State of California
Business, Consumer Services and Housing Agency

MEDICAL BOARD OF CALIFORNIA

Board Meeting

July 30-31, 2015

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2015 Legislation

Agenda Item 6

Consideration of Legislation/Regulations

MEDICAL BOARD OF CALIFORNIA - 2015 TRACKER LIST
July 15, 2015

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
AB 26	Jones-Sawyer	Medical Cannabis	2-year Bill	Support	
AB 34	Bonta & Jones-Sawyer	Medical Cannabis Regulation and Enforcement	2-year Bill	Support if Amended	6/2/15
AB 159	Calderon	Investigational Drugs, Biological Products, and Devices	Sen. Approps	No Position	7/6/15
AB 266	Bonta & Cooley	Medical Marijuana	Sen. Gov. & Finance	Neutral Reco: Support	7/13/15
AB 483	Patterson	Healing Arts: Initial License Fees: Proration	Sen. Approps	Neutral	6/22/15
AB 595	Alejo	Registered Dispensing Opticians: Optometrists: Practice	2-year Bill		4/15/15
AB 611	Dahle	Controlled Substances: Prescriptions: Reporting	2-year Bill		4/15/15
AB 637	Campos	Physician Orders for Life Sustaining Treatment Forms	Enrollment	Support	
AB 684	Bonilla	Healing Arts: Licensees: Disciplinary Actions	Sen. Approps	Neutral	6/30/15
AB 773	Baker	Licenses: Medical Board of California: Board of Psychology	Sen. Approps Suspense	Support	6/1/15
AB 890	Ridley-Thomas	Anesthesiologist Assistants	2-year Bill	Support if Amended	5/5/15
AB 1306	Burke	Healing Arts: Certified Nurse-Midwives: Scope of Practice	2-year Bill		7/1/15
ACR 29	Frazier	Donate Life California Day: Driver's License	Chaptered, #42	Support	4/20/15
SB 19	Wolk	Physician Orders for Life Sustaining Treatment Form: Statewide Registry	Asm. Approps	Support in Concept	6/2/15
SB 22	Roth	Residency Training	2-year Bill	Support	6/4/15
SB 128	Wolk	End of Life	2-year Bill	No Position	6/16/15

Pink – Sponsored Bill, Green – For Discussion, Blue – No Discussion Needed

MEDICAL BOARD OF CALIFORNIA - 2015 TRACKER LIST
July 15, 2015

SB 149	Stone	Investigational Drugs, Biological Products, or Devices: Right to Try	Asm. Approps	No Position	7/13/15
SB 277	Pan	Public Health: Vaccinations	Chaptered, #35	Support	6/18/15
SB 323	Hernandez	Nurse Practitioners	2-year Bill	Oppose	7/9/15
SB 337	Pavley	Physician Assistants	Assembly	Oppose Unless Amended Reco: Neutral	6/16/15
SB 396	Hill	Outpatient Settings and Surgical Clinics	Asm. Approps	Sponsor/Support	6/29/15
SB 408	Morrell	Midwife Assistants	Asm. Approps	Sponsor/Support	5/6/15
SB 464	Hernandez	Healing Arts: Self-Reporting Tools	Asm. Approps	Reco: Neutral	5/22/15
SB 467	Hill	Professions and Vocations	Asm. Approps	Watch	7/1/15
SB 482	Lara	Controlled Substances: CURES Database	2-year Bill	Support	4/30/15
SB 538	Block	Naturopathic Doctors	Asm. Approps	Oppose	7/7/15
SB 622	Hernandez	Optometry	2-year Bill	Oppose Unless Amended	5/4/15
SB 643	McGuire	Medical Marijuana	Asm. Approps	Neutral	6/3/15
SB 715	Anderson	Investigational Drugs, Biological Products, or Devices: Right to Try	2-year Bill	No Position	
SB 738	Huff	Pupil Health: Epinephrine Auto-Injectors: Liability Limitation	Enrolled	Support	5/13/15
SB 800	Sen. B&P	Health Omnibus	Asm. Approps	Sponsor/Support MBC Provisions	7/13/15
SJR 7	Pan	Medical Residency Programs	Chaptered, #90	Support	4/6/15

Pink – Sponsored Bill, Green – For Discussion, Blue – No Discussion Needed

ASSEMBLY BILL No. 26

Introduced by Assembly Member Jones-Sawyer

December 1, 2014

An act to amend Sections 2220.05, 2242, and 2264 of, and to add Chapter 18 (commencing with Section 26000) to Division 9 of, the Business and Professions Code, to add Section 23028 to the Government Code, and to amend Section 11362.7 of, and to amend and repeal Section 11362.775 of, the Health and Safety Code, relating to medical cannabis, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as introduced, Jones-Sawyer. Medical cannabis.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act, requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.

The Medical Practice Act provides for the regulation and licensing of physicians and surgeons by the Medical Board of California and requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith

prior examination of the patient. Existing law makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication. Existing law also makes it unprofessional conduct to employ, aid, or abet an unlicensed person in the practice of medicine. Existing law generally makes any person who violates these provisions guilty of a misdemeanor.

This bill would enact the Medical Cannabis Regulation and Control Act and would create the Division of Medical Cannabis Regulation and Enforcement within the Department of Alcoholic Beverage Control, to be administered by a person exempt from civil service who is appointed by the Director of Alcoholic Beverage Control. The bill would grant the department the power to register persons for the cultivation, manufacture, testing, transportation, storage, distribution, and sale of medical cannabis within the state provided that the authority of a city or county to adopt ordinances inconsistent with the requirements of the act that ban, regulate, or tax medical cannabis activities, and to enforce those ordinances, would not be affected by the act. The bill would provide that the director and persons employed by the department to administer and enforce its provisions are peace officers. The bill would prescribe requirements for the issuance, renewal, suspension, and revocation of mandatory commercial registrations and fees in relation to these activities. The bill would permit the department to assist statewide taxation authorities in the development of uniform policies for state taxation of mandatory commercial medical cannabis registrants and to assist in the development of regulation in connection with work safety in this industry. The bill would authorize the division to establish a grant program for the purpose of funding medical cannabis regulation and enforcement.

The bill would establish the Medical Cannabis Regulation Fund and would require deposit of fees into the fund. The bill would continuously appropriate moneys within the fund to the division for the purposes of administering the program. The bill would require the deposit of penalty money into the General Fund.

The bill would require the department, on or before January 1, 2017, to issue regulations as necessary for the implementation and enforcement of mandatory commercial medical cannabis registration, as specified, including requirements analogous to statutory environmental, agricultural, consumer protection, and food and product safety requirements. The bill would require the department to administer and

enforce these requirements. The bill would prescribe requirements for provisional registrations to be operative January 1, 2016. The bill would prohibit approval of a mandatory commercial registration for specified reasons, including if a licensed physician making patient recommendations for medical cannabis is an interested party in the proposed operation, and would prohibit a physician from recommending medical cannabis to a patient while he or she is a mandatory commercial registrant, or associated, as specified, with a mandatory commercial registrant. The bill would prohibit a registrant from holding a registration in more than one class of medical cannabis activities.

The bill would require a registrant to keep various records in connections with medical cannabis activities and would prescribe requirements for making records available to the department and any state or local agency. The bill would provide that certain patient and caregiver information is excluded from disclosure to the public. The bill would provide that the act does not apply to the protections granted to a patient or primary caregiver acting pursuant to the Compassionate Use Act of 1996 and would exempt these parties from the application of the act, provided they act consistently with specified requirements. The bill would provide that the actions of a mandatory commercial registrant or provisional registrant, its employees, and its agents that are permitted pursuant to a valid mandatory commercial registration issued by the division and that are conducted in accordance with the requirements of the act are not unlawful under state law, as specified. The bill would provide a similar state law immunity for a property owner who allows his or her property to be used by a mandatory commercial registrant or provisional registrant.

The bill would require the department to work in conjunction with law enforcement entities throughout the state to implement and enforce the rules and regulations regarding medical cannabis and to take appropriate action against businesses and individuals that fail to comply with the law. The bill would prohibit, on and after January 1, 2017, a person other than a mandatory commercial registrant from selling cannabis or cannabis products or performing other actions related to cannabis, except as specified. The bill would provide that its provisions do not prevent specified city or county actions, including zoning ordinances banning or regulating the location, operation, or establishment of a commercial registrant. The bill would make certain violations of its provisions a crime, thereby imposing a state-mandated local program. The bill would establish requirements for the

transportation of medical cannabis. The bill would specify that its provisions are severable.

The bill would specify that recommending marijuana to patients without a good faith examination and medical reason or recommending marijuana for nonmedical purposes is unprofessional conduct. The bill would provide that specified acts of recommending marijuana without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the Medical Board of California, as described above. The bill would also specify that employment by, or an agreement with, a mandatory medical cannabis registrant to provide recommendations for medical marijuana constitutes unprofessional conduct. By broadening the definition of a crime, the bill would impose a state-mandated local program. The bill would repeal, 90 days after the department posts a specified notice on its Internet Web site, the provisions described above prohibiting prosecution of qualified patients, persons with valid identification cards, and designated primary caregivers who associate in California, collectively or cooperatively, to cultivate marijuana for medical purposes.

(2) Existing law authorizes the board of supervisors of a county and the governing body of a city to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the board or governing body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize the board of supervisors of a county to impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products, including a transactions and use tax at any rate specified by the board. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

(3) 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. This act shall be known, and may be cited, as the Medical Cannabis Regulation and Control Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) In 1996, the people of the State of California enacted the Compassionate Use Act of 1996, codified in Section 11362.5 of the Health and Safety Code. The people of the State of California declared that their purpose in enacting the measure was, among other things, "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief."

(2) The Compassionate Use Act of 1996 called on state government to implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(3) In 2003, the Legislature enacted the Medical Marijuana Program Act (MMPA), codified in Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(4) Greater certainty and minimum statewide standards are urgently needed regarding the obligations of medical marijuana facilities and for the imposition and enforcement of regulations to prevent unlawful cultivation and the diversion of marijuana to nonmedical use.

(5) Despite the passage of the Compassionate Use Act of 1996 and the MMPA, because of the lack of an effective statewide system for regulating and controlling medical marijuana, local law enforcement officials have been confronted with uncertainty about the legality of some medical marijuana cultivation and distribution activities. The current system of collectives and cooperatives makes law enforcement difficult and endangers patient safety because of an inability to monitor the supply of medical marijuana in the state and the lack of quality control, testing, and labeling requirements.

(6) For the protection of all Californians, the state must act to regulate and control medical marijuana and not preempt local government ordinances. Cities and counties should be allowed to impose local taxes and enact zoning regulations and other restrictions, including bans, applicable to the commercial cultivation and distribution of medical marijuana based on a local governing body's determination of local needs. In order to provide patients with access to safe medical marijuana products, while at the same time preventing diversion of marijuana to nonmedical uses and protecting the public, it is necessary to amend the MMPA and to establish a comprehensive structure for regulating the cultivation, production, and distribution of medical marijuana products.

(7) A state entity shall be created to regulate and control the mandatory registration of all entities involved in the commercial cultivation, processing, manufacturing, testing, transportation, distribution, provision, donation, and sale of medical marijuana in this state. Patients and their primary caregivers who cultivate medical marijuana for the personal medical purposes of individual patients shall not be subject to the statewide system of regulation established by this act but only medical marijuana produced in compliance with this act may be sold or commercially distributed.

(8) This act is not intended to prevent cities and counties from imposing local taxes and enacting zoning regulations and other restrictions, including bans, applicable to the commercial cultivation and distribution of medical marijuana based on a local governing body's determination of local needs.

(9) It is the intent of the Legislature that the state entity created to regulate and control medical marijuana solicit input from cities and counties in the process of promulgating standards and regulations pursuant to this act.

(10) It is the intent of the Legislature that entities provided immunity under Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, shall be considered the equivalent of entities that are registered, permitted, or licensed as a medical marijuana business, dispensary, or other entity involved in providing medical marijuana to patients under a local ordinance and shall be considered in compliance with a local ordinance for the purposes of the implementation of this act

and any regulations promulgated by the Department of Alcoholic Beverage Control.

(11) The provisions of this act are enacted pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

(12) Nothing in this act is intended to require any individual or entity to engage in any conduct that violates federal law or to exempt anyone from any requirement of federal law or to pose any obstacle to federal enforcement of federal law.

