

Assembly Bill No. 2098

CHAPTER 938

An act to add Section 2270 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2098, Low. Physicians and surgeons: unprofessional conduct.

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and the Osteopathic Medical Board of California. Existing law requires the applicable board to take action against any licensed physician and surgeon who is charged with unprofessional conduct, as provided.

This bill would designate the dissemination of misinformation or disinformation related to the SARS-CoV-2 coronavirus, or "COVID-19," as unprofessional conduct. The bill would also make findings and declarations in this regard.

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

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

(a) The global spread of the SARS-CoV-2 coronavirus, or COVID-19, has claimed the lives of over 6,000,000 people worldwide, including nearly 90,000 Californians.

(b) Data from the federal Centers for Disease Control and Prevention (CDC) shows that unvaccinated individuals are at a risk of dying from COVID-19 that is 11 times greater than those who are fully vaccinated.

(c) The safety and efficacy of COVID-19 vaccines have been confirmed through evaluation by the federal Food and Drug Administration (FDA) and the vaccines continue to undergo intensive safety monitoring by the CDC.

(d) The spread of misinformation and disinformation about COVID-19 vaccines has weakened public confidence and placed lives at serious risk.

(e) Major news outlets have reported that some of the most dangerous propagators of inaccurate information regarding the COVID-19 vaccines are licensed health care professionals.

(f) The Federation of State Medical Boards has released a statement warning that physicians who engage in the dissemination of COVID-19 vaccine misinformation or disinformation risk losing their medical license,

and that physicians have a duty to provide their patients with accurate, science-based information.

(g) In House Resolution No. 74 of the 2021–22 Regular Session, the California State Assembly declared health misinformation to be a public health crisis, and urged the State of California to commit to appropriately combating health misinformation and curbing the spread of falsehoods that threaten the health and safety of Californians.

SEC. 2. Section 2270 is added to the Business and Professions Code, to read:

2270. (a) It shall constitute unprofessional conduct for a physician and surgeon to disseminate misinformation or disinformation related to COVID-19, including false or misleading information regarding the nature and risks of the virus, its prevention and treatment; and the development, safety, and effectiveness of COVID-19 vaccines.

(b) For purposes of this section, the following definitions shall apply:

(1) “Board” means the Medical Board of California or the Osteopathic Medical Board of California, as applicable.

(2) “Disinformation” means misinformation that the licensee deliberately disseminated with malicious intent or an intent to mislead.

(3) “Disseminate” means the conveyance of information from the licensee to a patient under the licensee’s care in the form of treatment or advice.

(4) “Misinformation” means false information that is contradicted by contemporary scientific consensus contrary to the standard of care.

(5) “Physician and surgeon” means a person licensed by the Medical Board of California or the Osteopathic Medical Board of California under Chapter 5 (commencing with Section 2000).

(c) Section 2314 shall not apply to this section.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.