MEDICAL BOARD OF CALIFORNIA

LICENSING COMMITTEE MEETING
AGENDA

MEMBERS OF THE COMMITTEE
Janet Salomonson, M.D., Chair
Michael Bishop, M.D.
Silvia Diego, M.D.
Gerrie Schipske, R.N.P., J.D.

Sheraton San Diego Hotel and Marina Room
Fairbanks A & B
1380 Harbor Island Drive
San Diego, CA 92101
619-291-2900 (directions only)

Thursday, October 25, 2012
2:00 p.m. – 3:00 p.m.
(or until completion of business)

Action may be taken on any item listed on the agenda.

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE.
If a quorum of the Board is present, members of the Board who are not members of the Committee may attend only as observers.

1. Call to Order / Roll Call

2. Public Comment on Items Not on the Agenda
   Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

3. Approval of the Minutes from the July 19, 2012 Meeting

4. Update on Licensing Staffing – Mr. Worden

5. Update on the Business Process Reengineering Primary Recommendations – Mr. Worden
   A. Revision of Physician and Surgeon Application and Streamline Process
   B. Medical Board of California Web Site Related to Applications
   C. Revision of the Policy and Procedure Manual

6. Update on Status of Strategic Plan Components – Mr. Worden

7. Presentation on Physician Supervision Requirements for the Allied Health Care Professions – Mr. Worden

8. Update on Implementation of SB 122 – Ms. Simoes and Mr. Worden

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.

9. Agenda Items for the January 31 – February 1, 2013 Meeting in the San Francisco Bay Area

10. Adjournment

NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Tim Einer at (916) 263-2389 or email tim.einer@mbc.ca.gov or send a written request to Tim Einer at the Medical Board of California, 2005 Evergreen Street, Ste. 1200, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Committee, but the Chair may apportion available time among those who wish to speak.

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For additional information, call (916) 263-2389.

MEDICAL BOARD OF CALIFORNIA

LICENSING COMMITTEE MEETING

Courtyard by Marriott
Golden A&B
1782 Tribute Road
Sacramento, CA 95815

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Thursday, July 19, 2012

MINUTES

Agenda Item 1 Call to Order / Roll Call

Dr. Salomonson called the Licensing Committee (Committee) meeting to order on July 19, 2012, at 1:05 p.m. Ms. Lowe called the roll. A quorum was present and notice had been sent to interested parties.

Members Present:

Janet Salomonson, M.D., Chair
Michael Bishop, M.D.
Jorge Carreon, M.D.
Hedy Chang
Silvia Diego, M.D.
Shelton Duruisseau, Ph.D.
Gerrie Schipske, R.N.P., J.D.

Other Members Present:

Dev GnanaDev, M.D.
Sharon Levine, M.D.
Barbara Yaroslavsky

Staff Present:

Eric Berumen, Central Complaint Unit Manager
Susan Cady, Enforcement Manager
Ramona Carrasco, Central Complaint Unit Manager
Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Tim Einer, Administrative Assistant
Kurt Heppler, Staff Counsel
Teri Hunley, Business Services Manager
Kimberly Kirchmeyer, Deputy Director
Natalie Lowe, Licensing Manager
Armando Melendez, Business Services Analyst
Susan Morrish, Licensing Analyst
Roberto Moya, Investigator
Cindi Oseto, Licensing Manager
Regina Rao, Business Services Analyst
Letitia Robinson, Research Specialist

Paulette Romero, Central Complaint Unit Manager
Anthony Salgado, Licensing Manager
Kevin Schunke, Outreach Manager
Jennifer Simoes, Chief of Legislation
Laura Sweet, Deputy Chief of Enforcement
Christina Thomas, Licensing Analyst
Cheryl Thompson, Licensing Analyst
Renee Threadgill, Chief of Enforcement
Michelle Tuttle, Licensing Analyst
Anna Vanderveen, Investigator
See Vang, Business Services Analyst
Linda Whitney, Executive Director
Dan Wood, Public Information Officer
Curt Worden, Chief of Licensing
Laurie Yee, Licensing Technician

Members of the Audience:

Yvonne Choong, California Medical Association (CMA)
Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)
Norman Davis, Esq.
Mitchell Feinman, M.D.
Bill Gage, Chief Consultant, Senate Business, Professions and Economic Development Committee
Dr. Ravi Garehgrat, M.D.
Stewart Hsieh, Frye & Hsieh, LLP
Kathleen McCallum, Northern CA Aesthetic Nurses Association (NCANA)
Tina Minasian, Consumers Union Safe Patient Project
Mia Perez, Deputy Attorney General, Attorney General's Office
Loren Reed, Department of Consumer Affairs, Public Affairs Office
Paula Road, NAAA/NCANA
Rehan Sheikh
Cristeta Summers, Law Office of Albert Robles

Agenda Item 2 Public Comments on Items Not on the Agenda

No public comment was offered.

Agenda Item 3 Approval of Minutes from the May 3, 2012 Meeting

Dr. Salomonson made a motion to approve the minutes from the May 3, 2012 meeting; s/Schipske; motion carried.

Agenda Item 4 Update on Licensing Staffing

Mr. Worden thanked staff for doing an excellent job this past fiscal year, and provided an update on the Licensing Program staffing. Eight positions were recently filled in the Licensing Program, resulting in only three vacant Office Technician (OT) positions. Two of the vacant OT positions are in the Consumer Information Unit, and new staff is starting on Monday July 23, 2012. The third vacant OT position is for the Licensing Chief's and Manager's support, which has a final filing date of July 24, 2012. In addition, there are currently 12 staff in various stages of training. The Licensing Program has challenges that will

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likely cause delays in the processing of physician and surgeon (P&S) applications. Staff is required to take one furlough day a month, resulting in 376 hours of lost productivity each month, in addition to 16 hours of personal development days, resulting in 752 hours of lost productivity. The total loss of productivity is 5,264 hours for the fiscal year. In addition, due to the side letter agreements with the unions, six Licensing Program students will be eliminated August 31, 2012, and seven of the Licensing Program's retired annuitants may be eliminated August 31, 2012, if deemed non-mission critical.

Agenda Item 5 Updates on the Business Process Reengineering (BPR) Primary Recommendations

Mr. Worden stated that staff is currently working on the following three remaining BPR recommendations:

A. Revision of Physician and Surgeon Application and Streamline Process

The P&S Application Revision Team continues to work on the P&S application. It has been submitted and approved by the Licensing Staff, Licensing Managers, Chief of Licensing, and Legal staff. The final draft is currently with Executive management.

B. Medical Board of California (Board) Web Site Related to Applications

The Web site is concurrently being reviewed as the revision of the P&S application continues to proceed. An interactive segment will be added to the Web site to help applicants fill out the application. The Web site will be completed after approval of the P&S application.

