

LAW OFFICES OF
JEFFREY G. SCOTT

16935 WEST BERNARDO DRIVE, SUITE 170
SAN DIEGO, CA 92127

=====
(858) 675-9896
FAX (858) 675-9897

JEFFREY G. SCOTT

Of Counsel
JAMES R. DODSON

DATE: October 14, 2020

TO: Board of Directors
Rachel Mason, Chief Executive Officer

FROM: Jeffrey G. Scott, General Counsel

RE: Legislature Report – Governor Finishes Taking Actions on Bills

The 2019/2020 is now officially over ending one of the strangest years on record. The Governor had 513 bills reach his desk signing 457 and vetoing 56. There were not many surprises in the actions he took but in reading some of the messages on the bills he vetoed the Governor noted the costs associated with the bills. This is a cautious note looking ahead to next year and the continued budget deficit that will undoubtedly be at the center of discussions in 2021. Below is a recap of bills we discussed over the year and their outcome.

AB 2537 (Rodriguez) – Signed by Governor - This is one of the PPE bills that would require hospitals by 1/1/2021 to keep an inventory of PPE equivalent to three months of normal consumption. PPE is defined as N95 filtering facepiece respirators; powered air-purifying respirators with high efficiency particulate air filters; elastomeric air-purifying respirators and appropriate particulate filters or cartridges; surgical masks; isolation gowns; eye protection; shoe coverings.

SB 275 (Pan) – Signed by Governor - This is the other PPE bill that requires hospitals by 1/1/2023 to have 45 days of PPE for surge consumption during a health emergency or pandemic. Surge consumption is not defined. The bill does call for a committee to be formed that will advise the Department of Public Health on the various types and amount of PPE to be required during a health emergency.

- The timelines on the two PPE bills are slightly different so the provisions in AB 2537 (Rodriguez) will start first and then will be updated when the regulations are put in place as the result of SB 275 (Pan)

AB 890 (Wood) – Signed by Governor - This bill would allow nurse practitioners to practice without physician supervision when meeting certain qualifications. This bill was one of the most lobbied bills in the health care area at the end of session with numerous physician groups opposing. This same bill has been defeated multiple times over the past eight years. This year, Legislators seemed to be swayed by arguments the bill would help improve access to care in rural areas.

SB 852 (Pan) – Signed by Governor – Way back in January the Governor put forward his desire to leverage California’s purchasing power to increase generic drug manufacturing as one solution to the prescription drug affordability crisis. The state has already begun to identify potential target medications and develop a strategic plan to promote state-led generic drug purchasing and manufacturing.

SB 852 allows the California Health and Human Services Agency (CHHS) to develop manufacturing partnerships to produce or distribute generic prescription drugs, making essential medications affordable and accessible to more patients. The Governor stated, “It would also inject much needed competition into markets that have driven up prices for consumers and help address critical drug shortages.”

SB 1159 (Hill) – Signed by Governor - This bill codifies the Governor’s executive action stating if an employee before July 6th contracted COVID it would be presumed to have occurred at work. For situations after July 6th the bill would say for certain front-line health care workers such as firefighters, EMTs, paramedics, physicians and nurses in certain health facilities who tested positive the presumption would continue to be they contracted COVID at work. For employees not who are not covered by the above, the presumption would apply if there was an “outbreak” at the employer. Outbreak is defined as:

- 4% of the workforce tested positive for employers with 100 or more employees, or
- More than 4 employees test positive for employers with less than 100 employees

AB 685 (Reyes) – Signed by Governor - This bill requires employers to take the following actions within one business day upon notification of an employee testing positive including:

- Provide written notice to all employees;
- Provide all employees who have been exposed with information regarding all COVID-19 related benefits the employee may be entitled;
- Notify all employees on disinfection and safety plan the employer plans to implement per CDC guidelines

The bill also requires, if three workers test positive within 14 days, which is the Public Health definition of an outbreak, the employer must report to local public health department. I have attached a copy of the bill which provides the specifics.

AB 1867 (Assembly Budget Committee) – Signed by Governor - This bill was a last minute “gut and amend” that would require hospitals to provide COVID-19 supplemental sick leave.

These last two bills did not make it to the Governor but were significant health bills I wanted to include. I would expect the policy in both of these bills to be reintroduced in 2021.

SB 758 (Portantino) – This is the seismic bill with California Hospital Association (CHA) sponsoring the bill. The author and CHA were not able to get new amendments into the bill after the Assembly Appropriations Committee forced in amendments reducing the extension from seven years to only two years and removing an advisory committee that would have looked at the specific seismic standards to suggest changes. SEIU and the California Nurses Association had been opposing the bill. The author and CHA decided not to pursue this bill and will re-group on pursuing another bill next year. This continues to be a main priority for CHA.

SB 977 (Monning) – This bill did not come up for a vote thus it died. The AG had been working on Assembly members the last week of session but could not get the votes to secure its passage. This bill would have given the Attorney General additional powers to review and possibly deny acquisition or change in control transactions between health care systems and hedge funds or private equity groups.