December 16, 2015

To: California Accredited Outpatient Settings

Subject: Senate Bill (SB) 396: Enhancements to existing statutes related to California accredited outpatient settings

Authority: Business and Professions Code section 805.5; Government Code section 12529.7; Health and Safety Code sections 1248.15 and 1248.35

All California Accredited Outpatient Settings Letter (CAOSL) Summary

- Informs California accredited outpatient settings of the chaptering of SB 396, which provides consumer protection enhancements.
- Highlights amendments made to existing statutes impacting:
  - Unannounced inspections
  - Peer review evaluations
  - Access to 805 reports

Effective January 1, 2016, SB 396 (Hill, Chapter 287) authorizes Accreditation Agencies (AAs) to conduct unannounced inspections subsequent to the initial inspection for accreditation; requires peer review evaluations for physicians and surgeons working in accredited outpatient settings; and allows an accredited outpatient setting or “Medicare certified ambulatory surgical center” to access 805 reports from the Medical Board of California (Board).

The intent of this letter is to provide accredited outpatient settings sufficient information regarding amendments to the statutes, to ensure all facilities have been noticed and can comply with the amendments.

Unannounced Inspections

Existing law provides that an outpatient setting that is accredited shall be inspected by the AA and may be inspected by the Board. Existing law requires that the inspections be conducted no less often than once every three years by the AA and as often as necessary by the Board to ensure quality of care provided. Existing law also authorizes AAs or the Board to conduct inspections at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the AA or any provision of the laws related to outpatient settings.

This bill authorizes the AA to conduct unannounced inspections after the initial inspection for accreditation. If the AA decides to perform an unannounced inspection, it must notify the outpatient setting that the inspection will occur within 60 days. This 60 day notice applies
ONLY to routine inspections. Please be aware the law does not require unannounced inspections, but does allow an AA to conduct unannounced inspections if it so chooses.

**Peer Review Evaluations**
Existing law requires members of the medical staff and other practitioners who are granted clinical privileges in an outpatient setting to be professionally qualified and appropriately credentialed for the performance of privileges granted and requires the outpatient setting to grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting. A willful violation of these provisions is a crime.

This bill requires that each licensee who performs procedures in an accredited outpatient setting be peer reviewed, at least every two years, by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The peer review is defined as a process in which the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of a licensee is reviewed to make recommendations for quality improvement and education, if necessary. The bill requires the findings of the peer review to be reported to the governing body, which shall determine if the licensee continues to be professionally qualified and appropriately credentialed for the performance of privileges granted.

This peer review process and the credentialing process are two separate processes. There is no requirement that they be done together. Thus, while each outpatient setting is responsible for ensuring that each licensee is peer reviewed at least every two years, it is permissible for the credentialing process to occur every three years. Each AA, when conducting its survey, will be responsible for ensuring that the outpatient setting is conducting the peer review process every two years, as outlined above, and also that appropriate action was taken, i.e. a determination was made to ensure the licensee continues to be professionally qualified for the performance of privileges granted. Outpatient settings cited for deficiencies in the peer review process will be required to complete the AA’s corrective action plan process.

It is important to note that AAs have their own peer review timeframes required to maintain compliance with the accreditation programs. Requirements outlined in California law do not exempt an outpatient setting from the requirements set forth by an AA.

**Access to 805 Reports**
This bill adds an outpatient setting and a facility certified to participate in the federal Medicare Program as an ambulatory surgical center to the requirement to check with the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California, prior to granting or renewing staff privileges, to determine if any report has been made pursuant to Business and Professions Code section 805 (805 report) indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted.

The Board has a secure website that can be accessed to determine if any physician and surgeon has had an 805 report filed with the Board indicating he/she has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted. To obtain access to the Board’s secure lookup system, accredited outpatient settings will need to subscribe to the
Board’s License Verification System (LVS). To subscribe, accredited outpatient settings will need to submit an LVS subscription service form and service agreement to the Board for approval. These forms may be accessed on the Board’s web site at http://www.mbc.ca.gov/LVS/. The Board will provide the responsible person designated by the outpatient setting with a password. The outpatient setting is required to notify the Board if there is a change to the responsible person so a new password can be assigned. Further information regarding this process can also be found at this link.

Completed LVS subscription applications should be submitted to:

Medical Board of California
Central Complaint Unit
2005 Evergreen Street, Suite 1200
Sacramento, CA  95815

The AAs, when performing surveys, will determine if an outpatient setting has complied with the law and has checked the Board’s website to determine if an 805 report has been filed on a physician and surgeon prior to granting or renewing privileges. At this time, the outpatient setting will need to provide an attestation in its records indicating that a search of the Board’s website was conducted. Should a licensee have an 805 report on file at the time of the search, it is expected that a copy of the report will be included in the practitioner’s file. The outpatient setting is required to conduct a search for an 805 report for each licensee that is granted or renewed privileges after January 1, 2016. Outpatient settings cited for deficiencies related to 805 reports will be required to complete the AA’s corrective action plan process.

If you have questions regarding this CAOSL, please contact your AA or the Board’s licensing program at (916) 263-2393.

Medical Board of California
Licensing Program