(b) It is therefore the intent of the Legislature, in enacting this act, to accomplish all of the following:

(1) To establish a statewide system for regulating and controlling commercial medical cannabis activities by creating a state entity to enact and enforce regulations governing the cultivation, processing, manufacturing, testing, transportation, distribution, provision, donation, and sale of commercial medical cannabis.

(2) To allow cities and counties to enact zoning regulations or other restrictions, including bans, applicable to the cultivation, processing, manufacturing, testing, and distribution of commercial medical cannabis based on a local governing body's determination of local needs.

(3) To establish the Division of Medical Cannabis Regulation and Enforcement to be located within the Department of Alcoholic Beverage Control to provide a governmental agency that will ensure the strict, honest, impartial, and uniform administration and enforcement of the statewide regulatory system established by this act throughout the state.

(4) To enact legislation in furtherance of the Compassionate Use Act of 1996, which provides for the Legislature to "implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana."

(5) To establish a statewide registration process for commercial medical cannabis activities to identify for law enforcement which entities are exempt from state criminal penalties for the cultivation, processing, manufacturing, testing, transportation, distribution, provision, donation, and sale of medical cannabis solely on the basis of their activities conducted in compliance with this act.

(6) To reduce the cost of commercial medical cannabis enforcement by controlling commercial medical cannabis production and distribution through comprehensive statewide

regulation and providing law enforcement guidelines to more easily determine whether or not a person is acting in conformance with the state's medical cannabis laws.

SEC. 3. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled ~~substances~~ *substances, or recommending marijuana to patients for medical purposes,* without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(5) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 4. Section 2242 of the Business and Professions Code is amended to read:

2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section ~~4022~~ *4022, or recommending marijuana to a patient for a medical purpose,* without an appropriate prior examination and a medical indication, *including an in-person examination when recommending marijuana, or recommending marijuana for a nonmedical purpose,* constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

SEC. 5. Section 2264 of the Business and Professions Code is amended to read:

2264. The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of ~~medicine~~ *medicine, including employment by, other agreement with, a mandatory commercial registrant acting pursuant to the Medical Cannabis Regulation and Control Act or a dispensary to provide recommendations for medical marijuana,* or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

SEC. 6. Chapter 18 (commencing with Section 26000) is added to Division 9 of the Business and Professions Code, to read:

Chapter 18. Medical Cannabis Regulation

Article 1. General Provisions

26000. (a) It is the intent of the Legislature in enacting this chapter to provide for the comprehensive regulation of the commercial cultivation, manufacturing, testing, transportation, distribution, provision, donation, and sale of medical cannabis and the enforcement of laws relating to commercial medical cannabis activities without preempting city or county ordinances regulating or banning these activities.

(b) This chapter is an exercise of the police powers of the state for the protection of the safety, welfare, health, peace, and morals of the people of the state.

26001. Without limiting the authority of a city or county pursuant to Section 7 of Article XI of the California Constitution or any other provision of law, and subject to that authority, the state shall have the right and power to regulate and register persons for the cultivation, manufacture, testing, transportation, storage, distribution, provision, donation, sale, purchase, and possession of medical cannabis within the state. In the exercise of these rights and powers, the Legislature shall not constitute the state or any of its agencies as a cultivator, manufacturer, transporter, tester, or seller of medical cannabis.

26002. For the purpose of this chapter:

(a) "Cannabis" means all parts of the plant Cannabis sativa, cannabis indica, or cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

(b) "Commercial" means any cultivation, processing, possession, storage, manufacturing, testing, transportation, distribution, provision, donation, or sale of cannabis or cannabis product, whether or not gratuitous, except as provided in subdivision (b) of Section 26052.

(c) "Department" means the Department of Alcoholic Beverage Control.

(d) "Dispensary" means a mandatory commercial registrant that dispenses cannabis or medical cannabis products through a retail storefront.

(e) "Division" means the Division of Medical Cannabis Regulation and Enforcement.

(f) "Edible cannabis product" means a cannabis product that is used or intended for use in whole or in part for human consumption and includes chewing gum.

(g) "Fund" means the Medical Cannabis Regulation Fund established pursuant to Section 26028.

(h) "Identification program" means the universal identification certificate program for mandatory commercial registrants.

(i) "Mandatory commercial registrant" or "registrant" means any individual, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, or any other group or combination thereof acting as a unit to cultivate, process, possess, store, manufacture, test, transport, distribute, provide, donate, or sell medical cannabis in compliance with this chapter, other than a patient or a patient's primary caregiver, as defined by the Compassionate Use Act of 1996,

growing, possessing, storing, manufacturing, transporting, or providing medical cannabis exclusively for the personal medical purposes of individual patients as defined in subdivision (b) of Section 26052.

(j) "Medical cannabis product" or "cannabis product" means any product containing cannabis, including concentrates and extractions, that is cultivated, manufactured, processed, packaged, and distributed in full compliance with the requirements of this chapter and with any regulations adopted by the department pursuant to its rulemaking authority. "Medical cannabis product" includes products that contain medical cannabis and are intended for oral or topical consumption by a qualified patient.

(k) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(*l*) "Testing and labeling" means mandatory labeling and a quality assurance plan in place that addresses all of the following:

(1) Potency.

(2) Chemical residue.

(3) Microbiological contaminants.

(4) Random sample testing of medical cannabis and medical cannabis products.

(5) Handling, care, and storage.

(6) Date and location of production and manufacturing.

26010. This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code do not prevent a city or county from doing any of the following:

(a) Adopting local ordinances inconsistent with this chapter that ban or regulate the location, operation, or establishment of a mandatory commercial registrant or other individual, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, or any other group or combination thereof acting as a unit, that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, provides, donates, or sells medical cannabis.

(b) The civil or criminal enforcement of the ordinances described in subdivision (a).

(c) Establishing a fee or tax for the operation of a mandatory commercial registrant within its jurisdiction.

(d) Enacting and enforcing other laws or ordinances pursuant to the authority granted by Section 7 of Article XI of the California Constitution.

Article 2. Administration

26020. (a) There is hereby created in the Department of Alcoholic Beverage Control the Division of Medical Cannabis Regulation and Enforcement. The division shall be administered by a person exempt from the civil service who is appointed by the director.

(b) The department shall have the power, consistent with the provisions of this chapter, to register persons for the cultivation, manufacture, testing, transportation, storage, distribution, and sale of medical cannabis within the state and to collect registration fees in connection with these actions.

26022. The department shall have all power necessary for administration of this chapter, including, but not limited to, the following:

(a) Establishing statewide minimum standards for the commercial cultivation, manufacturing, testing, transportation, storage, distribution, provision, donation, and sale of medical cannabis and medical cannabis products and procedures for the issuance, renewal, suspension, and revocation of registrations of mandatory commercial registrants.

(b) Establishing a scale of application, registration, and renewal fees, to be imposed by the state, for mandatory commercial registrants for the cultivation, manufacturing, testing, transportation, distribution, and sale of medical cannabis and medical cannabis products. The department may charge separate fees for each mandatory commercial registration application for cultivation, manufacturing, transportation, distribution, and sale. The total fees imposed pursuant to this chapter shall be based on the actual costs of administering and enforcing this chapter.

(c) The department shall make and prescribe those rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and perform the duties conferred upon it by this chapter and in accordance with

Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the department has the powers as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Approving or denying mandatory commercial registration applications for cultivation, manufacturing, testing and labeling, transportation, distribution, provision, donation, and sale of medical cannabis pursuant to this chapter.

(e) The department shall have the power, in its discretion, to deny, suspend, revoke, or fine any registration issued pursuant to this chapter if the department determines that the granting or continuance of the registration would be contrary to public welfare or morals or that a person holding or seeking a registration has violated any law prohibiting conduct involving moral turpitude or an applicable local ordinance.

(f) Imposing any penalty authorized by this chapter or any rule or regulation adopted pursuant to this chapter.

(g) Taking any action with respect to a mandatory commercial registration application in accordance with procedures established pursuant to this chapter.

(h) Upon the denial of any application for a registration, the department shall notify the applicant in writing. After service of the notice and within the time prescribed by the department, the applicant may present his or her written petition for a registration to the department. Upon receipt by the department of a petition for a registration in proper form, the petition shall be set for hearing.

(i) (1) For any hearing held pursuant to this chapter, the department may delegate the power to hear and decide to an administrative law judge appointed by the director. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Prior to suspending, revoking, or fining any registration, the department shall file an accusation as provided for in Section 11503 of the Government Code, and the registrant may request a hearing. If the department determines that the public interest requires that a registration be summarily suspended pending hearing on charges

of misconduct that include any of the causes for suspension or revocation specified in this chapter, or if the department has information that leads it to believe that a registrant has violated any law prohibiting conduct involving moral turpitude or any applicable local ordinance, the department may, without hearing, temporarily suspend the registration for a period not exceeding 60 days pending a hearing and decision on the charges.

(j) Developing any forms, identification certificates, and applications that are necessary or convenient in the discretion of the department for the administration of this chapter or any of the rules or regulations adopted pursuant to this chapter.

(k) Overseeing the operation of the Medical Cannabis Regulation Fund established pursuant to Section 26028.

(*l*) Establishing fees for processing all applications, registrations, notices, or reports required to be submitted to the department. The amount of the fees shall reflect, but shall not exceed, the direct and indirect costs of the department for the administration of this chapter and the rules or regulations adopted pursuant to this chapter.

(m) The department may consult with other state agencies, departments, or public or private entities for the purposes of establishing statewide standards and regulations.

26024. (a) The department may assist state taxation authorities in the development of uniform policies for the state taxation of mandatory commercial registrants.

(b) The department shall assist the Division of Occupational Safety and Health in the Department of Industrial Relations in the development of industry-specific regulations related to commercial medical cannabis activities.

26028. (a) The Medical Cannabis Regulation Fund is hereby established within the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the money in the fund.

(b) All fees collected pursuant to this chapter shall be deposited into the Medical Cannabis Regulation Fund. Notwithstanding Section 13340 of the Government Code, all moneys within the fund are hereby continuously appropriated, without regard to fiscal year, to the department solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the department for its administrative expenses.

(c) All moneys collected pursuant to this chapter as a result of penalties imposed under this division shall be deposited directly into the General Fund, to be available upon appropriation.

(d) The department may establish and administer a grant program to allocate moneys from the Medical Cannabis Regulation Fund to state and local entities for the purpose of assisting with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to registrants.

26030. (a) The director and the persons employed by the department for the administration and enforcement of this chapter are peace officers in the enforcement of the penal provisions of this chapter, the rules of the department adopted under the provisions of this chapter, and any other penal provisions of law of this state prohibiting or regulating the cultivation, processing, storing, manufacturing, testing, transporting, or selling of medical cannabis, and these persons are authorized, while acting as peace officers, to enforce any penal provisions of law while in the course of their employment.

(b) The director, the persons employed by the department for the administration and enforcement of this chapter, peace officers listed in Section 830.1 of the Penal Code, and those officers listed in Section 830.6 of the Penal Code while acting in the course and scope of their employment as peace officers may, in enforcing the provisions of this chapter, visit and inspect the premises of any mandatory commercial registrant at any time during which the registrant is acting pursuant to the registration.

(c) Peace officers of the Department of the California Highway Patrol, members of the University of California and California State University police departments, and peace officers of the Department of Parks and Recreation, as defined in subdivisions (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in enforcing this chapter, visit and inspect the premises of any mandatory commercial registrant located on state property at any time during which the registrant is acting pursuant to the registration.

26034. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the department for the purposes of administering this chapter are confidential and exempt from the California Public Records Act (Chapter 3.5 (commencing

with Section 6250) of Division 7 of Title 1 of the Government Code) and are not subject to disclosure to any individual or private entity, except as necessary for authorized employees of the State of California to perform official duties pursuant to this chapter:

(b) (1) Nothing in this section precludes the following:

(A) Division employees notifying state or local agencies about information submitted to the division that the employee suspects is falsified or fraudulent.

(B) Notifications from the division to state or local agencies about apparent violations of this chapter or any applicable local ordinance.

(C) Verification of requests by state or local agencies to confirm registrants and certificates issued by the division or other state agency.

(D) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(2) Information shall not be disclosed beyond what is necessary to achieve the goals of a specific investigation or notification or the parameters of a specific court order or subpoena.

Article 3. Mandatory Commercial Registration

26040. (a) On or before January 1, 2017, the department shall promulgate regulations necessary for the implementation and enforcement of this chapter. These regulations shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of mandatory commercial registrations.

