Assembly Bill 1028 -
Comparison of Penal Code Changes

Amendments to Penal Code section 11160, physical injuries that a health practitioner shall report/take action.

Current law requires health practitioners to report to local law enforcement various physical injuries, detailed below. AB 1028 would require reporting of self-harm injuries, firearm related injuries, child abuse, and elder/dependent adult abuse. Domestic and sexual assault requires a "warm handoff" and referral. A report to law enforcement may be made upon request by the injured.

Current Reporting Requirements	AB 1028 Requirements
Penal Code 11160 requires reporting to local law enforcement, via phone immediately or as soon as practicable and also via written report.	Reporting requirements vary, detailed below. Warm handoff and referral are detailed below. *If blank*, bill is silent
Penal Code 11160(a), health report the following to law enforcement:	
• (a)(1) Self-inflicted injury	Report
• (a)(1) Injury from firearm	Report
• (a)(2) Assaultive or abusive conduct, defined in subdivision (d) as:	*(Subdivision (d) repealed, child abuse and elder abuse now becomes (a)(2) and (a)(3).)*
o Murder	
o Manslaughter	
o Mayhem	
o Aggravated mayhem	
o Torture	
o Assault with intent to commit mayhem, rape, sodomy, oral copulation	Warm handoff for all but mayhem
o Administrating controlled substances in commission of a felony	
o Battery	
o Sexual battery	Warm handoff
o Incest	Report if victim is child/dependent adult; adults warm handoff
o Throwing chemical with intent to harm	
o Assault with stun gun or taser	
o Assault with deadly weapon	
o Rape (via intercourse)	Warm handoff/referral
o Procuring a person to have sex with another (prostitution)	
o Child abuse or endangerment	Report

o Abuse of spouse or cohabitant	Warm handoff
o Sodomy (penis to anus)	Warm handoff
o Lewd and lascivious acts with a child	Report
o Oral copulation in violation of 287 (rape; on an older minor 14-17 years old); or 288 (child less than 14 years old)	Report if victim is child/dependent adult; adults warm handoff
o Sexual penetration (insertion of body part or item into another)	Report if child/dependent adult; adults warm handoff
o Elder abuse	Report
o Attempt to commit the above crimes	Varies

Reporting requirements: Penal Code section 11160 requires a report to law enforcement. Statutory provisions specifically addressing the reporting of child and dependent physical abuse generally include law enforcement *and* a protection agency. Injuries that are not physical are generally law enforcement *or* a protection agency. The Board has an old memo that provides the overview of reporting for child and dependent adult injuries. I performed a comprehensive comparison of the memo and current law. The overview remains relevant. A more detailed memo may be created at a later date.

Warm handoff: The proposed amendments to Penal Code section 11160, subdivision (n), would define "warm handoff" as including, but not limited to, the health provider establishing a direct and live connection to a survivor advocate through a call, in person, or some form of tele advocacy. If a call is not possible, an email will suffice. The patient may decline a warm handoff.

Referral: The proposed amendments to Penal Code section 11160, subdivision (n), would define "referral" to including, but not limited to, the health practitioner sharing with the patient how to get in touch with local or national survivor advocacy organizations, how the survivor organization could be helpful to the patient, what the patient could expect when contacting the survivor organization, and the contact information for the survivor organization.

AB-1028 Reporting of crimes: mandated reporters. (2023-2024)

Date Published: 06/28/2023 09:00 PM

AMENDED IN SENATE JUNE 28, 2023

AMENDED IN SENATE JUNE 27, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL NO. 1028

Introduced by Assembly Member McKinnor
(Coauthor: Assembly Member Wicks)
(Coauthor: Senator Wiener)

February 15, 2023

An act to amend, repeal, and add Sections 11160, 11161, 11163.2, and 11163.3 of the Penal Code, relating to reporting of crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as amended, McKinnor. Reporting of crimes: mandated reporters.