C. Revision of the Policy and Procedure Manual

The Polysomnography section has been drafted and is in the final stages of completion. A majority of the Policy and Procedure Manual will be finalized once the new BreEZe computer system is implemented.

Agenda Item 6 Update on SB100 Implementation – Outpatient Surgery Center Requirements

Ms. Lowe provided background information and an update on the Licensing Program's ongoing process of implementing the requirements set forth by Senate Bill (SB) 100.

California law prohibits physicians from performing some outpatient surgeries, unless it is performed in an accredited or licensed setting. Section 2216 of the Business and Professions (B&P) Code specifies that on or after July 1, 1996, no physician and surgeon shall perform procedures in an outpatient setting using anesthesia, except local anesthesia or peripheral nerve blocks, or both, complying with the community standard of practice, in doses that, when administered, have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes, unless the setting is specified in Health and Safety Code (H&S) section 1248.1. Outpatient settings where anxiolytics and analgesics are administered are excluded when administered, in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

The Board has approved four accreditation agencies, as they met the requirements and standards as set forth by H&S section 1248.15. Pursuant to the enactment of SB100, effective January 1, 2012, H&S section 1248.2(b)(c)(d) now provides:

(b) The board shall obtain and maintain a list of accredited outpatient settings from the information provided by the accreditation agencies approved by the board, and shall notify the public, by placing

the information on its Internet Web site, whether an outpatient setting is accredited or the setting's accreditation has been revoked, suspended, or placed on probation, or the setting has received reprimand by the accreditation agency.

(c) The list of outpatient settings shall include all of the following:

(1) Name, address, and telephone number of any owners, and their medical license numbers.
(2) Name and address of the facility.
(3) The name and telephone number of the accreditation agency.
(4) The effective and expiration dates of the accreditation.

(d) Accrediting agencies approved by the board shall notify the board and update the board on all outpatient settings that are accredited.

Prior to SB100, data was reported to the Board from the four accreditation agencies; however, there were no mandated reporting requirements, thus data was not consistent among the four agencies. Since the enactment of SB100, the Board's Licensing Program and Information Systems Branch have been designing the Outpatient Surgery Settings database that will store data provided from the accreditation agencies and will serve as a public interface on the Board's Web site as mandated by H&S section 1248.2.

Data has been obtained from all accreditation agencies and has been imported into the database. The database was released to the public via the Board's Web site on July 18, 2012. The database allows consumers the ability to search for accredited Outpatient Settings within California. The database also provides consumers with the ability to view documents, such as final inspection reports, which include the lists of any deficiencies identified during an inspection, plans of correction or requirements for improvements and correction, and corrective action completed as required by H&S section 1248.35(g). The database is used to reflect current and future information and will not be a historical reference for past actions that have occurred.

The Board's processes and procedures are being modified to ensure data is reported in a standard format and timely manner. Data collection forms have been created and will be provided by the end of August 2012 to the accreditation agencies for use, and will be required when notifying the Board of any new settings as well as when updating information on existing settings.

The Board's Licensing Program is currently working directly with the Board's Enforcement Program to ensure that any adverse actions reported from the accreditation agencies are reviewed and investigated, as required by law.

The Board will notify consumers by providing information in the Board's Newsletter, sending out information in an email via the Board's subscriber lists, sending out a press release, and providing links to the database from the Board's Web site homepage.

Ms. Lowe provided a demonstration of the database, including how to look up information that is available to the public.

Agenda Item 7 Presentation on Allied Health Care Professions

Ms. Lowe provided a PowerPoint presentation on Allied Health Care Professions, including Licensed Midwives, Registered Dispensing Optician Program, Registered Polysomnographic Program, Research Psychoanalysts, Student Research Psychoanalysts, and Medical Assistants. The Licensing Committee

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commented that supervision needs to be clearly defined for applicable Allied Health programs.

Agenda Item 8 Presentation on Continuing Medical Education (CME)

Ms. Lowe reported that the 2012 Strategic Plan Objective 1.1 requires that the annual CME audit statistics and an overview of the CME process be provided to the Board members, including the current requirements and information on how the process has changed over the years.

The Board has adopted and administers standards for the continuing education of physicians licensed in the State of California. The Board requires each licensed physician to demonstrate satisfaction of the CME requirements at intervals of not less than four years, nor more than six years.

Each physician is required to complete not less than 50 hours of approved CME during each two-year period immediately preceding the expiration date of the license. One exception is permitted by Title 16, California Code of Regulations (CCR), section 1337(d), which states that any physician who takes and passes a certifying or recertifying examination administered by a recognized specialty board shall be granted credit for four consecutive years of CME credit for re-licensure purposes.

Approved CME consists of courses or programs designated by the American Medical Association or the California Medical Association as Category 1 credits related to one of the following: patient care, community health or public health, preventive medicine, quality assurance or improvement, risk management, health facility standards, the legal aspects of clinical medicine, bioethics, professional ethics, or improvement of the physician-patient relationship.

Physicians are required to sign a certification statement indicating they have complied with the requirements, as well as answer statements related to the CME that they have received as part of the renewal process. If the certification statement is not signed, or any of the CME statements have not been answered at the time of renewal, a hold will be placed on the license and the renewal process will not be completed.

At the time of renewal, documentation of hours is not required; however, CCR section 1338 requires the Board to audit a random sample of physicians who have reported compliance with the CME requirement. The CME audit is currently performed on a monthly basis and is designed to randomly audit approximately 10% of the total number of physicians licensed in California, per year. If selected for the CME audit, documentation of completed hours must be provided to the Board. Any physician who is found to not have completed the required number of hours of approved CME will be required to make up any deficiency during the next biennial renewal period. Any physician who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to practice medicine until such time as the deficient hours are documented to the Board.

In 2011, over 10% of physicians audited failed the audit. To improve this outcome and assist the physicians with this requirement, the Licensing Program will provide additional information to physicians regarding available opportunities for CME and information regarding the requirements established in law.

The Board's Strategic Plan, Objective 3.1, states the Board should conduct outreach to various organizations, such as hospitals and group practices through providing speakers or articles for their publications. The Licensing Program will work directly with the public affairs office to get more information out to physicians regarding CME and methods of compliance.

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Agenda Item 9 Update on Implementation of Polysomnography Program
Mr. Salgado reported that the Board has created a list based on the renewal survey of renewed and current physicians who work in the field of sleep medicine. Approximately 700 licensed physicians were notified via a letter announcing that the registered Polysomnographic program is fully operational. In addition, the Licensing Program is currently in the process of developing an announcement page and a Frequently Asked Questions section.

To date, the Board has received a total of 59 applications, 55 are at the technologist level and 4 are at the technician level. All of the applicants have been notified via mail that their applications have been received and are in the review process. In addition, the Licensing Program is in the process of completing the Polysomnography Program section of the policy and procedure manual.