(2) Application, registration, and renewal forms and fees consistent with this act.

(3) Time periods, not to exceed 90 days, by which the department shall approve or deny an application for medical cannabis registration.

(4) Qualifications for registrants.

(5) Security requirements, including, but not limited to, procedures for limiting access to facilities and for the screening of employees. The department shall require all registrants to maintain an accurate roster of any employee's name, date of birth, and relevant personally identifying information, which shall be

available for inspection by the department or state or local law enforcement upon demand.

(6) Testing and labeling requirements, including, but not limited to, disclosure of the active cannabinoid profile, constituent elements, active ingredients, and results of testing for contaminants.

(7) Health and safety requirements, including, but not limited to, prohibitions on shipping or distribution of products containing microbiological, bacterial, pathogenic yeast or mold counts, or any adulterant or contaminant, that exceed levels to be determined by the department.

(8) Inspection and tracking requirements, including, but not limited to, an electronic production and inventory tracking system that will allow the department to monitor inventory data at every level of the cultivation, processing, and distribution system through a secure, Internet Web site-based portal.

(9) Storage, packaging, and transportation procedures and protocols.

(10) Advertising restrictions and requirements.

(11) Requirements to ensure conformance with standards analogous to state statutory environmental, agricultural, consumer protection, and food and product safety requirements. These standards shall be administered and enforced by the department and shall be in addition to, and not limit, any other state requirements. At a minimum, these standards shall:

(A) Prescribe sanitation standards analogous to the California Retail Food Code for food preparation, storage, and handling and sale of edible cannabis products.

(B) Require that edible cannabis products produced, distributed, provided, donated, or sold by mandatory commercial registrants shall be limited to nonpotentially hazardous food as established by the State Department of Public Health pursuant to Section 114365.5 of Health and Safety Code.

(C) Provide standards for labeling edible cannabis products to ensure that the products cannot be mistaken as food not containing cannabis.

(D) Require that facilities where edible cannabis products are prepared shall be constructed in accordance with applicable building standards, health and safety standards, and other state laws.

(E) Ensure that edible products distributed or sold by dispensaries are not produced or stored in private homes.

(F) Provide that any weighing or measuring devices used in connection with the sale or distribution of cannabis are required to meet standards analogous to Division 5 (commencing with Section 12001).

(G) Require that any application of pesticides or other pest control in connection with the indoor or outdoor cultivation of cannabis shall meet standards analogous to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(H) Protect the state's clean water and environment, including, but not limited to, protections related to land conversion, grading, water diversion and pond development, and agricultural discharges.

(12) Requirements to prevent the diversion of cannabis to nonmedical use, including procedures and protocols for disposal of excess, contaminated, adulterated, or deteriorated products.

(13) Civil penalties for the failure to comply with regulations adopted pursuant to this chapter.

(b) A mandatory commercial registration application or renewal shall not be approved if the department determines any of the following:

(1) The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter or any applicable city or county ordinance or regulation.

(2) The applicant, or any of its officers, directors, owners, members, or shareholders is under 21 years of age.

(3) The applicant has knowingly answered a question or request for information falsely on the application form or failed to provide information requested.

(4) The applicant, or any of its officers, directors, owners, members, or shareholders has been convicted in the previous five years of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code, a serious felony as specified in subdivision (c) of Section 1192.7 of the Penal Code, a felony offense involving fraud or deceit, or any other felony that, in the department's estimation, would impair the applicant's ability to appropriately operate as a mandatory commercial registrant.

(5) The applicant, or any of its officers, directors, owners, members, or shareholders is a licensed physician making patient recommendations for medical cannabis.

(6) The applicant, or any of its officers, directors, owners, members, or shareholders has been sanctioned by the department, a city, or a county for cannabis activities conducted in violation of this chapter or any applicable local ordinance or has had a mandatory commercial registration revoked in the previous three years.

(7) A sufficient number of mandatory commercial registrants already exists in the state, a city, or a county to provide a sufficient amount of medical cannabis to satisfy patients' medical use in that jurisdiction.

(8) The proposed cultivation, processing, possession, storage, manufacturing, testing, transporting, distribution, provision, donation, or sale of medical cannabis will violate any applicable local law or ordinance.

(c) (1) In order to protect the public safety and provide patients with prompt, safe access to medical cannabis during implementation of this chapter, within 180 days of January 1, 2016, the department shall issue emergency regulations consistent with this chapter that allow a qualified applicant for mandatory commercial registration to apply, be reviewed, and be registered to cultivate, process, manufacture, store, and transport medical cannabis so as to ensure an adequate supply of medical cannabis upon full implementation of this chapter.

(2) The department shall establish appropriate fees as part of its emergency regulations adopted pursuant to this chapter.

26042. For the purpose of regulating the commercial cultivation, manufacturing, testing, transportation, distribution, provision, donation, and sale of medical cannabis, the department shall establish various classes or types of registration for specific commercial medical cannabis-related activities, as set forth in this chapter. At a minimum, registrants engaged in the cultivation and processing of cannabis shall be in a different class from those registrants operating dispensaries.

26043. (a) Each mandatory commercial registration application approved by the department pursuant to this chapter is separate and distinct. A registrant shall not hold a mandatory commercial registration in more than one class of specified medical cannabis

activities. A registrant shall not be an officer, director, member, owner, or shareholder registrant in another class. The officers, directors, owners, members, or shareholders of a registrant in one class may not hold a registration in another class, shall not be an officer, director, member, owner, or shareholder of a registrant in another class.

(b) A mandatory commercial registration application approved by the department pursuant to this chapter shall be valid for a period not to exceed one year from the date of approval unless revoked or suspended earlier than that date pursuant to this chapter or the rules or regulations adopted pursuant to this chapter.

26044. (a) The department shall limit the number of registrations statewide for the cultivation, processing, extraction, packaging, and transportation of medical cannabis to a number no greater than what is necessary to meet statewide need. In determining the appropriate number of registrations, the department may take into account information obtained from sources that include, but need not be limited to, municipalities, patients, and registrants.

(b) The department shall ensure that the number of registrations that it approves does not exceed the ability of the department to enforce the provisions of this chapter, particularly with respect to ensuring patient safety and preventing illegal diversion of cannabis.

(c) In establishing limits pursuant to this section, the department shall consider the following:

(1) The purposes and intent of the Compassionate Use Act of 1996 to ensure an adequate supply of medical cannabis while endeavoring to prevent an oversupply of cannabis that may result in diversion.

(2) The number of applicants for mandatory commercial registrations whose application demonstrates that they will be able to produce consistent products with strict quality controls, in full compliance with this chapter and with all applicable state and local regulations, and the amount of medical cannabis those applicants will be able to provide.

26045. Every mandatory commercial registration is renewable unless the registration has been revoked if the renewal registration is made and the fee for it is paid. A registration that has been suspended, but not revoked, may be renewed under this section, provided that the suspension shall remain in effect upon renewal.

All registrations expire at 12 midnight on the last day of the month posted on the registration. All registrations issued shall be renewed as follows:

(a) The application to renew the registration may be filed before the registration expires upon payment of the annual fee.

(b) For 60 days after the registration expires, the registration may be renewed upon payment of the annual renewal fee plus a penalty fee that shall be equal to 50 percent of the annual fee.

(c) Unless otherwise terminated, or unless renewed pursuant to subdivision (a) or (b), a registration that is in effect on the month posted on the registration continues in effect through 12 midnight of the 60th day following the month posted on the registration, at which time it is automatically canceled.

(d) A registration that has been canceled pursuant to subdivision (c) may be reinstated during the 30 days immediately following cancellation upon payment by cashier's check or money order of the annual renewal fee, plus a penalty fee that shall be equal to 100 percent of the annual fee. A registration that has been canceled pursuant to subdivision (c) and that has not been reinstated within 30 days pursuant to this subdivision is automatically revoked on the 31st day after the registration has been canceled.

(e) A renewal application shall not be deemed filed within the meaning of this section unless the document itself has been actually delivered to, and the required renewal fee has been paid at, any office of the department during office hours, or unless both the document and fee have been filed and remitted pursuant to Section 11003 of the Government Code.

26046. An application for mandatory commercial registration shall include, but shall not be limited to, all of the following:

(a) For all applicants:

(1) The legal name and proposed physical addresses of the mandatory commercial registrant.

(2) The name, address, and date of birth of each principal officer and board member.

(3) Operating and inventory control procedures to ensure security and prevent diversion.

(4) Detailed operating procedures for the proposed facility, which shall include, but not be limited to, provisions for facility and operational security, prevention of diversion, employee

screening, storage of medical cannabis, personnel policies, and recordkeeping procedures.

(5) A list of all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on any property that will be used by the applicant.

(6) Evidence of the legal right to occupy and use an established location, or an immunity from prosecution for that occupancy or use pursuant to a local ordinance or ordinances, including, but not limited to, Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, for the activities to be conducted if the desired registration is granted consistent with the provisions of this chapter and the regulations developed by the department.

(7) Documentation that the applicant will be in compliance with all local ordinances and regulations, including an entity granted immunity under Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election.

(8) Evidence that officers and owners of the applicant organization are citizens of the United States and residents of the State of California.

(b) For applications for cultivation and processing, in addition to the requirements of subdivision (a), the application shall also include detailed operating procedures for cultivation, extraction and infusion methods, transportation of products, inventory procedures, procedures for quality control, and onsite testing of product for potential contaminants.

26047. Upon receipt of an application for a registration and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a registration is applied qualify for the registration and whether the provisions of this chapter have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a registration if either the applicant or the premises for which a registration is applied do not qualify for a registration under this chapter. The department further shall deny an application for a registration if the department finds that issuance of that registration would create a law enforcement problem. The department may place conditions upon registrations if grounds exist for denial of the registration, and the department finds those

grounds may be removed by the imposition of those conditions, provided that the requirements set forth in paragraphs (6) and (8) of subdivision (b) of Section 26040 shall not be waived.

26048. A physician shall not recommend medical cannabis to a patient while the physician is a mandatory commercial registrant, or an officer, director, owner, member, shareholder, employee, or financial beneficiary of a mandatory commercial registrant.

26049. (a) The actions of a mandatory commercial registrant or provisional registrant, its employees, and its agents, permitted pursuant to a mandatory commercial registration or provisional registration issued by the department or otherwise permitted by this chapter, that are conducted in accordance to the requirements of this chapter and regulations adopted pursuant to the authority granted by this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith and upon investigation, allows his or her property to be used by a mandatory commercial registrant or provisional registrant, its employees, and its agents, as permitted pursuant to a mandatory commercial registration or provisional registration issued by the department or otherwise permitted by this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(c) This section shall not be deemed to limit the authority or remedies of a city or county under any provision of law, including, without limitation, Section 26010 or 26060 of this code or Section 7 of Article XI of the California Constitution.

26050. (a) A registrant shall not cultivate, process, store, manufacture, test, transport, or sell medical cannabis in the state unless accurate records are kept at the registered premises of the growing, processing, storing, manufacturing, testing, transporting, or selling by the registrant in the state. These records shall include the name and address of the supplier of any cannabis or cannabis products received or possessed by the registrant, the location at which the cannabis was cultivated, the amount of cannabis received, the form in which it is received, the name of the employee receiving it, and the date of receipt. These records shall further

include receipts for all expenditures incurred by the registrant and banking records, if any, for all funds obtained or expended in the performance of any activity under the authority of the registration, provided that a registrant registered to act at more than one premises may keep all records at one of the registered premises. Required records shall be kept for a period of seven years from the date of the transaction.

(b) The department and any state or local agency may make any examination of the books and records of any registrant and may visit and inspect the premises of any registrant that the department may deem necessary to perform its duties under this chapter.

(c) Any books or records requested by the department or any state or local agency shall be provided by the registrant no later than at the end of the next business day after the request is made.

(d) The department or any state or local agency may enter and inspect the premises of any facility operated by a registrant between the hours of 8 a.m. and 8 p.m. on any day that the facility is open, or at any reasonable time, to ensure compliance and enforcement of the provisions of this chapter or any local ordinance.

(e) In the event that the registrant or any employee of the registrant refuses, impedes, obstructs, or interferes with an inspection pursuant to this chapter or local ordinance, or if the registrant fails to maintain or provide the books and records required by this section, the registration may be summarily suspended pursuant to paragraph (2) of subdivision (i) of Section 26022 and the department shall directly commence proceedings for the revocation of the registration in accordance with this chapter.