Existing law requires a health practitioner, as defined, to make a report to law enforcement when they suspect a patient has suffered physical injury that is inflicted by the person's own act or inflicted by another where the injury is by means of a firearm, or caused by assaultive or abusive conduct, including elder abuse, sexual assault, or torture. A violation of these provisions is punishable as a misdemeanor.

This bill would, on and after January 1, 2025, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, and instead only require that report if the health practitioner suspects a patient has suffered a wound or physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm, a wound or physical injury resulting from child abuse, or a wound or physical injury resulting from elder abuse.

The bill would, on and after January 1, 2025, instead require a health practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence, as defined, to, among other things, provide brief counseling, education, or other support, and a warm handoff, as defined, or referral to local and national domestic violence or sexual violence advocacy services, as specified. The bill would, on and after January 1, 2025, specify that a health practitioner is not civilly or criminally liable for any report that is made in good faith and in compliance with these provisions.

This bill would make other conforming changes.

Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Recognizing that abuse survivors often need to access health care and medical treatment apart from police reporting and criminal legal involvement, this bill replaces mandated police reporting by medical professionals with offering connection to survivor services.

(b) Health care providers play a critical role in prevention, identification, and response to violence. However, current law requiring health professionals in California to file reports to law enforcement when treating patients for all suspected violence-related injuries can have a chilling effect of preventing domestic and sexual violence survivors from seeking medical care, decreasing patient autonomy and trust, and resulting in health providers being reluctant to address domestic and sexual violence with their patients.

(c) Studies have shown that medical mandatory reporting of adult domestic and sexual violence may increase patient danger and insecurity, whereas being able to openly discuss abuse without fear of police reporting can produce greater health and safety outcomes.

(d) Because of the complexity of interpersonal violence and impact of social inequities on safety, people who have experienced violence should be provided survivor-centered support and health care that results in better outcomes for patient safety. Doing so can improve the health and safety of patients already in care, decrease potential barriers to care, and promote trust between survivors and health providers.

(e) ~~Nothing in this act limits or overrides~~ *This act does not limit or override* the ability of a health practitioner to make reports permitted by subdivisions (c) or (j) of Section 164.512 of Title 45 of the Code of Federal Regulations, or at the patient's request. Providers must still follow reporting requirements for child abuse, pursuant to Section 11165 of the Penal Code, and elder and vulnerable adult abuse, pursuant to Section 15600 of the Welfare and Institutions Code. It is the intent of the Legislature to promote partnership between health facilities and domestic and sexual violence advocacy organizations, legal aid, county forensic response teams, family justice centers, and other community-based organizations that address social determinants of health in order to better ensure the safety and wellness of their patients and provide training for health practitioners. California has made strides to enhance health practitioners' capacity to address and prevent violence and trauma, including education for practitioners on how to assess for and document abuse as referenced in subdivision (h) of Section 2191 of, Section 2196.5 of, and Section 2091.2 of, the Business and Professions Code, Section 13823.93 of the Penal Code, and Section 1259.5 of the Health and Safety Code.

SEC. 2. Section 11160 of the Penal Code is amended to read:

11160. (a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) A person suffering from a wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A person suffering from a wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4), and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" does not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" includes any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261 or former Section 262.

(15) Procuring a person to have sex with another person, in violation of Section 266, 266a, 266b, or 266c.

(16) Child abuse or endangerment, in violation of Section 273a or 273d.

(17) Abuse of spouse or cohabitant, in violation of Section 273.5.

(18) Sodomy, in violation of Section 286.

(19) Lewd and lascivious acts with a child, in violation of Section 288.

(20) Oral copulation, in violation of Section 287 or former Section 288a.

(21) Sexual penetration, in violation of Section 289.

(22) Elder abuse, in violation of Section 368.

(23) An attempt to commit any crime specified in paragraphs (1) to (22), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose the employee's identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

(i) For purposes of this section only, "employed by a local government agency" includes an employee of an entity under contract with a local government agency to provide medical services.