Agenda Item 10 Discussion and Consideration of Licensing Annual Report Format
Ms. Oseto reported that at the May 2012 Board meeting, Ms. Barbara Yaroslavsky requested that the Board members have the opportunity to comment and make suggestions or recommendations on the Board's Annual Report format. The Board packet included four samples of the Board's Annual Reports dating back to 1999. Ms. Oseto pointed out that there have been many improvements and additional data that is now captured in the current Annual Report. No suggestions were made for improvements.

Agenda Item 11 Update on International Medical School Recognition
Mr. Worden provided an update on international medical school recognition. B&P section 2084 authorizes the Board to approve medical schools that comply with the medical education requirements in B&P sections 2089 and 2089.5. Medical schools located in the United States (U.S.), Canada and Puerto Rico are deemed approved by the Board through accreditation by the Liaison Committee on Medical Education (LCME), pursuant to CCR section 1314. All other medical schools are subject to the Board's individual review and approval, and must demonstrate that they offer a resident course of professional instruction that is equivalent, not necessarily identical, to that provided in LCME-accredited medical schools. The law further provides that only students from approved medical schools may complete clinical clerkship training in California facilities, and only graduates of approved medical schools may qualify for licensure or complete postgraduate training in California.

Almost all international medical schools are founded to train physicians to address the medical needs of their country's population. In the late 1970s, however, entrepreneurs began to develop for-profit, English-language medical schools in the Caribbean aimed at attracting U.S. citizens who were unable to enter U.S. medical schools. Staff issued school codes to these schools as the graduates began to apply in California in the early 1980s.

In the spring of 1983, the U.S. Postal Service uncovered a scandal involving the widespread production of fraudulent medical diplomas and other unethical practices on the part of officials at CETEC and CIFAS Universities in the Dominican Republic. During the course of the U.S. Postal Service's investigation, other medical schools in the Caribbean were implicated. Thousands of individuals bought fraudulent transcripts and diplomas for prices ranging from $8,000 to $50,000. They spent little or no time attending the school listed on their diploma. As a result of the postal investigators' findings, licensing boards across the U.S. were forced to investigate the backgrounds of thousands of applicants and licensees who had attended the implicated schools.

The Division of Licensing (Division), now incorporated into the full Board, realized the need to take proactive steps to protect California's patients from being treated by students and graduates of medical schools that did not meet the minimum requirements of law. The Division conducted onsite inspections of those medical schools and developed an orderly process for evaluating new proprietary international schools that attract U.S. citizens. Of the 12 schools that the Division reviewed in the Caribbean, four were recognized and three were disapproved following a site inspection. In addition, the Division disapproved five schools after they either failed to cooperate in the Division's information-gathering process or were closed by their governments for malfeasance. In each instance where a school challenged its disapproval, the courts affirmed the Division's authority.

A task force was formed in 1983 to sort out the schools, the documents, and the applicants. On the recommendations of the task force, the Division adopted a set of guidelines for the staff to follow in evaluating the medical education of individual applicants who were trained outside the U.S. or Canada. The policy adopted by the Division in 1983 also included the concept of remediation, allowing students who were short in training in certain areas the option of taking additional courses and correcting their deficiencies. This permitted eventual licensure of numerous applicants who attended the Caribbean schools. The Division and staff developed and adopted regulations formalizing the guidelines with some modifications.

In addition, a number of existing Eastern European medical schools have opened "English-language programs" that promise to prepare students to pass the United States Medical Licensing Exam (USMLE) and practice medicine in the U.S. The primary countries involved are Hungary, Poland, Czechoslovakia, Slovakia, Russia, Armenia, and more recently, China. Their approach is that students will receive their basic sciences education in English while simultaneously learning the native language to prepare them to interact with patients during their clinical clerkships. The English-language programs use the existing school's building and other resources. Some of the English-language programs allow students to return to the U.S. for some or all of their clinical rotations. Minimal oversight of the clinical training received abroad is not uncommon. Mr. Worden provided a chart that shows the history of international medical schools that the Board has recognized and disapproved.

Dr. Silva, a Medical Consultant for the Board and an expert in international medical schools, provided a brief biography and discussed the areas where medical schools may need additional assistance with medical school recognition.

Dr. Duruisseau asked if there will be a greater need to communicate with international medical schools who want to be recognized by the Board due to the Healthcare Reform. Mr. Worden replied that the Licensing Program's goal is to contact all of the medical schools on the approved list and request updated information. In addition, there are over 100 applicants pending with medical school recognition issues.

Dr. Salomonson stated she was recently appointed to the USMLE Committee that often discusses how there cannot be tests for everything. Dr. Salomonson asked Dr. Silva what areas are missing and cannot be tested. Dr. Silva responded that there needs to be observations by supervisors and allied health practitioners, one-on-one evaluations, consistency in advising and feedback, a system with four or five areas to evaluate, and continual dialogue.

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Agenda Item 12 **Discussion and Consideration of Legislative Proposal Regarding Eligibility of Licensure; Unrecognized and/or Disapproved Medical Schools**

Mr. Worden provided background information and discussed the issues regarding the licensure pathway that has been proposed by Senator Price (previously in SB122). He requested that the Committee members consider the pros, cons, and alternatives, and make a recommendation to the full Board.

The Board's procedures for recognizing international medical schools, outlined in regulations, essentially categorize schools into one of two types: 1) government or non-profit schools whose primary purpose is to teach citizens to practice medicine in the country in which the school is located, or 2) the school's primary purpose is to educate non-citizens to practice medicine in other countries. Pursuant to these regulations, the Board has recognized approximately 1,400 to 1,500 schools and disapproved 10 schools.

B&P sections 2135 and 2135.5 authorize the Board to issue medical licenses in non-traditional circumstances. However, the Board interprets the sections to require that the applicant had obtained his or her education at a recognized school. Additionally, an applicant must have four years of licensure in another state, and meet the specified criteria. The language proposed in the June 12, 2012, version of SB122 would have permitted applicants, who received some or all of their medical education from an unrecognized or disapproved school, to be eligible for licensure if he or she meets specific criteria.

Mr. Worden pointed out that public protection is the Board's highest priority. If SB122 passed with the previous language, as is, it would jeopardize the Board's ability to protect consumers from doctors who may be unqualified due to training received at an educational institution that does not meet the standards set in California law. B&P section 2089 deems U.S. medical students to have satisfied the statutory medical education requirements because the minimum statutory requirements are based on the U.S. medical education system. LCME is the nationally recognized accrediting authority for medical education programs leading to the medical degree in U.S. and Canadian medical schools. International medical schools are not required to comply with LCME standards. Their curriculums vary widely in duration and content. No international organization exists that evaluates or accredits the world's 2,000+ medical schools for compliance with some educational standard.