26052. (a) This chapter shall not apply to, and shall have no diminishing effect on, the rights and protections granted to a patient or a primary caregiver pursuant to the Compassionate Use Act of 1996.

(b) (1) A patient who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use and who does not sell, distribute, donate, or provide cannabis to any other person is not considered a commercial registrant and is exempt from mandatory commercial registration under this chapter.

(2) A primary caregiver who cultivates, possesses, stores, manufactures, transports, or provides cannabis exclusively for the

personal medical purposes of a specified qualified patient for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code and who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code is not considered a commercial registrant and is exempt from mandatory commercial registration under this chapter.

26054. Beginning January 1, 2015, the department shall provide for provisional registrations as follows:

(a) The department shall request that every city or county provide the department with a list of approved entities providing medical cannabis to qualified patients and caregivers within the city or county's jurisdiction, if any, the location at which the entity is operating, and the names of the persons who operate the entity. If the jurisdiction represents that the entity has been operating in compliance with local laws and regulations, or has limited immunity under local laws, including, but not limited to, Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, the department shall issue a provisional registration to the entity until the time that the entity's application for mandatory commercial registration has been approved or denied under this chapter, but no later than 90 days after the department begins accepting applications for mandatory commercial registration.

(b) The department shall issue a provisional registration to individuals and entities that the department determines were, during the six months prior to January 1, 2016, regularly cultivating or distributing medical cannabis collectively or cooperatively in full compliance with paragraphs A and B of Section IV of the Guidelines for Security and Non-Diversion of Marijuana Grown for Medical Use, issued by the Department of Justice in August 2008, and any applicable local ordinance, to continue to do so until such time as the registrant's application for mandatory commercial registration has been approved or denied under this chapter, but no later than 90 days after the department begins accepting applications for mandatory commercial registration. To qualify, provisional registrants shall be required to disclose to the department the following information in writing on or before January 20, 2016, in order to obtain provisional registration:

(1) The names, addresses, and dates of birth of each principal officer, owner, or board member.

(2) The common street address and assessor's parcel number of the property at which the registrant conducts any activity under the authority of the registration.

(3) The common street address and assessor's parcel number of the property at which any cultivation activity was or is to be conducted.

(4) For the six months prior to January 1, 2016, the quantity of cannabis cultivated at a location and the quantity expected to be cultivated from January 1, 2016, to June 30, 2016, inclusive. The registrant shall make its records of current activity and activity for the six months prior to January 1, 2016, available to the department upon request.

(c) The department shall charge an application fee of five thousand dollars ($5,000) for each provisional registration.

(d) Notwithstanding any other provision of this section, the department shall not issue a provisional registration to any individual or entity, or for any premises, against whom there are pending state or local administrative or judicial proceedings or actions initiated by a city or county under any applicable local ordinance or who has been determined through those proceedings to have violated any applicable local ordinance.

26055. Entities that are provided immunity under Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, shall be considered the equivalent of entities that are registered, permitted, or licensed as a medical marijuana business, dispensary, or other entity involved in providing medical marijuana to patients under a local ordinance and shall be considered in compliance with a local ordinance for the purposes of the implementation of the act adding this section and any regulations promulgated by the department.

26056. In addition to other regulations adopted by the department pertaining to mandatory commercial registrants and without limiting the authority of a city or a county pursuant to Section 7 of Article XI of the California Constitution or any other law, the department shall adopt regulations regarding the minimum standards for the operation of dispensaries that establish all of the following:

(a) Standards for labeling of products, including the name of the mandatory commercial registrant from which the product was obtained, and a requirement that dispensaries provide patients with detailed written information about the contents of the cannabis and medical cannabis products they obtain.

(b) Requirements for inventory control and reporting that require all dispensaries to be able to demonstrate the present location, amounts, and descriptions of all medical cannabis products from the time of delivery to the dispensary until purchase by a qualified patient or primary caregiver.

(c) The maximum number of dispensaries that may operate in a city or county or the unincorporated areas of a county based on population, taking into consideration the distances that patients in rural areas may need to travel in order to reach a dispensary and the availability of public transportation in both rural and urban areas. The number established by the department for any city or county may not exceed the number of dispensaries allowed by any applicable local ordinance.

(d) Minimum educational and testing requirements for dispensary staff, including background checks, and a requirement that every dispensary maintain dedicated, licensed security staff both inside and outside the dispensary.

(e) Maximum hours of operation for every dispensary.

(f) Minimum standards governing signage and advertising for dispensaries.

26057. The department shall make recommendations to the Legislature pertaining to the establishment of an appeals and judicial review process for persons aggrieved by a final decision of the department.

Article 4. Enforcement

26060. (a) The department shall work in conjunction with law enforcement entities throughout the state for the purpose of implementing and enforcing the rules and regulations regarding commercial medical cannabis and taking appropriate action against businesses and individuals who fail to comply with the law.

(b) Nothing in this chapter or in Article 2 (commencing with Section 11357) or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall

prevent a city, county, or city and county from adopting or enforcing a zoning ordinance or other law, ordinance, or regulation that bans or regulates the location, operation, or establishment of a mandatory commercial registrant or other individual, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, or any other group or combination thereof acting as a unit, that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, provides, donates, or sells medical cannabis.

26062. Except for a person identified in Section 26052, a person shall not exercise the privilege or perform any act that a registrant may exercise or perform under the authority of a registration unless the person is acting pursuant to a registration, including a provisional registration, issued pursuant to this chapter.

26063. (a) Commencing January 1, 2017, any product containing cannabis that is distributed, except in the case of a primary caregiver distributing to a qualified patient, or offered for sale shall comply with the testing, labeling, and food safety requirements established through regulation by the department.

(b) No person shall steal or fraudulently use a mandatory commercial registrant identification certificate or registration or other registrant's identification card or registration issued by the department to acquire, cultivate, transport, produce, possess for sale, sell, provide, donate, or distribute cannabis.

(c) No person shall counterfeit, tamper with, or fraudulently produce an identification card or registration status.

(d) Any person who violates this section, or Section 26062, is guilty of a misdemeanor and shall be subject to the following penalties:

(1) For the first offense, imprisonment in a county jail for no more than six months or a fine not to exceed five thousand dollars ($5,000), or both.

(2) For a second or subsequent offense, imprisonment in a county jail for no more than one year or a fine not to exceed eight thousand dollars ($8,000), or both.

(e) Any person who is charged, prosecuted, or subjected to a civil penalty under this chapter shall not also be charged or prosecuted pursuant to the Health and Safety Code for conduct arising from the same set of facts.

26064. Any person operating an unregistered facility, building, structure, or location where cannabis is being commercially cultivated, manufactured, or possessed for sale in violation of this chapter may be subject to civil penalties of up to twenty-five thousand dollars ($25,000) for each violation, and the department may order the destruction of any cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. Any civil fines collected pursuant to this section shall be deposited into the General Fund pursuant to Section 26028.

26066. The director or any district attorney, county counsel, city attorney, or city prosecutor may bring an action in the name of the people of the State of California to enjoin a violation or the threatened violation of any provision of this chapter, including, but not limited to, a registrant's failure to correct objectionable conditions following notice or as a result of any rule promulgated pursuant to this chapter. The action shall be brought in the county in which the violation occurred or is threatened to occur. Any proceeding brought pursuant to this chapter shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

26068. A state or local law enforcement agency shall immediately notify the department of any arrests made for violations over which the department has jurisdiction which involve a registrant or registered premises. Notice shall be given within 10 days of the arrest. The department shall promptly cause an investigation to be made as to whether grounds exist for suspension or revocation of a registration of the registrant.

26070. This chapter shall not be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a mandatory commercial registrant.

26072. The department shall create and maintain a searchable database that will allow state and local law enforcement to verify a mandatory commercial registration.

Article 5. Transportation of Medical Cannabis

26100. To claim the protections of this chapter and to maintain a valid mandatory commercial registration, a registrant shall transport medical cannabis products only to the registered facilities

of a mandatory commercial registrant and only in response to a request for a specific quantity and variety from that registrant.

26102. (a) Prior to transporting any medical cannabis product, a mandatory commercial registrant shall do the following:

(1) Complete a shipping manifest using a form prescribed by the department.

(2) Securely transmit a copy of the manifest to the mandatory commercial registrant that will receive the medical cannabis product and to the department prior to transport.

(b) The mandatory commercial registrant shipping and the registrant receiving shall maintain each shipping manifest and make it available to the department upon request.

26104. (a) Transported medical cannabis products shall:

(1) Be transported only in a locked, safe and secure storage compartment that is securely affixed to the interior of the transporting vehicle.

(2) Not be visible from outside the vehicle.

(b) Any vehicle transporting medical cannabis products shall travel directly from the facilities of the mandatory commercial registrant to the registered facilities of the registrant authorized to receive the shipment.

26106. (a) A mandatory commercial registrant shall staff all transport vehicles with a minimum of two employees. At least one delivery team member shall remain with the vehicle at all times that the vehicle contains medical cannabis.

(b) Each delivery team member shall have access to a secure form of communication by which each member can communicate with personnel at the mandatory commercial registrant facility at all times that the vehicle contains medical cannabis.

(c) Each delivery team member shall possess documentation of mandatory commercial registration and a government-issued identification card at all times when transporting or delivering medical cannabis and shall produce it to any representative of the department or law enforcement official upon request.

26107. This chapter shall not be construed to authorize or permit any registrant to transport, or cause to be transported, cannabis or cannabis products outside the state.

SEC. 7. Section 23028 is added to the Government Code, to read:

23028. (a) (1) In addition to any authority otherwise provided by law, the board of supervisors of any county may impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a mandatory commercial registrant operating pursuant to Chapter 18 (commencing with Section 26000) of Division 9 of the Business and Professions Code. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, and the manner of collection of the tax. A tax imposed pursuant to this section is a tax and not a fee or special assessment, and the tax is not required to be apportioned on the basis of benefit to any person or property or be applied uniformly to all taxpayers or all real property.

(3) A tax imposed by a county pursuant to this section by a county may include a transactions and use tax imposed solely for cannabis or cannabis products, which shall otherwise conform to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Notwithstanding Section 7251.1 of the Revenue and Taxation Code, the tax may be imposed at any rate specified by the board of supervisors, and the tax rate authorized by this section shall not be considered for purposes of the combined tax rate limitation established by that section.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitously, as determined by the board of supervisors.

(5) The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(b) In addition to any other method of collection authorized by law, the board of supervisors may provide for collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county.

(c) Any tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by any other law.

(d) For purposes of this section, "cannabis" and "cannabis products" shall have the meanings set forth in Section 26001 of the Business and Professions Code.

(e) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of any county as provided by other law.

SEC. 8. Section 11362.7 of the Health and Safety Code is amended to read:

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has ~~conducted a medical examination of~~ *performed an appropriate prior examination, found* that ~~patient before recording in the patient's medical record the physician's assessment of whether~~ the patient has a ~~serious medical condition and whether the~~ *medical indication, and recommends marijuana for* medical ~~use of marijuana is appropriate.~~ *purposes to treat a serious medical condition.*

(b) "Department" means the State Department of ~~Health Services.~~ *Public Health.*

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing

with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of *Public* Health ~~Services~~ that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Anorexia.
(3) Arthritis.
(4) Cachexia.
(5) Cancer.
(6) Chronic pain.
(7) Glaucoma.
(8) Migraine.
(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
(10) Seizures, including, but not limited to, seizures associated with epilepsy.
(11) Severe nausea.
(12) Any other chronic or persistent medical symptom that either:
(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).
(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.
(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

SEC. 9. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. *(a)* Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) This section shall remain in effect only until 90 days after the Department of Alcoholic Beverage Control posts a notice on its Internet Web site that it began accepting applications for mandatory commercial registration pursuant to Article 3

(commencing with Section 26040) of Chapter 18 of Division 9 of the Business and Professions Code, and as of that date is repealed.

SEC. 10. 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.

SEC. 11. The Legislature finds and declares that Section 3 of this act imposes a limitation on the public's right of access to documents in the possession of a public agency within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following finding to demonstrate the interest protected by this limitation and the need for protecting that interest:

It is necessary to maintain the confidentiality of patient and physician information provided to the Division of Medical Cannabis Regulation and Enforcement in order to protect the private medical information of patients who use medical cannabis and to preserve the essential confidentiality of the physician and patient relationship.

SEC. 12. 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.