(j) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 3. Section 11160 is added to the Penal Code, to read:

11160. (a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person suffering from any of the following shall immediately make a report in accordance with subdivision (b):

(1) A wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A wound or other physical injury resulting from child abuse, pursuant to Section 11165.6.

(3) A wound or other physical injury resulting from abuse of an elder or dependent adult, pursuant to Section 15610.07 of the Welfare and Institutions Code.

(b) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4), and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be maintained in the medical record and sent to a local law enforcement agency within two working days of the patient receiving treatment.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound or other injury has expired, regardless of whether or not the wound or other injury was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound or other injury was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound or other injury upon the injured person.

(c) If an adult seeking care for injuries related to domestic, sexual, or any nonaccidental violent injury, requests a report be sent to law enforcement, health practitioners shall adhere to the reporting process outlined in paragraph (3) of subdivision (b). The medical documentation of injuries related to domestic, sexual, or any nonaccidental violent injury shall be conducted and made available to the patient for use as outlined in the Health Insurance Portability and Accountability Act.

(d) For the purposes of this section, "injury" does not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose the employee's identity to the employer.

(h) (1) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services to a patient whom the health practitioner knows or reasonably suspects is experiencing any form of domestic violence, as set forth in Section 124250 of the Health and Safety Code, or sexual violence, as set forth in Sections 243.4 and 261, shall, to the degree that it is medically possible for the individual patient, provide brief counseling, education, or other support, and offer a warm handoff or referral to local and national domestic violence or sexual violence advocacy services, as described in Sections 1035.2 and 1037.1 of the Evidence Code, before the end of the patient visit. The health practitioner shall have met the requirements of this subdivision when the brief counseling, education, or other support is provided and warm handoff or referral is offered by a member of the health care team at the health facility.

(2) If the health practitioner is providing medical services to the patient in the emergency department of a general acute care hospital, they shall also offer assistance to the patient in accessing a forensic evidentiary exam or reporting to law enforcement, if the patient wants to pursue these options.

(i) A health practitioner may offer a warm handoff and referral to other available victim services, including, but not limited to, legal aid, community-based organizations, behavioral health, crime victim compensation, forensic evidentiary exams, trauma recovery centers, family justice centers, and law enforcement to patients who are suspected to have suffered any nonaccidental injury.

(j) To the extent possible, health practitioners shall document all nonaccidental violent injuries and incidents of abuse in the medical record. Health practitioners shall follow privacy and confidentiality protocols when documenting violence and abuse to promote the safety of the patient. If documenting abuse in the medical record increases danger for the patient, it may be marked confidential.

(k) This section does not limit or override the ability of a health care practitioner to make reports to law enforcement at the patient's request, or as permitted by the federal Health Insurance Portability and Accountability Act of 1996 in Section 164.512(c) of Title 45 of the Code of Federal Regulations, which permits disclosures about victims of abuse, neglect, or domestic violence, if the individual agrees, or pursuant to Section 164.512(j) of Title 45 of the Code of Federal Regulations, which permits disclosures to prevent or limit a serious and imminent threat to a person or the public.

(l) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

(m) For purposes of this section only, "employed by a local government agency" includes an employee of an entity under contract with a local government agency to provide medical services.

(n) For purposes of this section, the following terms have the following meanings:

(1) "Warm handoff" may include, but is not limited to, the health practitioner establishing direct and live connection through a call with a survivor advocate, in-person onsite survivor advocate, in-person on-call survivor advocate, or some other form of teleadvocacy. When a telephone call is not possible, the warm handoff may be completed through an email. The patient may decline the warm handoff.

(2) "Referral" may include, but is not limited to, the health practitioner sharing information about how a patient can get in touch with a local or national survivor advocacy organization, information about how the survivor advocacy organization could be helpful for the patient, what the patient could expect when contacting the survivor advocacy organization, or the survivor advocacy organization's contact information.

(o) A health practitioner shall not be civilly or criminally liable for acting in compliance with this section and for any report that is made in good faith and in compliance with this section and all other applicable state and federal laws.