The proposed language would eliminate the requirement for applicants to have completed some or all of their education at a school recognized by the Board. In essence, this would remove the need for medical schools to undergo a review process that was designed to ensure consistency and equivalency with U.S. standards. The recognition process requires a medical education program to provide assurances that its graduates exhibit general professional competencies that are appropriate for entry to the next stage of their training and that serve as the foundation for lifelong learning and proficient medical care. Under the proposed language, a graduate of any medical school would be eligible for licensure in California, even if the school was not accredited or recognized by the country in which it is domiciled, or if the Board had previously determined that the school does not meet acceptable standards. Even medical education obtained online would qualify an applicant for licensure.

Although specialty board certification is a measure of a physician's skill and knowledge in a particular specialty, California only issues one license: a plenary license for physicians and surgeons, which allows a person to practice medicine in California. A California-licensed physician who is ABMS certified in psychiatry is legally able to perform surgery. In this example, specialty board certification would be

meaningless, even though all the other requirements in the proposed language have been met.

Some of the English-language programs allow students to return to the U.S. for some or all of their clinical rotations. Minimal oversight of the clinical training received abroad is not uncommon. One English Language program in China allows students to arrange their own clinical rotations back in their home country, with no contact whatsoever between the school and the clinical facility other than a signed paper indicating the student had completed the rotation. The development of programs such as these presents a real concern, as the quality of the education received and the preparedness of graduates of these programs is unclear.

The final cost for this proposal has not been completed; however, it could be substantial as written. There are approximately 1400-1600 medical schools that are not recognized and/or are disapproved by the Board. Many of these medical schools were or have been in business for a long time and have had hundreds, if not thousands of students who attended and/or graduated from each of these medical schools. Once the news is released that there is a new way to apply for possible licensure, these attendees and/or graduates are expected to apply. The Board could expect to see at a minimum, an additional 200 applications a year, but most likely closer to 500 applications a year.

The following workload would be in addition to the Board's current workload:
SSA – Initial application file review – 1 to 4 hours per applicant
AGPA – Application Review Committee (ARC) memo preparation – minimum of 20 hours per applicant
SSM I – Review of file for ARC – minimum of 2 hours per applicant
Chief – Review of file for ARC – minimum of 2 hours per applicant
ARC – meeting time – 15 to 30 minutes per applicant

Currently, ARC consists of three Board members and does not normally meet for more than 30 minutes per quarter. The Chief of Licensing and the SSM I and/or the AGPA present the applicants to the ARC members at the meeting. If the proposed language from SB122 is passed, the Board will need to add a second ARC panel and longer meetings. At 200 applicants per year, that would mean ARC would need to review approximately 50 applicants a quarter. This equals approximately 25 hours, per quarter for three Board members. A more logical approach might be monthly meetings with alternating panels to meet the demand and expedite the review. The travel cost would greatly increase for ARC members to provide this review (or for staff to travel to locations outside of the Sacramento area).

Later this fall, staff planned to examine these code sections pursuant to the Strategic Plan to determine if the licensing laws are impacting access to care, or need to be revised for consistency or for public policy purposes. However, due to this legislative proposal being moved forward before the strategic planning dates, staff has developed some alternative language should the Committee decide it wants to review this concept at this time.

Mr. Worden discussed the new language developed by staff. B&P section 2135.7 uses the concepts that the Board supported in B&P section 2135.5, but has added some additional consumer protection elements because these applicants being considered for licensure would have attended or graduated from an unrecognized or disapproved school. This language takes into consideration that other states do use the Board's list of recognized schools and are only looking at individuals who have been licensed for a considerable length of time.

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B&P section 2135.7(a) sets forth the ability for the Board to review applications from individuals who did not acquire any or all of their medical school education from a recognized or approved school. This proposal still requires that the education be obtained from a resident course of instruction. It allows, in B&P section 2135.7(a)(1)(A), the applicant who has attended an unrecognized school or graduated from an unrecognized school, to apply after 10 years of licensed practice in another state as long as conditions of specialty board certification, exams, and no discipline/adverse actions have been achieved. The staff has selected 10 years as its proposal for this type of applicant, as the Board has not reviewed the medical school, but has some reason to believe, by virtue of the applicant being licensed by another state for 10 years and having met the additional requirements, that public protection can be served.

On the other hand, staff proposes an increased number of years of practice and performance (20 years) if the applicant has attended or graduated from a disapproved school. If the Board wishes to consider these alternatives to the law, then it may also want to provide some latitude for the staff to recommend regulations to implement these provisions for cases where there is a hybrid, such as attending a disapproved medical school, but graduating from a recognized or approved medical school.

The fiscal considerations for the possible alternative language will be less since the higher minimum requirements would reduce the number of potential applicants who meet the minimum qualifications. Since these qualifications are significantly higher, thereby, providing for greater consumer protection, the Board may not necessarily need to require all of these applicants to be presented to ARC. Therefore, fiscal impact will not be as severe.

Mr. Worden stated the Board realizes Senator Price is extremely interested in amending law to allow for the review of applicants who attend or graduate from unrecognized or disapproved schools, and would like this issue addressed in the 2012 legislative session.

Mr. Worden recommended the Board examine the staff proposed language for 2135.7 and:

1. Determine if the requirements are adequate for consumer protection;
2. Determine if the years of licensure are adequate for consumer protection;
3. Determine if there should be a provision for the possible development of regulations to implement provisions for hybrids (as listed in the analysis section of staff memo), such as attending a disapproved school, but graduating from a recognized school; and,
4. Determine if all of these applications need to be reviewed by the ARC or if that should be addressed in regulations.

Dr. Bishop stated his concerns about the legislative changes and believes the Committee should be cautious not to delude the standards as California has a great practice of medicine. He stated placing language out there that allows someone to get a license from a disapproved school sends a terrible message to people.

Dr. Salomonson stated one thing that gave her a little comfort with respect to the compromise language is that the Board requires ABMS certification and not just two years of some form of postgraduate training. Dr. Salomonson stated she appreciates the argument that the Board does not license a specialty, but at least with requirement of ABMS the applicant has had at least three years of observation in a postgraduate training program.

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Ms. Schipske made a motion to approve the staff compromise language and suggested that the Board have regulatory authority to implement the modified language; s/Bishop.

Dr. Diego asked if the Committee had to accept the compromise language or if it could keep the existing language. Dr. Salomonson asked Ms. Whitney to provide the Members with the Committee's latitude regarding the language. Ms. Whitney stated that the Committee may want to hear from the Senate Business, Professions and Economic Development Committee and other organizations who can address questions and make comments regarding the language.