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AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 34

Introduced by Assembly Members ~~Bonta~~ *Cooley, Bonta,* and Jones-Sawyer

December 1, 2014

~~An act to amend Sections 2220.05, 2242, and 2264 of, and to add Chapter 18 (commencing with Section 26000) to Division 9 of, the Business and Professions Code, to add Section 23028 to the Government Code, to amend Section 11362.775 of the Health and Safety Code, and to add Sections 147.5 and 3094 to the Labor Code, relating to medical cannabis, and making an appropriation therefor.~~ *An act to amend Sections 2220.05, 2242, and 2264 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend and repeal Section 11362.775 of the Health and Safety Code, to add Sections 147.5 and 3094 to the Labor Code, and to add Section 2402.5 to the Vehicle Code, relating to medical cannabis.*

LEGISLATIVE COUNSEL'S DIGEST

AB 34, as amended, ~~Bonta~~ *Cooley*. ~~Medical cannabis regulation and enforcement.~~ *Medical cannabis.*

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would enact the Medical Cannabis Regulation and Control Act and would establish within the office of the Governor, the Governor's Office of Marijuana Regulation to coordinate and provide oversight of the licensing and regulation of various commercial cannabis activities, as defined. The bill would establish the Division of Medical Cannabis Regulation, which is established within the State Board of Equalization, for the licensure and regulation of medical cannabis dispensaries and transporters. The bill would establish the Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health for the licensing and regulation of medical cannabis manufacturers and certified testing laboratories. The bill would also require the Division of Medical Cannabis Manufacturing and Testing to set specified standards for edible cannabis products. The bill would also establish the Division of Medical Cannabis Cultivation within the Department of Food and Agriculture for the licensure and regulation of medical cannabis cultivators. The bill would set forth the duties of these various divisions. The bill would require the office, by March 1, 2016, to convene a task force to advise the office on the development of standards for the regulation of medical cannabis.

This bill would provide for the enforcement of the provisions of the act and of local ordinances relating to medical cannabis by the state and local governments and would require the office to develop an enforcement framework that clarifies the enforcement roles of the state and local governments. The bill would provide that the director of the

office and other prescribed persons employed by licensing and law enforcement authorities are peace officers for purposes of enforcing the provisions of this act. The bill would specify that it does not supersede the provisions of Measure D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot.

This bill would require, before a business granted a state license commences operation, that the business also obtain a license or permit from the local jurisdiction and would authorize the local jurisdiction to regulate commercial cannabis activity in specified ways. The bill would provide for provisional licensure to engage in commercial cannabis activity, as specified, until the state license application is either granted or denied or until July 1, 2017.

This bill would, by January 1, 2017, require the Division of Labor Standards and Enforcement to develop a certification program for cannabis employees. The bill would require, by January 1, 2019, that all persons who perform work as cannabis employees be certified or participating in an apprenticeship program, as provided.

This bill would establish the Medical Cannabis Regulation Fund and various accounts within that fund for the collection of fines and fees imposed on the licensees conducting commercial cannabis activities.

(2) Existing law establishes the Division of Apprenticeship Standards, which audits and regulates apprenticeship programs for various trades, including electricians.

This bill would require the division to investigate, approve, or reject applications for apprenticeship employees of a licensed cultivation site or a licensed dispensing facility, as defined.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law sets forth the conduct that would constitute unprofessional conduct for a physician and surgeon, including, but not limited to, prescribing certain drugs without an appropriate examination or medical indication. Existing law provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her immediate family has a financial interest. By creating a new crime, the bill would impose a state-mandated local program.

This bill would specify that recommending marijuana to patients without an appropriate prior examination and a medical indication is unprofessional conduct. The bill would provide that specified acts of recommending marijuana for medical purposes without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a physician and surgeon from recommending medical marijuana to a patient unless that person is the patient's attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(4) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the legislative body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize the board of supervisors of a county to impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or products containing marijuana. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

(5) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill, commencing 180 days after the Division of Medical Cannabis Regulation within the State Board of Equalization posts a notice on its Internet Web site that the licensing authorities have commenced issuing provisional licenses, would repeal those provisions.

(6) Existing law establishes the Department of the California Highway Patrol. Existing law also prohibits and establishes standards for driving under the influence of alcohol.

This bill would require the Department of the California Highway Patrol to establish protocols to determine whether a driver is operating a vehicle under the influence of cannabis, and to develop protocols setting forth best practices to assist law enforcement agencies.

(7) Existing law regulates the labor practices of agricultural employers. Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt, amend, and repeal occupational safety and health standards and establishes the Division of Occupational Safety and Health to enforce those standards.

This bill would include licensed cultivation sites in the definition of agricultural employer. The bill would require the division to convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations relating to facilities issued a conditional license.

(8) This bill would provide that its provisions are severable.

(9) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(10) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes.~~

~~Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act (MMPA), requires the establishment of a program for the issuance of identification cards to qualified patients so that they may use marijuana for medical purposes without arrest or prosecution under specified state law, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.~~

~~This bill would enact the Medical Cannabis Regulation and Control Act and would establish the Division of Medical Cannabis Regulation and Enforcement within the Department of Alcoholic Beverage Control, the Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health, and the Division of Medical Cannabis Cultivation within the Department of Food and Agriculture and would set forth the duties of the respective regulatory authorities.~~

~~The bill would, 180 days after the division posts a specified notice on its Internet Web site, make those provisions of the MMPA that prohibit prosecution of qualified patients, persons with valid identification cards, and designated primary caregivers who associate in California, collectively or cooperatively, to cultivate marijuana for medical purposes, inapplicable to licensees. The bill would, thereafter, permit a dispensary to provide patients with medical marijuana and medical marijuana products obtained only from persons licensed under this bill.~~

~~The bill would require the regulatory authorities to license persons to engage in the various aspects of commercial cannabis activity, as defined. The bill would designate as peace officers specified officers and employees of the regulatory authorities. The bill would prescribe requirements for the issuance, renewal, suspension, and revocation of a mandatory commercial license and would authorize the assessment of related fees. This bill would require medical cannabis and medical cannabis products to be adhere to specified packaging, labeling, and food safety standards.~~

~~The bill would not preclude a city or county from adopting a local ordinance, not consistent with this bill, that regulates the location, operation, or establishment of a licensee or prohibits commercial cannabis activity within its jurisdiction. The bill would require state~~

~~agencies to collaborate with local agencies to enforce the act, to the extent that it is within the scope of other statuary responsibilities of local agencies and to the extent that resources are available to the local agencies. By imposing these enforcement duties on local agencies, the bill would impose a state-mandated local program.~~

~~The bill would establish the Medical Cannabis Control Fund with separate accounts for fees, fines, and for penalties, and would require deposit of fees and penalties into their respective accounts within the fund. The bill would continuously appropriate moneys within the fees account to the appropriate regulating authorities for the purposes of administering the program.~~

~~The bill would authorize the regulatory authorities to collaborate to establish a regulation and enforcement assistance grant program and would require the Department of the California Highway Patrol to develop protocols regarding determining whether a driver is operating a vehicle under the influence of marijuana to assist law enforcement agencies. The bill would make specified fines and penalties deposited into the fund available, upon appropriation by the Legislature, for funding these programs.~~

~~The bill would require the regulatory authorities, as soon as practicable, to allow qualified applicants for licensure to apply for and receive a provisional license to engage in commercial cannabis activity and to adopt emergency regulations for that purpose.~~

~~The bill would require the regulatory authorities to adopt regulations necessary for the implementation and enforcement of this bill in consultation with prescribed state agencies relating to environmental, agricultural, consumer protection, worker safety, and food and product safety requirements. The bill would authorize the regulatory authorities to enter into interagency agreements to pay, from fees deposited into the fund, the associated costs incurred by these state agencies.~~

~~The bill would establish a cannabis employee certification, training, and apprenticeship program for cultivation sites and dispensaries, as defined. The bill would require the Division of Labor Standards Enforcement to maintain and enforce minimum standards for the competency and training of employees and to certify cannabis employees. The bill would require the Division of Occupational Safety and Health by January 1, 2017, to convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensed facilities. The bill would require the advisory committee to present to the Occupational Safety and Health~~

~~Standards Board its findings and recommendations for consideration by the board, and would require the board, by July 1, 2017, to render a decision regarding the adoption of industry-specific regulations.~~

~~The bill would require a licensee to keep various records in connections with commercial cannabis activities and would prescribe requirements for making records available to the division and any state or local agency. The bill would prohibit the disclosure of certain patient and caregiver information pursuant to the California Public Records Act.~~

~~The bill would declare that it does not apply to, or diminish the protections granted to, a patient or primary caregiver acting pursuant to the Compassionate Use Act of 1996 and would exempt these parties from the application of the act.~~

~~The bill would declare that the actions of a licensee or provisional licensee, its employees, and its agents that are within the scope of a valid license are not unlawful under state law, as specified. The bill would provide similar state law immunity for a property owner who allows his or her property to be used by a licensee or provisional licensee.~~

~~The bill would require the regulatory authorities to work in conjunction with law enforcement entities throughout the state to implement and enforce the rules and regulations regarding medical cannabis and to take appropriate action against businesses and individuals that fail to comply with the law.~~

~~The bill would authorize the director of any regulatory authority, and prescribed local entities, to bring an action to enjoin violations. The bill would require the regulatory authority to establish a digital database and to permit state and local law enforcement agencies to verify licenses.~~

~~(2) Existing law, the Medical Practice Act, establishes the Medical Board of California and sets forth its powers and duties, including, but not limited to the licensing and regulation of physicians and surgeons. Existing law sets forth the conduct that would constitute unprofessional conduct for a physician and surgeon, including, but not limited to, prescribing certain drugs without an appropriate examination or medical indication. Existing law generally makes a violation of these provisions a misdemeanor.~~

~~This bill would specify that recommending marijuana to patients without an appropriate prior examination and a medical indication is unprofessional conduct.~~

~~The bill would provide that specified acts of recommending marijuana without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the Medical Board of California, as described above. The bill would deem as unprofessional conduct a physician and surgeon being employed by, or entering into an agreement with, a medical cannabis licensee to provide recommendations for medical marijuana.~~

~~By broadening the definition of a crime, the bill would impose a state-mandated local program.~~

~~(3) Existing law authorizes the board of supervisors of a county and the governing body of a city to impose various taxes, including a transactions and use tax at a rate of 0.125%, or a multiple thereof, if approved by the required vote of the board or governing body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.~~

~~This bill would authorize the board of supervisors of a county or a city council to impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products, including a transactions and use tax at any rate specified by the board. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.~~

~~(4) This bill would specify that its provisions are severable.~~

~~(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

~~(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated 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) The people of California enacted the Compassionate Use Act of 1996 to ensure that seriously ill Californians have access to cannabis for medical purposes. The Compassionate Use Act of 1996 urged the state and federal governments to implement a plan to provide for the safe and affordable distribution of medical cannabis to all patients in medical need of the drug.

(b) Federal enforcement authorities have recognized that in states that have authorized cannabis use and have enacted strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of cannabis, conduct in compliance with those regulatory and enforcement systems is less likely to threaten federal priorities, and, thus, less likely to require federal enforcement intervention (See: Memorandum For All United States Attorneys—Guidance Regarding Marijuana Enforcement, by James M. Cole, Deputy Attorney General, August 29, 2013).

(c) Greater certainty and minimum statewide standards are urgently needed regarding the obligations of medical cannabis facilities, and for the imposition and enforcement of regulations to prevent unlawful cultivation and the diversion of cannabis to nonmedical use.

(d) The purpose of this act is to establish for California a robust medical cannabis regulatory and enforcement system to ensure that conduct in compliance with California's medical cannabis laws does not threaten the federal priorities as set forth in the James M. Cole memorandum, and, therefore, does not require federal enforcement intervention.

(e) The California Constitution grants cities and counties the authority to make and enforce, within their borders, "all local police, sanitary, and other ordinances and regulations not in conflict with the general laws." This inherent local police power includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within the

local jurisdiction's borders. The police power, therefore, allows each city and county to determine whether or not a medical cannabis dispensary or other facility that makes medical cannabis available may operate within its borders. This authority has been upheld by City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, and County of Los Angeles v. Hill (2011) 192 Cal.App.4th 861. Nothing in this act shall diminish, erode, or modify that authority.