(p) This section shall become operative on January 1, 2025.

SEC. 4. Section 11161 of the Penal Code is amended to read:

11161. Notwithstanding Section 11160, the following shall apply to every physician and surgeon who has under their charge or care any person described in subdivision (a) of Section 11160:

(a) The physician and surgeon shall make a report in accordance with subdivision (b) of Section 11160 to a local law enforcement agency.

(b) It is recommended that any medical records of a person about whom the physician and surgeon is required to report pursuant to subdivision (a) include the following:

(1) Any comments by the injured person regarding past domestic violence, as defined in Section 13700, or regarding the name of any person suspected of inflicting the wound, other physical injury, or assaultive or abusive conduct upon the person.

(2) A map of the injured person's body showing and identifying injuries and bruises at the time of the health care.

(3) A copy of the law enforcement reporting form.

(c) It is recommended that the physician and surgeon refer the person to local domestic violence services if the person is suffering or suspected of suffering from domestic violence, as defined in Section 13700.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 5. Section 11161 is added to the Penal Code, to read:

11161. Notwithstanding Section 11160, the following shall apply to every health practitioner who has under their charge or care any person described in subdivision (a) of Section 11160:

(a) The health practitioner or member of the care team shall make a report in accordance with subdivision (b) of Section 11160 to a local law enforcement agency.

(b) It is recommended that any medical records of a person about whom the health practitioner or member of the care team is required to report pursuant to subdivision (a) include the following:

(1) Any comments by the injured person regarding past domestic violence, as defined in Section 13700, or regarding the name of any person suspected of inflicting the wound or other physical injury upon the person.

(2) A map of the injured person's body showing and identifying injuries and bruises at the time of the health care.

(3) A copy of the law enforcement reporting form.

(c) The health practitioner or member of the care team shall offer a referral to local domestic violence services if the person is suffering or suspected of suffering from domestic violence, as defined in Section 13700.

(d) This section shall become operative on January 1, 2025.

SEC. 6. Section 11163.2 of the Penal Code is amended to read:

11163.2. (a) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist privilege applies to the information required to be reported pursuant to this article.

(b) The reports required by this article shall be kept confidential by the health facility, clinic, or physician's office that submitted the report, and by local law enforcement agencies, and shall only be disclosed by local law enforcement agencies to those involved in the investigation of the report or the enforcement of a criminal law implicated by a report. In no case shall the person suspected or accused of inflicting the wound, other injury, or assaultive or abusive conduct upon the injured person or their attorney be allowed access to the injured person's whereabouts. Nothing in this subdivision is intended to conflict with Section 1054.1 or 1054.2.

(c) For the purposes of this article, reports of suspected child abuse and information contained therein may be disclosed only to persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(d) The Board of Prison Terms may subpoena reports that are not unfounded and reports that concern only the current incidents upon which parole revocation proceedings are pending against a parolee.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 7. Section 11163.2 is added to the Penal Code, to read:

11163.2. (a) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the information required to be reported pursuant to this article.

(b) The reports required by this article shall be kept confidential by the health facility, clinic, or physician's office that submitted the report, and by local law enforcement agencies, and shall only be disclosed by local law enforcement agencies to those involved in the investigation of the report or the enforcement of a criminal law implicated by a report. In no case shall the person suspected or accused of inflicting the wound or other injury upon the injured person, or the attorney of the suspect or accused, be allowed access to the injured person's whereabouts. Nothing in this subdivision is intended to conflict with Section 1054.1 or 1054.2.

(c) For the purposes of this article, reports of suspected child abuse and information contained therein may be disclosed only to persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(d) The Board of Prison Terms may subpoena reports that are not unfounded and reports that concern only the current incidents upon which parole revocation proceedings are pending against a parolee.

(e) This section shall become operative on January 1, 2025.