Public comment was provided by Mitchell Feinman, M.D. Dr. Feinman stated he is a triple Board Certified Rheumatologist and Internal Medicine doctor. He supports the change of the law and policy of the Board to permit physicians, who have time and appropriate credentials, to practice medicine in California. He graduated from the University of Southern California, then attended World University School of Medicine in Santa Domingo, Dominican Republic. Upon learning the school was not academically acceptable with U.S. regulators, he proactively applied to Ross University School of Medicine. After their review of his academic records, he was admitted as a second year medical student. Dr. Feinman stated he maintained his professional and academic affiliations and has practiced medicine in the U.S. for over 20 years without any disciplinary actions against him in any jurisdictions where he has practiced medicine.

Public comment was provided by Stewart Hsieh. Mr. Hsieh stated he served on the Board for seven and a half years in the 1990s and has an active healthcare legal practice. He represents Dr. Feinman and a number of other physicians who have attended foreign medical schools. Mr. Hsieh stated that there are physicians who have gone to disapproved foreign medical schools who have proven themselves. He believes there has to be a mechanism that they are at least eligible to apply for a California medical license.

Public comment was provided by Cristeta Summers. Ms. Summers stated her law office represents physicians who graduated from foreign medical schools and are seeking to practice medicine in California. Ms. Summers wanted to stress the point that the standards the Committee is discussing are not licensing standards per se, but whether the applicants are eligible to be considered for licensure. She supports the bill to the extent that if there are any issues about interpretation, that the bill would make clear that there is a path for foreign medical students to become licensed in California. Ms. Summers also stated that five years should be sufficient. She hopes the Board will entertain or reconsider the compromise solution as too rigid or too strict because it would prevent a lot of really good doctors from being licensed in California.

Public comment was provided by Ravi Garehgrat, M.D., a board certified Pediatrician working as a pediatric hospitalist. Dr. Garehgrat's decision to pursue medical school overseas was not based on his inability to gain admission to a California approved medical school, but rather to gain practical experience in underserved countries. He stated all of his rotations in medical school were completed at university hospitals with a great deal of oversight of attending physicians. After completing residency training in pediatrics at the University of Texas, he was offered three fellowship positions at the University of Texas. Dr. Garehgrat stated his deep desire is to be able to practice medicine in California where he and his family live.

Public comment was provided by Bill Gage, Chief Consultant for the Senate Business, Professions and Economic Development Committee. Mr. Gage has been a consultant for 20 years and has been with the

State Senate for 25 years. He stated that it came to the attention of Senator Price that there are physicians practicing in other states for many years who have applied to California and have been refused licensure because one of the medical schools they attended is not on the approved list. The Senator thought the Board had discretion, even if a physician had gone to an unrecognized school. Mr. Gage stated that he went to legislative counsel and asked if the Board has discretion based upon the B&P Code. The legislative counsel thought the Board does have the discretion; however, it was determined the law may not be clear enough. Mr. Gage stated that Board staff has done an excellent job of laying out the potential problems, from cost to the number of applications. He stated the bottom line: if there is a physician in good standing, practicing in other states, that at least the Board should have the discretion to look beyond the fact that the school is on an unapproved list. Mr. Gage is not sure how the Senator feels about the idea of 20 years versus 10 years of licensure in another state. Mr. Gage stated that at least for now they know the Board's standpoint is that 10 years should be the outside number for someone who has been practicing in another state before the Board feels comfortable about making a decision about that person who is coming from an unrecognized school. Mr. Gage knows that 19 other states follow the Board in terms of approved lists, but there are 31 other states that do not. It is a big concern for the Senate and he believes the process itself is something they can look at more closely during the Sunset Review of the Board. The Board's cost should be covered and should be paid by the schools in terms of site visits and staff time. Mr. Gage believes the compromise language is a good start.

Ms. Chang asked if the compromise language can be modified so that the Board will not consider applicants who went to a disapproved school. Ms. Schipske replied that she would not modify her motion so that the full package can go to the full Board the following day and they can have a discussion with the full Board regarding Ms. Chang's request.

Ms. Schipske restated her motion to make a recommendation to the full Board to approve the compromise language and the amendment that the Board would have regulatory authority to develop regulations; s/Bishop. Dr. Salomonson called for the vote. Motion carried with Ms. Chang voting no.

Agenda Item 13 Agenda Items for October 25-26, 2012 Meeting in the San DiegoArea
Ms. Schipske asked for a presentation on the issue of Allied Health Professionals and their level of supervision.

Agenda Item 14 Adjournment
The meeting adjourned at 4:02 p.m.

The full meeting can be viewed at www.mbc.ca.gov/board/meetings/index.html.

DRAFT

MEDICAL BOARD OF CALIFORNIA

Overview Of Health Care Practitioner Supervision Requirements

AGENDA ITEM 7

Physicians and Surgeons

California Licensed Physicians And Surgeons:

1. Allopathic Physicians And Surgeons
   Licensed by: Medical Board of California
   Supervision Requirement: None

2. Osteopathic Physicians And Surgeons
   Licensed By: Osteopathic Medical Board of California
   Supervision Requirement: None

Medical Assistant

- License Or Registration Requirement: None
- Supervision Requirement: Yes
- Supervision Provided By:

1) Physicians And Surgeons

2) Doctor of Podiatric Medicine

3) If At A Community Or Free Clinic, Nurse Practitioner, Certified Nurse Midwife, Or Physician Assistant (If Delegated By Supervising Physician)

4) Optometrist May Supervise In An Optometrist Office

Note: Supervisor Must Be Present On Premises

Licensed Midwife

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physicians And Surgeons With Current Practice Or Training In Obstetrics

Note: Supervising Physician Does Not Need To Be Physically Present; Ratio Not Greater Than 4:1

Student Midwife

- License Or Registration Requirement: None
- Supervision Requirement: Yes
- Supervision Provided By:
  - Licensed Midwife, Physicians And Surgeons With Current Practice Or Training In Obstetrics

Note: Licensed Midwife Must Be Physically Present

Registered Dispensing Optician

- Supervision Requirement: None

Note: Registered Dispensing Optician is a Business Registration

Out of State Contact Lens Seller

- Supervision Requirement: None

Note: Out of State Contact Lens Seller is a Business Registration

Registered Spectacle Lens Dispenser

- Supervision Requirement: None

Registered Spectacle Lens Dispenser Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Registered Spectacle Lens Dispenser

Note: Supervisor Must Be On Premises

Registered Contact Lens Dispenser

- Supervision Requirement: None

Registered Contact Lens Dispenser Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Registered Contact Lens Dispenser

Note: Supervisor Must Be On Premises; Ratio Limited To 3:1

Research Psychoanalyst

- Supervision Requirement: None

Student Research Psychoanalyst

- Supervision Requirement: Yes
- Supervision Provided By:
  - Graduate Psychoanalyst (Licensed Physician and Surgeon, Psychologist, Licensed Clinical Social Worker, Licensed Marriage And Family Therapist, Or Graduate Research Psychoanalyst) With A Minimum Of Five Years Of Postgraduate Clinical Experience In Psychoanalysis

Registered Polysomnographic Technologists

- Supervision Requirement: Yes
- Supervision Provided By:
  - Licensed Physicians and Surgeons

Note: Supervising Physicians And Surgeons Must Have Current Specialty Or Subspecialty Certification In Sleep Medicine Or Hold Active Staff Membership At An Accredited Sleep Center Or Lab; Supervisor Must Be Available (In Person Or Via Telephonic Or Electronic Means) At Time Services Are Provided; Ratio Not Greater Than 8:1.