(f) If a city or county determines that a dispensary or other facility that makes medical cannabis available may operate within its borders, then there is a need for the state to license these dispensaries and other facilities for the purpose of adopting and enforcing protocols for security standards at dispensaries and in the transportation of medical cannabis, as well as health and safety standards to ensure patient safety. This licensing requirement is not intended in any way nor shall it be construed to preempt local ordinances, regulations, or enforcement actions regarding the sale and use of medical cannabis, including, but not limited to, security, signage, lighting, and inspections.

(g) Nothing in this act or Article 2 (commencing with Section 11357) or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code is intended to preempt any local ordinance regulating or banning the cultivation, processing, manufacturing, testing, transportation, distribution, provision, donation, or sale of medical cannabis, or to otherwise prevent or limit a city, county, or city and county from adopting or enforcing a zoning ordinance or other law, ordinance, or regulation that bans or regulates the location, operation, or establishment of any individual or other person that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, provides, donates, or sells cannabis.

(h) Nothing in this act is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or to affect the ability of employers to have policies restricting the use of cannabis by employees, or otherwise complying with federal law.

(i) Nothing in this act shall be construed to promote or facilitate the nonmedical, recreational possession, sale, or use of cannabis.

(j) Nothing in this act shall have a diminishing effect on the rights and protections granted to a patient or primary caregiver pursuant to the Compassionate Use Act of 1996.

SEC. 2. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled ~~substances~~ *substances, or recommending cannabis to patients for medical purposes* without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(5) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 3. Section 2242 of the Business and Professions Code is amended to read:

2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. *Prescribing or recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.*

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

SEC. 4. Section 2264 of the Business and Professions Code is amended to read:

2264. *(a)* The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

(b) Employment by, or other agreement with, a mandatory commercial licensee acting pursuant to the Medical Cannabis Regulation and Control Act or a dispensary to provide recommendations for medical cannabis constitutes unprofessional conduct.

SEC. 5. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Cannabis

2525. (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a conditional license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

2525.2. A physician and surgeon shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

SEC. 6. Chapter 3.5 (commencing with Section 19300) is added to Division 8 of the Business and Professions Code, to read:

Chapter 3.5. Medical Cannabis

Article 1. Definitions

19300. For purposes of this chapter, the following definitions shall apply:

(a) "Cannabinoid" means a chemical compound that is unique to and derived from cannabis, also known as phytocannabinoid.

(b) "Cannabis" means all parts of the plant Cannabis sativa L., Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

(c) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.

(d) "Certified testing laboratory" means a laboratory that is certified by the State Department of Public Health to perform random sample testing of medical cannabis pursuant to the certification standards for these facilities promulgated by the department.

(e) "Commercial cannabis activity" means any cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or cannabis product, or any Internet platform that facilitates any of these functions for the purpose of selling medical cannabis or medical cannabis products to qualified patients or caregivers, except as set forth in Section 19316.

(f) "Cultivation" means any activity involving the planting, growing, harvesting, drying, processing, or trimming of cannabis.

(g) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary to a primary caregiver or qualified patient, as defined in Section 11362.7 of the Health and Safety Code.

(h) "Delivery service" means a person issued a state license by the State Department of Public Health pursuant to this chapter and a local license or permit, to deliver medical cannabis or medical cannabis products, up to an amount determined by the department, to patients, testing laboratories, or to events or locations where it will be used solely for promotional purposes. A delivery service shall not be required to obtain a transporter license.

(i) "Director" means the director of the Office of Marijuana Regulation.

(j) "Dispensary" means a nonmobile, nonvehicular, non-Internet-based retail location that distributes medical cannabis or medical cannabis products and is owned and operated by a licensee for these activities pursuant to this chapter.

(k) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(l) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed.

(m) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum.

(n) "Fund" means the Medical Cannabis Regulation Fund established pursuant to Section 19361.

(o) "Identification program" means the universal identification certificate program for licensees.

(p) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which

the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(q) "Licensed cultivation site" means a person that plants, grows, cultivates, harvests, dries, or processes medical cannabis, or that does all or any combination of those activities, and that is issued a state license pursuant to this chapter and a local license or permit.

(r) "Licensed dispensing facility" means a person that provides medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products, either individually or in any combination, that is issued a state license pursuant to this chapter and a local license or permit.

(s) "Licensed manufacturer" means a person that conducts the production, preparation, propagation, compounding, or processing of medical cannabis or medical cannabis products, either directly or indirectly or by extraction processes, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes a location that packages or repackages medical cannabis or medical cannabis products or labeling or relabeling of its container, and that has been issued a state license pursuant to this part.

(t) "Licensed transporter" means a person issued a state license by the Board of Equalization to transport medical cannabis or medical cannabis products above a limit determined by the board to and from facilities that have been issued a state license pursuant to this chapter.

(u) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(v) "Licensing authority" means the state agency responsible for granting and renewing state licenses and regulating the relevant licensees. For licensed cultivators, the licensing authority is the Division of Medical Cannabis Cultivation in the Department of Food and Agriculture. For dispensaries and transporters, the licensing authority is the State Board of Equalization. For licensed manufacturers and certified testing laboratories, the licensing authority is the Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health.

(w) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(x) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(y) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).

(z) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(aa) "Office" means the Office of Marijuana Regulation.

(ab) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(ac) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ad) "State license " or "license" means a state license issued pursuant to this chapter.

(ae) "Topical cannabis" means a manufactured product intended for external use.

(af) "Transport" means the commercial transfer of medical cannabis or medical cannabis products from the business location of one licensee to another licensee, for the purposes of conducting commercial cannabis activity authorized by licensees pursuant to this chapter.

Article 2. Administration

19301. This chapter shall be known, and may be cited, as the Medical Cannabis Regulation and Control Act.

19302. (a) There is hereby created within the office of the Governor, the Governor's Office of Marijuana Regulation, under the supervision and control of the Director of the Office of Marijuana Regulation, who shall be appointed by the Governor. The Governor shall appoint the director at a salary to be fixed and determined by the director with the approval of the Director of Finance. The director shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(b) The director shall be the appointing power of all employees within the office, and all heads of divisions, bureaus, and other employees in the office shall be responsible to the director for the proper carrying out of the duties and responsibilities of their respective positions.

(c) In developing a regulatory framework pursuant to this chapter, the director shall consult with state agencies possessing expertise in licensure and enforcement, including, but not limited to, the Department of Alcoholic Beverage Control and the Department of Consumer Affairs.

(d) The office shall have overall executive authority and responsibility for implementation of all aspects of cannabis regulation pursuant to this chapter.

(e) The office shall coordinate and provide oversight of all activities described in this chapter. The office shall lead all state and local authorities regarding the tracking of medical cannabis, medical cannabis products, and licensees pursuant to this chapter. All departments and divisions specified in Section 19304 shall report directly to the office. Any information technology systems created to store and process data related to commercial cannabis licensing shall be integrated, and all licensing data shall be immediately available to each licensing authority and to the office.

19303. The office shall maintain a registry of all permit holders and shall maintain a record of all state licenses and commercial cannabis activity of the permit holder throughout the length of licensure and for a minimum of seven years following the expiration of each license. The office shall make limited licensee information available to a licensee so that it may verify whether it is engaging in commercial cannabis activities with a properly licensed entity.

19304. (a) The following entities shall report to and be directly accountable to the office for their respective designated responsibilities within the regulatory and enforcement framework, as follows:

(1) The Division of Medical Cannabis Regulation, which is established within the State Board of Equalization, shall do all of the following:

(A) Be administered by a person who is appointed by the State Board of Equalization.

(B) Administer this chapter, as it pertains to commercial cannabis activity relating to dispensaries and transporters.

(2) The Division of Medical Cannabis Manufacturing and Testing, which is established within the State Department of Public Health, shall do all of the following:

(A) Be administered by a person who is appointed by the Governor.

(B) Administer this chapter, as it pertains to manufacturing, testing, and certification of testing laboratories for medical cannabis and medical cannabis products.

(3) The Division of Medical Cannabis Cultivation, which is established within the Department of Food and Agriculture, shall do all of the following:

(A) Be administered by a person who is appointed by the Governor.

(B) Administer this chapter as it pertains to cultivation of medical cannabis.

(4) The California Environmental Protection Agency and the California Natural Resources Agency shall coordinate and direct the following entities in the discharge of their designated regulatory responsibilities:

(A) The State Water Resources Control Board shall promulgate regulations related to discharge into waterways, and diversion therefrom, resulting from cannabis cultivation.

(B) The Department of Fish and Wildlife shall promulgate regulations for the protection of any species affected by cultivation activity, and regulations for any cultivation-related development, including alteration of waterways.

(5) The Department of Justice shall conduct the following activities:

(A) Perform criminal background checks of applicants for licensure.

(B) Develop uniform security standards for dispensaries and all phases of transport covered by this chapter.

(C) Provide supplemental enforcement on an as-needed basis at the request of the office.

19305. (a) The office and licensing authorities shall have the authority necessary for the implementation of this chapter, including, but not limited to, all of the following:

(1) Establishing rules or regulations necessary to carry out the purposes and intent of this chapter and to enable the office and licensing authorities to exercise the powers and perform the duties conferred by this chapter and in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These rules and regulations shall not limit the authority of a city, county, or city and county specified in Article 3 (commencing with Section 19307), or specified in Section 7 of Article XI of the California Constitution, or any other law. For the performance of its duties, the office has the powers set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. The office shall review all regulations and guidance promulgated by licensing authorities in the administration of this chapter to ensure no duplication, overlap, or inconsistent regulations occur between licensing authorities.

(2) Issuing state licenses to persons for the cultivation, manufacture, transportation, and sale of medical cannabis within the state.

(3) Setting application, licensing, and renewal fees for state licenses issued pursuant to this chapter.

(4) Establishing standards for commercial cannabis activity.

(5) Establishing procedures for the issuance, renewal, suspension, denial, and revocation of state licenses.

(6) Imposing a penalty authorized by this chapter or any rule or regulation adopted pursuant to this chapter.

(7) Taking action with respect to an application for a state license in accordance with procedures established pursuant to this chapter.

(8) Overseeing the operation of the Medical Cannabis Regulation Fund, established pursuant to Section 19361.

(9) Consulting with other state or local agencies, departments, representatives of the medical cannabis community, or public or private entities for the purposes of establishing statewide standards and regulations.

(b) Protection of the public shall be the highest priority for the office and the licensing authorities in exercising the licensing, regulatory, and disciplinary functions pursuant to this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

19306. (a) The office, by March 1, 2016, shall convene a task force, which shall advise the office on the development of standards pursuant to this chapter. The task force shall be responsible for recommending to the office the appropriate roles of each state entity as it pertains to this chapter, and shall recommend guidelines on communication and information sharing between state entities, and with local agencies, for implementation of this chapter. Notwithstanding Section 10231.5 of the Government Code, the task force shall submit a report on these standards, determinations, and guidelines for implementation of this chapter to the Legislature and state entities affected by this chapter by August 1, 2016. The report submitted to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

(b) The task force shall be comprised of representatives of medical cannabis consumer advocates, environmental experts, public health experts, medical cannabis industry representatives, related regulatory authorities, labor, and law enforcement. The task force may also be comprised of representatives of the State Board of Equalization and Attorney General, and other state agencies, as deemed appropriate. The task force shall have a minimum of nine members, with one-third of the members appointed by the California State Assembly, one-third of the members appointed by the California State Senate, and one-third of the members appointed by the Governor. If there is an unequal divide between these three entities, the Governor shall make appointments for the difference.

(c) Task force members shall serve on a voluntary basis and shall be responsible for costs associated with their participation in the task force. The licensing authorities shall not be responsible for travel costs incurred by task force members or otherwise

compensating task force members for costs associated with their participation in the task force.

Article 3. Enforcement and Local Control

19307. (a) Each licensing authority shall work in conjunction with law enforcement agencies for the purposes of implementing, administering, and enforcing this chapter, and any regulations adopted pursuant to this chapter and taking appropriate action against licensees and others who fail to comply with this chapter or the regulations adopted pursuant to this chapter.

(b) The director and the persons employed by the licensing authorities for the administration and enforcement of this chapter are, for purposes of this chapter, peace officers in the enforcement of the penal provisions of this chapter, the regulations adopted pursuant to this chapter, and any other penal provisions of law prohibiting or regulating the cultivation, processing, storing, manufacturing, testing, transporting, or selling of medical cannabis. These persons may, while acting as peace officers, enforce any penal provisions of state law while in the course of their employment.