SEC. 8. Section 11163.3 of the Penal Code is amended to read:

11163.3. (a) A county may establish an interagency domestic violence death review team to assist local agencies in identifying and reviewing domestic violence deaths and near deaths, including homicides and suicides, and

facilitating communication among the various agencies involved in domestic violence cases. Interagency domestic violence death review teams have been used successfully to ensure that incidents of domestic violence and abuse are recognized and that agency involvement is reviewed to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eradicate the incidence of domestic violence.

(b) (1) For purposes of this section, "abuse" has the meaning set forth in Section 6203 of the Family Code and "domestic violence" has the meaning set forth in Section 6211 of the Family Code.

(2) For purposes of this section, "near death" means the victim suffered a life-threatening injury, as determined by a licensed physician or licensed nurse, as a result of domestic violence.

(c) A county may develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to death or whether domestic violence had occurred prior to death, but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(d) County domestic violence death review teams shall be comprised of, but not limited to, the following:

(1) Experts in the field of forensic pathology.

(2) Medical personnel with expertise in domestic violence abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys and city attorneys.

(6) Representatives of domestic violence victim service organizations, as defined in subdivision (b) of Section 1037.1 of the Evidence Code.

(7) Law enforcement personnel.

(8) Representatives of local agencies that are involved with domestic violence abuse reporting.

(9) County health department staff who deal with domestic violence victims' health issues.

(10) Representatives of local child abuse agencies.

(11) Local professional associations of persons described in paragraphs (1) to (10), inclusive.

(e) An oral or written communication or a document shared within or produced by a domestic violence death review team related to a domestic violence death review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence death review team, or between a third party and a domestic violence death review team, is confidential and not subject to disclosure or discoverable by a third party. This includes a statement provided by a survivor in a near-death case review. Notwithstanding the foregoing, recommendations of a domestic violence death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of the domestic violence death review team.

(f) Each organization represented on a domestic violence death review team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. This provision shall permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other statute.

(g) Written and oral information may be disclosed to a domestic violence death review team established pursuant to this section. The team may make a request in writing for the information sought and any person with information of the kind described in paragraph (2) may rely on the request in determining whether information may be disclosed to the team.

(1) An individual or agency that has information governed by this subdivision shall not be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual

or agency that has the information.

(2) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

(C) Notwithstanding Section 15633.5 of the Welfare and Institutions Code, information from elder abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(D) Notwithstanding Section 11167.5 of the Penal Code, information from child abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(E) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11075, 11105, and 13300 of the Penal Code.

(F) Notwithstanding Section 11163.2 of the Penal Code, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct, and information relating to whether a physician referred the person to local domestic violence services as recommended by Section 11161 of the Penal Code.

(G) Notwithstanding Section 827 of the Welfare and Institutions Code, information in any juvenile court proceeding.

(H) Information maintained by the Family Court, including information relating to the Family Conciliation Court Law pursuant to Section 1818 of the Family Code, and Mediation of Custody and Visitation Issues pursuant to Section 3177 of the Family Code.

(I) Information provided to probation officers in the course of the performance of their duties, including, but not limited to, the duty to prepare reports pursuant to Section 1203.10 of the Penal Code, as well as the information on which these reports are based.

(J) Notwithstanding Section 10850 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

(3) The disclosure of written and oral information authorized under this subdivision shall apply notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, or the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the sexual assault counselor-victim privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, the domestic violence counselor-victim privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code, and the human trafficking caseworker-victim privilege protected by Article 8.8 (commencing with Section 1038) of Chapter 4 of Division 8 of the Evidence Code.

(4) In near-death cases, representatives of domestic violence victim service organizations, as defined in subdivision (b) of Section 1037.1 of the Evidence Code, shall obtain an individual's informed consent in accordance with all applicable state and federal confidentiality laws, before disclosing confidential information about that individual to another team member as specified in this section. In death review cases, representatives of domestic violence victim service organizations shall only provide client-specific information in accordance with both state and federal confidentiality requirements.

(5) Near-death case reviews shall only occur after any prosecution has concluded.