Registered Polysomnographic Technicians

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physicians And Surgeons As Noted For Polysomnographic Technologist, Supervising Polysomnogprahic Technologist, Registered Nurse, Physician Assistant, Respiratory Care Practitioner

Registered Polysomnographic Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physicians And Surgeons As Noted For Polysomnographic Technologist, Supervising Polysomnographic Technologist, Registered Nurse, Physician Assistant, Respiratory Care Practitioner

Physician Assistant Committee

Physician Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physician And Surgeons, Doctor of Podiatric Medicine Practicing In Medical Group with a Physician and Surgeon

Note: Supervision Implies Liability (PA Acts As An Agent Of The Supervising Physician and Surgeon); Supervisor Must Be Physically Available For Consultation; Ratio Not Greater Than 4:1

Physician Assistant Committee

Physician Assistant

The Supervising Physician May Choose One Or More Of The Following Four Mechanisms To Provide Supervision :

- The Physician Sees The Patients The Same Day That They Are Treated By The PA.
- The Physician Reviews, Signs And Dates The Medical Record Of Every Patient Treated By The Physician Assistant Within Thirty Days Of The Treatment.
- The Physician Adopts Written Protocols Which Specifically Guide The Actions Of The Pa. The Physician Must Select, Review, Sign And Date At Least 5% Of The Medical Records Of Patients Treated By The Physician Assistant According To Those Protocols Within 30 Days.
- Or, In Special Circumstances, The Physician Provides Supervision Through Another Mechanism Approved In Advance By The PAC.

Board of Podiatric Medicine

Doctor of Podiatric Medicine

- Supervision Requirement: None

Note: May Assist In Or Perform Surgical Procedures That Are Otherwise Beyond The Scope Of Practice Of A DPM If Under Direct Supervision Of A Physician And Surgeon

Board Of Registered Nursing
License Type And
Advanced Practice Certifications

Registered Nurse (RN)

Advanced Practice Certifications

- Clinical Nurse Specialist (CNS)
- Nurse Anesthetist (NA)
- Nurse-Midwife (NMW) & Nurse-Midwife Furnishing Number (NMF)
- Nurse Practitioner (NP) & Nurse Practitioner Furnishing Number (NPF)
- Psychiatric/Mental Health Nurse (PMH)
- Public Health Nurse (PHN)

Board Of Registered Nursing

- Supervision Requirement: Yes
  - Supervision Requirement Varies Depending On Function Being Performed; If Required, Supervision Provided By Physician And Surgeon, Dentist, Doctor of Podiatric Medicine, Or Clinical Psychologist.

Note: Written Standardized Procedures Or Protocols May Be Required For Some Functions, Particularly When Performing Overlapping Medical Functions. Physical Presence Of Supervisor May Or May Not Be Required, Dependent Upon Standardized Procedure Specifications.

Board of Vocational Nursing And Psychiatric Technicians

Licensed Vocational Nurse

- Supervision Requirement: Yes
  - Supervision Provided By: Physician And Surgeon, Registered Nurse

Psychiatric Technician

- Supervision Requirement: Yes
- Supervision Provided By:
  - Facility Director (Physician And Surgeon, Psychiatrist, Psychologist, Rehabilitation Therapist, Social Worker, Registered Nurse, Or Other Professional Personnel)

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Speech Language Pathologist

- Supervision Requirement: None

Speech Language Pathologist Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Speech Language Pathologist Or, If Employed By A Public School, Current Credential Authorizing Service In Language, Speech And Hearing Issued By The Commission On Teacher Credentialing

Note: Review Of Patient Records Required; Ratio Not To Exceed 3:1

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Audiologist

- Supervision Requirement: None

Audiology Aid

- Supervision Requirement: Yes
- Supervision Provided By:
  - Audiologist

Note: Supervisor Must Be Physically Present During Patient **Contact**

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Hearing Aid Dispenser

- Supervision Requirement: None

Hearing Aid Dispenser Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Hearing Aid Dispenser

Note: Level Of Supervision Dependent Upon Duty Performed (e.g., In Plain Site, On Premises, Reachable By Phone, Etc.); Review Of Each Patient Record Required

Board Of Optometry

Optometrist

- Supervision Requirement: None

Optometric Assistant (No License/Registration Required)

- Supervision Requirement: Yes
- Supervision Provided By:
  - Optometrist, Physician and Surgeon (Ophthalmologist)

Board of Occupational Therapy

Licensed Occupational Therapist

- Supervision Requirement: None

Occupational Therapy Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Occupational Therapist

Note: Review of Records Required, Ratio 2:1

Occupational Therapy Aid

- Supervision Requirement: Yes
- Supervision Provided By:
  - Occupational Therapist, Occupational Therapist Assistant

Note: Direct Supervision Required; Delegated Tasks Must Be Documented; Ratio 1:1

Dental Board of California

Dentist

- Supervision Required: None

Dental Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Dental Auxiliary

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Dental Board of California

Orthodontic Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Dental Sedation Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Licensed Health Care Provider Authorized To Administer Conscious Sedation Or General Anesthesia In The Dental Office

Dental Hygienist Committee Of California

Registered Dental Hygienist

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Registered Dental Hygienist In Alternative Practice

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Registered Dental Hygienist In Extended Function

- Supervision Requirement: Yes
- Supervision Provided By:
  - Dentist

Board Of Pharmacy

Pharmacist

- Supervision Required: None

Intern Pharmacist

- Supervision Requirement: Yes
- Supervision Provided By:
  - Pharmacist

Note: Ratio 1:1

Board Of Pharmacy

Pharmacy Technician

- Supervision Requirement: Yes
- Supervision Provided By:
  - Pharmacist

Pharmacy Technician Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Pharmacist

Note: Ratio 1:1

Respiratory Care Practitioner

- Supervision Requirement: Yes
- Supervision Provided By:
  - Medical Director (Physician and Surgeon who is a member of a health care facility's active medical staff and is knowledgeable in respiratory care)

Physical Therapy Board Of California

Physical Therapist

- Supervision Required: None

Physical Therapist Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physical Therapist

Physical Therapist License Applicant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physical Therapist

Note: Supervisor Required To Follow Progress Of Each Patient

Physical Therapy Board Of California

Physical Therapy Aid

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physical Therapist

Note: Supervision Must Be Continuous and Immediate; Required To Provide Direct Treatment Of Each Patient And/Or Closely Monitor Progress; Ratio 1:1

Physical Therapist Students And Interns

- Supervision Requirement: Yes
- Supervision Provided By:
  - Physical Therapist

Note: Supervisor Must Be On Site And Countersign All Treatment Entries In Patient Record On Same Day As Provided

Board Of Psychology

Psychologist

- Supervision Requirement: None

Registered Psychologist

- Supervision Requirement: Yes
- Supervision Provided By:
  - Psychologist

Board Of Psychology

Psychological Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Psychologist, Physician Certified In Psychiatry By The American Board Of Psychiatry And Neurology

Note: Supervision Agreement Required; Ratio 3:1 For Psychologists; 1:1 For Psychiatrists

Psychology Intern

- Supervision Requirement: Yes
- Supervision Provided By:
  - Psychologist; Licensed Marriage And Family Therapist and Licensed Clinical Social Worker Can Be Delegated Supervisor.