(c) The regulatory directors, persons employed by the licensing authorities for the administration and enforcement of this chapter, peace officers listed in Section 830.1 of the Penal Code, and officers listed in Section 830.6 of the Penal Code, while acting in the course and scope of their employment as peace officers, may, in enforcing this chapter, visit and inspect the premises of a licensee at any time during which the licensee is acting pursuant to the state license.

(d) Peace officers of the Department of the California Highway Patrol, members of the University of California and California State University police departments, and peace officers of the Department of Parks and Recreation, as defined in subdivisions (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in enforcing this chapter, visit and inspect the premises of a licensee at any time during which the licensee is acting pursuant to the state license.

19308. (a) The office shall, in consultation with local governments, develop an enforcement framework that clarifies the enforcement roles of the state and local governments. Local

agencies are authorized to enforce any state statutory or regulatory standard.

(b) A state agency is not required by this section to enforce a city, county, city and county, or local law, ordinance, rule, or regulation regarding the site or operation of a facility or transporter issued a state license.

19309. (a) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the rules, regulations, and standards promulgated by the office. The city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, without liability, cost, or expense to the county.

(b) For licensed facilities located within the unincorporated area of a county, the county shall have full power and authority to enforce this chapter and the rules, regulations, and standards promulgated by the office.

(c) It is the intent of the Legislature in enacting this chapter to provide for the statewide regulation of the commercial cannabis activity and the enforcement of laws relating to commercial cannabis activities without preempting city, county, or city and county ordinances regulating or banning these activities. This chapter is an exercise of the police powers of the state for the protection of the safety, welfare, health, peace, and morals of the people of the state.

(d) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

19310. (a) The director of a licensing authority or a district attorney, county counsel, city attorney, or city prosecutor may bring an action in the name of the people of the State of California to enjoin a violation or the threatened violation of any provision of this chapter, including, but not limited to, a licensee's failure to correct objectionable conditions following notice or as a result of a rule promulgated pursuant to this chapter, and to assess and recover civil penalties in accordance with this chapter. The action shall be brought in the county in which the violation occurred or

is threatened to occur. A proceeding for injunctive relief brought pursuant to this chapter shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) A state or local agency shall immediately notify the office and the appropriate licensing authority of violations or arrests made for violations over which the licensing authority has jurisdiction that involve a licensee or licensed premises. Notice shall be given within 10 days of the violation or arrest. The office or licensing authority shall promptly investigate as to whether grounds exist for suspension or revocation of the state license.

(c) This chapter shall not be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a state license.

(d) Nothing in this chapter shall prevent a city or other local governing body from taking action as specified in Section 11362.83 of the Health and Safety Code.

(e) The office shall establish procedures to provide state and local law enforcement, upon their request, with 24-hour access to information to verify a state license, track transportation manifests, and track the inventories of facilities issued a state license. This record shall allow state and local law enforcement to verify a state license and provide summary information on licensees consisting of the name of the licensee, the date the license was issued, the status of the license, and the licensee's mailing address.

19311. (a) Licensing authorities and any relevant local agency may examine the books and records of a licensee and may visit and inspect the premises of a licensee as the licensing authority or local agency deems necessary to perform their duties under this chapter or local ordinance.

(b) If the licensee or any employee of the licensee refuses, impedes, obstructs, or interferes with an inspection pursuant to this chapter or local ordinance, or if the licensee fails to maintain or provide the books and records required by this chapter, the license may be summarily suspended and the licensing authority shall commence proceedings for the revocation of the state license in accordance with this chapter.

(c) All cultivation and dispensing licensees shall be subject to an annual audit, as specified by the licensing authority, in order

to ensure proper documentation is kept at each facility. The reasonable costs of the audit shall be paid for by the licensee.

19312. (a) This chapter shall in no way supersede the provisions of Measure D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, which granted medical cannabis businesses and dispensaries qualified immunity consistent with the terms of the measure and local ordinances. Notwithstanding the provisions of this part, cannabis businesses and dispensaries subject to the provisions of Measure D and its qualified immunity shall continue to be subject to the ordinances and regulations of the City of Los Angeles.

(b) It is the intent of the Legislature to recognize the unique circumstances of the City of Los Angeles with respect to Measure D and associated rules related to commercial cannabis activity.

19313. (a) The actions of a licensee or provisional licensee, its employees, and its agents, that are permitted pursuant to both a state license or provisional license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and that are conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith and upon investigation, allows his or her property to be used by a licensee or provisional licensee, its employees, and its agents, as permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(c) Conduct that is within the scope of a license issued pursuant to this chapter and permitted by local ordinance but not fully in compliance with this chapter shall be subject to the enforcement provisions of this chapter and shall not be subject to the penal provisions of state law generally prohibiting cannabis-related activity, unless and until the license is revoked.

(d) This section shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, without limitation, Section 7 of Article XI of the California Constitution.

19314. (a) A person engaging in commercial cannabis activity and operating an unlicensed facility, building, structure, vehicle, mobile unit, or location in violation of this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the office, licensing authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19361.

(b) If an action for civil penalties is brought by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city in which the judgment was entered.

19315. (a) This chapter does not, nor do Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, prevent a city, county, or city and county from doing any of the following:

(1) Adopting local ordinances inconsistent with this chapter that do the following:

(A) Regulate the location, operation, or establishment of a licensee or a person that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, or sells medical cannabis.

(B) Prohibit commercial cannabis activity within their jurisdiction.

(2) Providing for the administrative, civil, or criminal enforcement of the ordinances described in paragraph (1).

(3) Establishing a fee or tax for the operation of a licensee within its jurisdiction.

(4) Enacting and enforcing other laws or ordinances pursuant to the authority granted by Section 7 of Article XI of the California Constitution.

(b) Nothing in this chapter or in Article 2 (commencing with Section 11357) or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, shall prevent a city, county, or city and county from adopting or enforcing a zoning ordinance or other law, ordinance, or regulation that bans or regulates the location, operation, or establishment of a licensee or other person that engages in commercial cannabis activity.

Article 4. Licensure

19316. (a) This chapter shall not apply to, and shall have no diminishing effect on the protections granted to, a patient or a primary caregiver pursuant to the Compassionate Use Act of 1996.

(b) (1) A patient who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not, thereby, engaged in commercial cannabis activity and is, therefore, exempt from the licensure requirements of this chapter.

(2) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code is not engaged in commercial cannabis activity and is, therefore, exempt from the licensure requirements of this chapter.

(c) Exemption from the license requirements of this chapter shall not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

19317. The state shall have the right and authority to conduct state licensure activities and to regulate commercial cannabis

activity pursuant to this chapter. Local governments have the right and authority to grant permits and regulate commercial cannabis activity within their jurisdiction pursuant to local ordinances. In the exercise of these rights and powers, the state and each of its agencies, and all local agencies, are hereby deemed not to be engaged in activities requiring licensure under this chapter.

19318. (a) Licensing authorities shall issue state licenses to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Beginning January 1, 2018, no person shall engage in commercial cannabis activity without possessing a state license and a local permit. For purposes of this section, "state license" includes a provisional license issued pursuant to Article 6 (commencing with Section 19330).

(b) Local permits shall be determined by local ordinances. Licensing authorities issuing state licenses shall have sole authority to revoke a state license. Local agencies issuing local permits shall have sole authority to revoke a local permit.

(c) The issuance of a state license shall not, in and of itself, authorize the recipient to begin business operations. The state license shall certify, at a minimum, that the applicant has paid the state licensing fee, successfully passed a criminal background check, and met state residency requirements.

(d) Even if a state license has been granted pursuant to this chapter, a facility shall not operate in a local jurisdiction that prohibits the establishment of that type of business. A facility shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinances.

(e) If a local government agency notifies the office or a licensing authority and provides evidence that a licensee or applicant within its jurisdiction is in violation of local ordinances relating to commercial cannabis activities, the licensing authority shall revoke the state license within 20 working days.

(f) Revocation of either a state or local license shall terminate the ability of a medical cannabis business to operate within California.

19319. (a) On or before July 1, 2017, a licensing authority shall promulgate regulations for implementation and enforcement of this chapter, including, but not limited to, all of the following:

(1) A description of the various specific forms of commercial cannabis activity to be authorized by the various types of licenses.

(2) Procedures for the issuance, renewal, suspension, denial, and revocation of a state license.

(3) Procedures for appeal of fines and the appeal of denial, suspension, or revocation of a state license.

(4) Application, licensing, and renewal forms and fees.

(5) Time periods, not to exceed 90 days, by which the licensing authority shall approve or deny an application for a state license. The failure of the licensing authority to act upon an application for licensure within the time prescribed shall not be deemed approval of the application.

(6) Qualifications for licensees.

(7) Security requirements, including, but not limited to, procedures for limiting access to facilities and for the screening of employees.

(8) Requirements to ensure that all licensees and certified testing laboratories conform with applicable standards equivalent to state statutory environmental, agricultural, consumer protection, and food and product safety requirements. These standards shall be in addition, and not limited, to any other state and local requirements.

(b) Each state license application approved by the respective licensing authority pursuant to this chapter is separate and distinct.

(c) A state license application approved by a licensing authority pursuant to this chapter shall be valid for a period not to exceed one year from the date of approval unless revoked or suspended earlier than that date pursuant to this chapter or the rules or regulations adopted pursuant to this chapter.

(d) Each licensing authority may adopt regulations for additional licenses for cannabis activity within its statutory jurisdiction pursuant to this chapter, as deemed necessary.

(e) Each state license application approved by a licensing authority shall be reported to the office within 24 hours of its approval.

(f) A licensing authority shall not issue a state license unless the applicant has met all of the requirements of this chapter.

(g) Each licensing authority shall adopt regulations as needed to implement the relevant licensing program within one year following the establishment of provisional licenses, pursuant to Section 19330. The regulations shall not limit the authority of a city, county, or city and county pursuant to Section 7 of Article XI of the California Constitution or any other law. The regulations shall do all of the following:

(1) Establish procedures for approval or denial of applications for state licensure for each and every aspect of commercial cannabis activity, including, but not limited to, cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, and sale of cannabis.

(2) Establish applicant qualifications.

(3) Establish state licensee employee qualifications, including, but not limited to, training and screening requirements.

(4) Establish state licensee security requirements, including, but not limited to, procedures to limit access to facilities and to prevent diversion of product to nonmedical use.

(5) Establish procedures and protocols for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess product.

(6) Establish advertising, marketing, signage, and labeling requirements and restrictions.

(7) Establish procedures for the suspension, revocation, or surrender of a state license, and establishing related fines and penalties to be assessed against licensees for violations of this chapter.

19320. (a) An applicant for a state license shall do all of the following:

(1) Pay the fee or fees required by this chapter for each state license for which an application is submitted.

(2) Register with the licensing authority on forms prescribed by the licensing authority. The forms shall contain sufficient information to identify the licensee, including all of the following:

(A) Name of the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the applicant.

(B) The name, address, and date of birth of each principal officer and board member.

(C) The address and telephone number of the proposed facility.

(3) In the case of a dispensary, provide the name and address of each licensed cultivation site and licensed manufacturer from which the dispensary will acquire or obtain medical cannabis or medical cannabis products.

(4) Provide a description, in writing, of the scope of business of the proposed facility.

(5) Provide evidence that the applicant and owner have been legal full-time residents of the state for not less than two years.

(6) Provide detailed operating procedures, in writing, for the proposed facility, which shall include, but not be limited to, procedures for facility and operational security, prevention of diversion, employee screening, storage of medical cannabis, personnel policies, and recordkeeping procedures.

(7) Submit the applicant's fingerprint images as follows:

(A) For purposes of this paragraph, "applicant" means the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility. If the owner is an entity, fingerprints shall be submitted for each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(B) The applicant shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(C) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(D) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

(E) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(8) If applicable, provide documentation that the applicant will be in compliance with all local ordinances and regulations, including, but not limited to, an entity granted immunity under Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election.

(9) Provide evidence of the legal right to occupy and use an established location, including that, if the proposed facility is a cultivator or a dispensary, that the proposed facility is located beyond at least a 600-foot radius from a school, or, if applicable, an immunity from prosecution for that occupancy or use pursuant to Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election.

(10) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is true.

(11) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(12) Provide any other information required by the licensing authority.

(13) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(14) For an applicant seeking a cultivation or dispensary license, provide a notarized statement from the owner of real property or landlord where the cultivation or dispensing commercial medical cannabis activities will occur, as proof to

demonstrate the landowner has acknowledged and consented to permit cultivation or dispensary activities to be conducted on the property by the tenant applicant.