(6) Near-death survivors shall not be compelled to participate in death review team investigations; their participation is voluntary. In cases of death, the victim's family members may be invited to participate, however they shall not be compelled to do so; their participation is voluntary. Members of the death review teams shall be prepared to provide referrals for services to address the unmet needs of survivors and their families when appropriate.

(h) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 9. Section 11163.3 is added to the Penal Code, to read:

11163.3. (a) A county may establish an interagency domestic violence death review team to assist local agencies in identifying and reviewing domestic violence deaths and near deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases. Interagency domestic violence death review teams have been used successfully to ensure that incidents of domestic violence and abuse are recognized and that agency involvement is reviewed to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eradicate the incidence of domestic violence.

(b) (1) For purposes of this section, "abuse" has the meaning set forth in Section 6203 of the Family Code and "domestic violence" has the meaning set forth in Section 6211 of the Family Code.

(2) For purposes of this section, "near death" means the victim suffered a life-threatening injury, as determined by a licensed physician or licensed nurse, as a result of domestic violence.

(c) A county may develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to death or whether domestic violence had occurred prior to death, but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(d) County domestic violence death review teams shall be comprised of, but not limited to, the following:

(1) Experts in the field of forensic pathology.

(2) Medical personnel with expertise in domestic violence abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys and city attorneys.

(6) Representatives of domestic violence victim service organizations, as defined in subdivision (b) of Section 1037.1 of the Evidence Code.

(7) Law enforcement personnel.

(8) Representatives of local agencies that are involved with domestic violence abuse reporting.

(9) County health department staff who deal with domestic violence victims' health issues.

(10) Representatives of local child abuse agencies.

(11) Local professional associations of persons described in paragraphs (1) to (10), inclusive.

(e) An oral or written communication or a document shared within or produced by a domestic violence death review team related to a domestic violence death review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence death review team, or between a third party and a domestic violence death review team, is confidential and not subject to disclosure or discoverable by a third party. This includes a statement provided by a survivor in a near-death case review. Notwithstanding the foregoing, recommendations of a domestic violence death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of the domestic violence death review team.

(f) Each organization represented on a domestic violence death review team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. This provision shall permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other statute.

(g) Written and oral information may be disclosed to a domestic violence death review team established pursuant to this section. The team may make a request in writing for the information sought and any person

with information of the kind described in paragraph (2) may rely on the request in determining whether information may be disclosed to the team.

(1) An individual or agency that has information governed by this subdivision shall not be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

(2) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

(C) Notwithstanding Section 15633.5 of the Welfare and Institutions Code, information from elder abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(D) Notwithstanding Section 11167.5, information from child abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(E) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11075, 11105, and 13300.

(F) Notwithstanding Section 11163.2, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or abuse, if reported, and information relating to whether a physician referred the person to local domestic violence services, as recommended by Section 11161.

(G) Notwithstanding Section 827 of the Welfare and Institutions Code, information in any juvenile court proceeding.

(H) Information maintained by the Family Court, including information relating to the Family Conciliation Court Law pursuant to Section 1818 of the Family Code, and Mediation of Custody and Visitation Issues pursuant to Section 3177 of the Family Code.

(I) Information provided to probation officers in the course of the performance of their duties, including, but not limited to, the duty to prepare reports pursuant to Section 1203.10, as well as the information on which these reports are based.

(J) Notwithstanding Section 10850 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

(3) The disclosure of written and oral information authorized under this subdivision shall apply notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, or the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the sexual assault counselor-victim privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, the domestic violence counselor-victim privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code, and the human trafficking caseworker-victim privilege protected by Article 8.8 (commencing with Section 1038) of Chapter 4 of Division 8 of the Evidence Code.

(4) In near-death cases, representatives of domestic violence victim service organizations, as defined in subdivision (b) of Section 1037.1 of the Evidence Code, shall obtain an individual's informed consent in accordance with all applicable state and federal confidentiality laws, before disclosing confidential information about that individual to another team member as specified in this section. In death review cases, representatives of domestic violence victim service organizations shall only provide client-specific information in accordance with both state and federal confidentiality requirements.