Note: Must Be Employed By Same Agency And Available To Trainee 100% Of Time; Supervision Agreement Required.

Board Of Behavioral Sciences

Marriage And Family Therapist

- Supervision Requirement: None

Marriage And Family Therapist Intern/Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Licensed Marriage And Family Therapist, Licensed Clinical Social Worker, Licensed Professional Clinical Counselor, Psychologist, Physician and Surgeon Certified In Psychiatry By The American Board Of Psychiatry And Neurology.

Note: Ratio 3:1

Board Of Behavioral Sciences

Licensed Clinical Social Worker

- Supervision Requirement: None

Associate Clinical Social Worker

- Supervision Requirement: Yes
- Supervision Provided By:
  - Licensed Clinical Social Worker, Licensed Marriage And Family Therapist, Licensed Professional Clinical Counselor, Psychologist, Physician and Surgeon Certified In Psychiatry By The American Board Of Psychiatry And Neurology.

Note: Ratio 3:1

Board Of Behavioral Sciences

Professional Clinical Counselor

- Supervision Requirement: None

Professional Clinical Counselor Intern

- Supervision Requirement: Yes
- Supervision Provided By:
  - Professional Clinical Counselor, Marriage And Family Therapist, Licensed Clinical Social Worker, Psychologist, Physician Certified In Psychiatry By The American Board Of Psychiatry And Neurology

Note: Ratio 3:1

Acupuncture Board

Acupuncturist

- Supervision Requirement: None

Acupuncturist Trainee

- Supervision Requirement: Yes
- Supervision Provided By:
  - Acupuncturist

Note: Written Agreement / Supervision Plan, Quarterly Progress Report, and Certificate Of Completion Must Be Filed With The Board; Continuous Direction And Immediate Supervision Required During Patient Services; Ratio 2:1

Board Of Chiropractic Examiners

Chiropractor

- Supervision Requirement: None

Student Chiropractor

- Supervision Requirement: Yes
- Supervision Provided By:
  - Chiropractor

Note: Immediate And Direct Supervision Required

Naturopathic Medicine Committee

Naturopathic Doctor

- Supervision Requirement: Only If Furnishing and Ordering Drugs
- Supervision Provided By:
  - Physician and Surgeon

Note: When Furnishing And Ordering Drugs, Standardized Procedures And Protocols Identical To Those For Nurse Practitioners Required

Naturopathic Assistant

- Supervision Requirement: Yes
- Supervision Provided By:
  - Naturopathic Doctor

Note: Supervisor Must Be Physically Present On Site At Time Of Patient Services

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 122
Author: Price
Chapter: # 789
Bill Date: August 20, 2012, amended
Subject: Healing Arts: International Medical Schools
Sponsor: Author
Position: Support

DESCRIPTION OF CURRENT LEGISLATION:

This analysis will only cover the portions of this bill that impact the Medical Board of California (Board). This bill allows individuals who have attended and/or graduated from an unrecognized or disapproved school to be eligible for licensure in California if they have continuously practiced in another state for 10 years (if they went to an unrecognized school) or 20 years (if they went to a disapproved school). This bill also requires individuals to be certified by a specialty board of the American Board of Medical Specialties; to have successfully completed the licensing exam required in existing law; to have successfully completed three years of postgraduate training; and to not have any discipline on their license in another state or any adverse judgments or settlements relating to the practice of medicine.

ANALYSIS:

Currently, if an individual attends and/or graduates from an unrecognized or disapproved international medical school, they are not eligible for licensure in California. The Board does not consider education acquired at an unrecognized or disapproved school as satisfying the standards set forth in the applicable statutes and regulations.

This bill allows applicants who have attended and/or graduated from an unrecognized or disapproved school to be eligible for licensure in California if they have continuously practiced in another state for 10 years if they went to an unrecognized school, or 20 years if they went to a disapproved school. This bill allows the Board to combine the period of time the applicant has held a license in other states and continuously practiced, but applicants shall have a minimum of five years of continuous practice and licensure in a single state. This bill specifies that continuous licensure and practice includes any postgraduate training after 24 months in a postgraduate training program.

The applicant must also meet the following criteria in order to be eligible for licensure in California:

- Be certified by a specialty board of the American Board of Medical Specialties (ABMS).
- Have successfully completed the licensing exam required in existing law.

- Have successfully completed three years of postgraduate training.
- Not have any discipline on their license in another state or any adverse judgments or settlements relating to the practice of medicine.
- Not be subject to licensure denial.
- Not have held a healing arts license that has been the subject of disciplinary action by a healing arts board of this state or by another state or federal territory.

This bill allows the Board to adopt regulations to establish procedures for accepting transcripts, diplomas, and other supporting information and records when the originals are not available due to circumstances outside the applicant's control. This bill also allows the Board to adopt regulations authorizing the substitution of additional specialty board certifications for years of practice or licensure when considering the certification for a physician and surgeon.

Originally, this bill included language that would have only required five years of practice in another state or country in order to be eligible for licensure. It would have also only required one year of postgraduate training and ABMS certification, or two years of postgraduate training (ABMS certification would not be required). This language was taken to the Board at the July Board Meeting. The Board voted to support alternative language that uses the concepts in existing law, but has added consumer protection elements.

The language contained in SB 122 that was signed into law is the language drafted and supported by the Board. The Board supported this language because requiring 10 and 20 years of continuing practice in another state, among other requirements, are substantial enough to ensure consumer protection. In addition, allowing individuals that meet the requirements in this bill to be eligible for physician and surgeon licensure in California, will provide another licensure pathway to allow competent physicians to obtain a California license and serve patients in California

SUPPORT: Medical Board of California
Board of Registered Nursing
American Nurses Association/California

OPPOSITION: None on file

FISCAL: Unknown. It is extremely difficult to identify how many applicants will meet the minimum requirements and apply for licensure in California. It will be necessary to send applicants to the Application Review Committee (ARC), until further direction is received from the ARC and the Board. This will result in some workload.

IMPLEMENTATION:

- Newsletter article
- Notify/Train Board staff of the law and new internal processes and procedures
- Update the licensing application and directions; anticipated completion and posting to Web site – end of October, 2012.
- Post information on the Board's Web site regarding the new law and update applicant information on the Board's Web site (this will be done when the application and directions are posted).
- Applications will go to the ARC to determine eligibility, staff will work with ARC members on this process.
- Once application issues are determined, staff will work on identifying the need for regulations. The need for regulations will most likely be brought to the Board at the April/May 2013 Board Meeting.

Senate Bill No. 122

CHAPTER 789

An act to amend Sections 2709, 2786, and 2798 of, and to add Sections 2135.7,2786.2, and 2786.5 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor September 29, 2012. Filed with Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 122, Price. Healing Arts.

(1) Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to issue a license to an applicant who meets specified qualifications and requirements, including successfully completing a medical curriculum, as specified, in a medical school or schools located in the United States or Canada approved by the board, or in a medical school located outside the United States or Canada that otherwise meets specified requirements. Existing law requires the board to issue a license to an applicant who, among other things, (A) holds an unlimited license as a physician and surgeon in another state or states or a Canadian province or provinces, (B) has held an unrestricted license to practice medicine for at least 4 years, (C) has passed a written examination recognized by the board to be equivalent in context to that administered in California, (D) the board has determined has (i) not had disciplinary action taken against him or her, (ii) not been the subject of an adverse judgment or settlement, and (iii) has not committed any acts or crimes constituting grounds for denial of a certificate, in each case, as specified, (E) has completed specified postgraduate training, and (F) is board certified in a specialty, as specified.

This bill would, upon review and recommendation, authorize the board to determine that an applicant for a physician and surgeon's certificate who acquired his or her medical education or a portion thereof at a foreign medical school that is not recognized or has been previously disapproved by the board is eligible for a certificate if the applicant (1) successfully completes a course of medical instruction leading to a degree of medical doctor, (2) holds an unlimited and unrestricted license in another state or federal territory and practiced for 10 or 20 years depending on whether the medical education was acquired from an unrecognized or previously disapproved foreign medical school, (3) is certified by a specified specialty board, (4) has successfully taken and passed specified examinations, (5) has not been the subject of specified disciplinary action or of adverse judgments or settlements, (6) has successfully completed 3 years of approved postgraduate training, (7) is not subject to denial of licensure under specified

provisions, and (8) has not held a healing arts license and been subject to disciplinary action by specified healing arts boards. The bill would also authorize the board to adopt specified regulations concerning the acceptance of records when originals are not available and substitution of board certifications for years of practice or licensure when considering an application for a certificate pursuant to these provisions.

(2) Existing law creates within the Department of Consumer Affairs the Board of Registered Nursing, and makes the board responsible for the licensure and regulation of registered nurses. Existing law requires the board to meet quarterly.

This bill would require meetings of the board to be held in northern and southern California.

(3) Existing law defines the term "approved school of nursing" and requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead allow the board to approve a school of nursing that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009 to grant nursing degrees. The bill would specify that the term "approved school of nursing" includes an approved nursing program. The bill would subject all approved schools of nursing to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. Because the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

The bill would require the board to have a memorandum of understanding with the Bureau for Private Postsecondary Education to delineate the powers of the board and bureau, as specified.

(4) Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the Bureau for Private Postsecondary Education and the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

Appropriation: yes.

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

SECTION 1. Section 2135.7 is added to the Business and Professions Code, to read:

2135.7. (a) Upon review and recommendation, the board may determine that an applicant for a physician and surgeon's certificate who acquired his or her medical education or a portion thereof at a foreign medical school that is not recognized or has been previously disapproved by the board is eligible for a physician and surgeon's certificate if the applicant meets all of the following criteria:

(1) Has successfully completed a resident course of medical education leading to a degree of medical doctor equivalent to that specified in Sections 2089 to 2091.2, inclusive.

(2) (A) (i) For an applicant who acquired any part of his or her medical education from an unrecognized foreign medical school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has held that license and continuously practiced for a minimum of 10 years prior to the date of application.

(ii) For an applicant who acquired any part of his or her professional instruction from a foreign medical school previously disapproved by the board, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has held that license and continuously practiced for a minimum of 20 years prior to the date of application.

(B) For the purposes of clauses (i) and (ii) of subparagraph (A), the board may combine the period of time that the applicant has held an unlimited and unrestricted license in other states or federal territories and continuously practiced therein, but each applicant under this section shall have a minimum of five years continuous licensure and practice in a single state or federal territory. For purposes of this paragraph, continuous licensure and practice includes any postgraduate training after 24 months in a postgraduate training program that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or postgraduate training completed in Canada that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC).

(3) Is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(4) Has successfully taken and passed the examinations described in Article 9 (commencing with Section 2170).

(5) Has not been the subject of a disciplinary action by a medical licensing authority or of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes a pattern of negligence or incompetence.

(6) Has successfully completed three years of approved postgraduate training. The postgraduate training required by this paragraph shall have been obtained in a postgraduate training program accredited by the ACGME or postgraduate training completed in Canada that is accredited by the RCPSC.

(7) Is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(8) Has not held a healing arts license and been the subject of disciplinary action by a healing arts board of this state or by another state or federal territory.

(b) The board may adopt regulations to establish procedures for accepting transcripts, diplomas, and other supporting information and records when the originals are not available due to circumstances outside the applicant's control. The board may also adopt regulations authorizing the substitution of additional specialty board certifications for years of practice or licensure when considering the certification for a physician and surgeon pursuant to this section.

(c) This section shall not apply to a person seeking to participate in a program described in Sections 2072, 2073, 2111, 2112, 2113, 2115, or 2168, or seeking to engage in postgraduate training in this state.

SEC. 2. Section 2709 of the Business and Professions Code is amended to read:

2709. The board for the purpose of transacting its business shall meet at least once every three months, at times and places it designates by resolution. Meetings shall be held in northern and southern California.

SEC. 3. Section 2786 of the Business and Professions Code is amended to read:

2786. (a) An approved school of nursing, or an approved nursing program, is one that has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education. For purposes of this section, "institution of higher education" includes, but is not limited to, community colleges offering an associate of arts or associate of science degree and private postsecondary institutions offering an associate of arts, associate of science, or baccalaureate degree or an entry-level master's degree, and is an institution that is not subject to the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code).

(b) A school of nursing that is affiliated with an institution that is subject to the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code), may be approved by the board to grant an associate of arts or associate of science degree to individuals who graduate from the school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(c) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to require all schools to provide clinical instruction in all phases of the educational process.