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teams shall be prepared to provide referrals for services to address the unmet needs of survivors and their families when appropriate.

(h) This section shall become operative on January 1, 2025.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

DISCUSSION AND CONSIDERATION OF TAKING A POSITION ON PROPOSED LEGISLATION IMPACTING THE BOARD, INCLUDING:

a) Report on Pending Legislation.
b) Assembly Bill (AB) 47 (Boerner), Pelvic floor physical therapy coverage.
c) AB 381 (Rubio), Teacher credentialing: services credential with a specialization in health: occupational and physical therapists.
d) AB 656 (McCarty), California State University: doctoral programs.
e) AB 796 (Weber), Business and Professions Code, relating to athletic trainers.
f) AB 883 (Mathis), Business licenses: United States Department of Defense Skill Bridge program.
g) AB 996 (Low), Department of Consumer Affairs: continuing education: conflict-of-interest policy.
h) AB 1369 (Bauer-Kahan), Business and Professions Code, relating to healing arts.
i) AB 1612 (Pacheco), Health and Safety Code, relating to clinics licensure.
j) AB 1707 (Pacheco), Health professionals and facilities: adverse actions based on another state's law.
k) Senate Bill (SB) 372 (Menjivar), Department of Consumer Affairs: licensee and registrant records: name and gender changes.
l) SB 525 (Durazo), Minimum wage: health care workers.
m) SB 544 (Laird), Government Code, relating to state government.
n) SB 802 (Roth), Licensing boards: disqualification from licensure: criminal conviction.
o) SB 805 (Portantino), Welfare and Institutions Code, relating to health care coverage.
p) SB 816 (Roth), Professions and vocations

Please Note: All bills can be found at:

https://leginfo.legislature.ca.gov

AGENDA ITEM 23

New suggested agenda item for a future meeting.

NBCOT® National Board for Certification in Occupational Therapy

Dry Needling and Wound Care Survey

The National Board for Certification in Occupational Therapy, Inc. NBCOT®) is continuing its state regulatory research initiative. NBCOT is gathering information from state occupational therapy licensure boards/committees regarding the use of dry needling and wound care as interventions in occupational therapy practice. Please assist us in this effort by taking a few minutes to complete this short survey. Results will be used by NBCOT to help us remain abreast of current regulatory trends.

5. Does the occupational therapy board/committee in your jurisdiction have specific requirements regarding the use of dry needling as an intervention?

- ○ Yes
- ○ No

6. Please indicate the means by which dry needling is addressed in your jurisdiction:

- ○ By Statute
- ○ By Regulation
- ○ By both Statute and Regulation
- ○ Other (please indicate)

Other:

7. Please identify the Statute and/or Regulation Section number(s) that apply.

8. Aside from licensure requirements in place for all OT practitioners, does your jurisdiction have additional education or training requirements for the use of dry needling?

- ○ Yes
- ○ No

Dry Needling and Wound Care Survey

9. Please indicate the specific requirements.

10. Does the occupational therapy board/committee in your state anticipate addressing the use of dry needling within the next 12 months?

- ○ Yes
- ○ No

11. Does the occupational therapy board/committee in your jurisdiction have specific requirements regarding wound care as an intervention?

- ○ Yes
- ○ No

12. Please indicate the means by which wound care is addressed in your jurisdiction:

- ○ By Statute
- ○ By Regulation
- ○ By both Statute and Regulation
- ○ Other (please indicate)

Other:

13. Please identify the Statute and/or Regulation Section number(s) that apply.

NBCOT® National Board for Certification in Occupational Therapy

Dry Needling and Wound Care Survey

14. Aside from licensure requirements in place for all OT practitioners, does your jurisdiction have additional education or training requirements for wound care?

- ◯ Yes
- ◯ No

If Yes, (please indicate)

15. Does the occupational therapy board/committee in your state anticipate addressing wound care within the next 12 months?

- ◯ Yes
- ◯ No