(b) Each location and each discrete use of a single location shall require a separate state license. Each application for a state license is separate and distinct, and the licensing authority may charge a separate fee for each.

(c) For applicants seeking a state license to cultivate and manufacture, the application shall also include a detailed description of the operating procedures for all of the following, as applicable:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) Inventory procedures.

(5) Quality control procedures.

19321. (a) Upon receipt of an application for licensure and the applicable fee, each licensing authority shall make a thorough investigation to determine whether the applicant and the premises for which a state license is applied qualify for the state license and whether this chapter has been complied with, and shall investigate all matters connected therewith that may affect the public welfare and morals.

(b) A licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(c) A licensing authority may place reasonable conditions upon licensure if grounds exist for denial of the state license, and the licensing authority finds those grounds may be removed by the imposition of those conditions. However, the limitations set forth in paragraph (15) of subdivision (d) shall not be waived.

(d) Each licensing authority shall deny the application for licensure or renewal, or suspend or revoke a state license, if any of the following conditions apply:

(1) An entity making or authorizing in any manner or by any means a written or oral statement that is untrue or misleading and that is known, or that by exercise of reasonable care should be known, to be untrue or misleading.

(2) Conduct that constitutes fraud.

(3) Conduct constituting gross negligence.

(4) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.

(5) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(6) Local agencies have notified the licensing authority or the office and provided evidence that a licensee or applicant within its jurisdiction is in violation of local ordinances relating to medical cannabis activities.

(7) The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter or any applicable city, county, or city and county ordinance or regulation. If a local government adopts an ordinance or resolution authorizing medical cannabis to be cultivated, manufactured, stored, distributed, or sold within its jurisdiction, it shall submit to the office documentation detailing their renewal requirements.

(8) Granting or continuation of a state license would be contrary to the public welfare or morals.

(9) The applicant holding or seeking a state license has violated any law prohibiting conduct involving moral turpitude.

(10) The application has failed to state with sufficient specificity the jurisdiction and location at which the applicant proposes to establish operations.

(11) The applicant, or any of its officers, directors, or owners, is under 21 years of age.

(12) The applicant fails to provide notarized written proof that the owner of real property or landlord has acknowledged and consented to its tenant's proposed cultivation or dispensing of medical cannabis or medical cannabis products.

(13) The applicant has failed to provide information requested.

(14) The applicant, or any of its officers, directors, or owners, has been convicted of a felony criminal conviction for drug trafficking involving a minor, felonies subject to enhancements Section 11370.4 or 11379.8 of the Health and Safety Code, a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code, a serious felony as specified in subdivision (c) of Section 1192.7 of the Penal Code, a felony offense involving fraud or deceit, or any other felony that, in the licensing authority's determination, would impair the applicant's ability to appropriately operate as a state licensee. The licensing authority may, at its

discretion, issue a state license to an applicant that has obtained a certificate of rehabilitation pursuant to Section 4852.13 of the Penal Code.

(15) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis.

(16) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority, the office, or a city, county, or a city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the previous three years.

(17) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalty for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 of the Fish and Game Code.

(18) The proposed commercial medical cannabis activity will violate any applicable local law or ordinance.

(19) The applicant has had 20 employees or more in the past year and failed to enter into a labor peace agreement.

(20) The applicant or the owner is unable to establish that he or she has been a resident of the state for not less than 2 years.

(e) Applicants shall be notified of a denied application in writing via personal service or mail addressed to the address of the applicant or licensee set forth in the application. The denial letter shall contain the detailed reasons for which the application was denied. The applicant shall have the right to appeal the denial and be given a hearing within 30 days of the appeal. On appeal, the decision shall be upheld unless the applicant demonstrates that the applicant is in fact eligible for licensure and the application is in compliance with this chapter.

19323. (a) Provided the applicant has not committed an act or crime constituting grounds for the denial of licensure under Section 19321, a licensing authority may issue a state license and send a proof of issuance to the applicant.

(b) A licensing authority shall, by regulation, prescribe conditions upon which a person whose state license has previously been denied, suspended, or revoked, may be issued a state license.

19324. The office may adopt regulations to limit the number of state licenses issued pursuant to this chapter upon a finding

that the otherwise unrestricted issuance of state licenses is dangerous to the public health and safety.

Article 5. Regulation of Medical Cannabis

19325. (a) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not sell medical cannabis to a patient or caregiver other than at a licensed dispensing facility or through delivery from a licensed dispensing facility.

(b) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not grow medical cannabis other than at a licensed cultivation site.

(c) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person other than a licensed manufacturer shall not manufacture medical cannabis or medical cannabis products.

(d) A person other than a licensed transporter shall not transport medical cannabis from one facility issued a state license to another.

(e) A licensed manufacturer may obtain medical cannabis from a licensed cultivator and may furnish medical cannabis products to a licensed dispensary.

(f) Medical cannabis and medical cannabis products shall be tested by a certified testing laboratory.

(g) For purposes of this section, "license" includes a provisional license issued pursuant to Section 19330.

(h) This section shall become operative on July 1, 2017.

19326. (a) A licensee shall not cultivate, process, store, manufacture, transport, or sell medical cannabis in the state unless accurate records are kept at the licensed premises of the growing, processing, storing, manufacturing, transporting, or selling by the licensee.

(b) A licensee shall keep, at the licensed premises, accurate records of the specific commercial cannabis activity conducted by the licensee. The records shall include, at a minimum, all of the following for each batch of product:

(1) The name and address of the supplier.

(2) The dates on which the product was received.

(3) The amounts, form, and batch and lot number.

(4) The location of the cultivation site.

(5) The name of the employee who received the product.

(6) Records demonstrating compliance by the licensee with state and federal rules and regulations regarding reporting and taxation of income received.

(7) Receipts for all expenditures incurred by the licensee and banking records, if any, for all funds obtained or expended in the performance of any activity under the authority of the state license.

(c) Records shall be kept for a minimum of seven years.

(d) The office and an appropriate state or local agency may examine the books and records of a state licensee and may visit and inspect the premises of a state licensee, as the office or state or local agency deems necessary to perform its duties under this chapter.

(e) Books or records requested by the office or an appropriate state or local agency shall be provided by the licensee no later than five business days after the request is made.

(f) The office or a state or local agency may enter and inspect the premises of a facility issued a state license between the hours of 8 a.m. and 8 p.m. on any day that the facility is open, or at any reasonable time, to ensure compliance and enforcement of the provisions of this chapter or a local ordinance.

(g) If a licensee or an employee of a licensee refuses, impedes, obstructs, or interferes with an inspection pursuant to this section, the state license may be summarily suspended and the licensing authority shall directly commence proceedings for the revocation of the state license.

(h) If a licensee or an employee of a licensee fails to maintain or provide the books and records required pursuant to this section, the licensee shall be subject to a civil fine of fifteen thousand dollars ($15,000) per individual violation.

(i) All cultivation and dispensing licensees shall be subject to an annual audit, as specified by the licensing authority, in order to ensure proper documentation is kept at each site or facility. The reasonable costs of the audit shall be paid for by the licensee.

19327. (a) A licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, and 5 licensees may apply for type 6A, 6B, 7A, and 7B licenses or type 10, 11, and 12 licenses.

(2) Type 6A, 6B, 7A, and 7B licensees may apply for type 1, 1A, and 5 licenses or type 10, 10D, 11, 11D, 12, and 12D licenses.

(3) Type 10, 11, and 12 licensees may apply for type 1, 1A, and 5 licenses or type 6A, 6B, 7A, and 7B licenses.

(4) Type 10D, 11D, and 12D licensees may apply for type 6A, 6B, 7A, and 7B licenses.

(b) Types 2, 2A, 3, 3A, 4, and 8 licensees shall not hold licenses in any other category.

(c) Type 9 licensees may apply only for one additional license from either the cultivation, manufacturing, or dispensing category.

(d) It is the intent of the Legislature to further develop which licensees may hold more than one license type.

19328. Each licensing authority shall make recommendations to the Legislature pertaining to the establishment of an appeals and judicial review process for persons aggrieved by a final decision of the licensing authority.

19329. This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code do not require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies restricting the use of cannabis by employees, or prevent employers from complying with federal law.

Article 6. Provisional Licensing

19330. (a) Each licensing authority shall, as soon as practicable following January 1, 2016, allow a qualified applicant for licensure to apply for and receive a provisional license to engage in commercial cannabis activity so as to ensure an adequate supply of medical cannabis upon full implementation of this chapter.

(b) Each licensing authority shall establish appropriate fees not to exceed the reasonable regulatory costs to the licensing authority for the issuance of a provisional license under its jurisdiction.

(c) Each licensing authority shall, if the applicant meets all the requirements in this section, issue a provisional license to individuals and entities that the licensing authority determines were, during the three months prior to January 1, 2016, regularly cultivating, processing, manufacturing, transporting, or distributing medical cannabis collectively or cooperatively in full compliance with any applicable local ordinance, and to continue to do so until the licensee's application for a state license has been approved or denied under this chapter, but no later than 90 days after the licensing authority begins accepting applications for regular state licenses. The licensing authority may consult with relevant local agencies in making a determination on whether a provisional license applicant is in compliance with applicable ordinances.

(d) To qualify for a provisional license, an applicant shall disclose to the appropriate licensing authority all of the following information in writing:

(1) The names, addresses, and dates of birth of each principal officer, owner, or board member.

(2) The common street address and assessor's parcel number of the property at which the licensee conducts activity under the authority of the license.

(3) The common street address and assessor's parcel number of the property at which cultivation activity was or is to be conducted.

(4) For the three months prior to January 1, 2016, the quantity of cannabis cultivated, processed, manufactured, tested, transported, or sold at a location, and the quantity expected to be cultivated, processed, manufactured, tested, transported, or sold from January 1, 2016, to July 1, 2016, inclusive. The licensee shall make its records of current activity, and activity for the three months prior to January 1, 2016, available to the licensing authority upon request.

(5) For an applicant seeking a cultivation or dispensary license, a notarized statement from the owner of real property or landlord where the cultivation or dispensing of commercial cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation or dispensary activities to be conducted on the property by the tenant applicant.

(e) Upon receipt of the application materials and fee, if the applicant meets all the requirements of this section and if the applicant has not committed any act or crime constituting grounds for the denial of licensure, the licensing authority shall issue a provisional license and send a proof of issuance to the applicant.

(f) Notwithstanding any other provision of this section, a licensing authority shall not issue a provisional license to an individual or entity, or for a premises, against whom there are pending state or local administrative or judicial proceedings or actions initiated by a city, county, or city and county under an applicable local ordinance, or who has been determined through those proceedings to have violated a local ordinance related to cannabis activity, or that knowingly provides false or fraudulent information on an application for licensure.

(g) Entities that are provided immunity under Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, shall be considered the equivalent of entities that are registered, permitted, or licensed as a medical cannabis business, dispensary, or other entity involved in providing medical cannabis to patients under a local ordinance and shall be considered in compliance with a local ordinance for the purposes of this section.

(h) A provisional licensee shall comply with all standards and requirements applicable to a licensee under this chapter, including, but not limited to, the production, recordkeeping, security, and transportation requirements and standards.

(i) Beginning July 1, 2017, all commercial cannabis activity shall be conducted between licensees of commercial cannabis activity. If the licensing authority has not promulgated its respective regulations by that date, the licensing authority shall provide an extension for all provisional licenses for applicants abiding by the provisions of this chapter.

Article 7. Licensed Cultivation Sites

19332. (a) The Division of Medical Cannabis Cultivation in the Department of Food and Agriculture shall promulgate regulations governing the licensing of cultivation sites. For purposes of this chapter, the Secretary of the Department of Food and Agriculture shall declare medical cannabis to be an

agricultural product. The department shall develop standards for the production and labeling of all edible medical cannabis products, standards for the use of pesticides and rodenticides in cultivation, and, in consultation with the State Department of Public Health, maximum tolerances for pesticides, rodenticides, and other foreign object residue in harvested cannabis.

(b) The Department of Food and Agriculture shall have the authority necessary for the implementation of this chapter. Department regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards analogous to Division 5 (commencing with Section 12001).

(2) Require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis shall meet standards analogous to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(3) Require that indoor and outdoor cannabis cultivation by licensees is conducted in accordance with state and local laws and best practices related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters.

(c) State licenses to be issued by the Division of Medical Cannabis Cultivation are as follows:

(1) Type 1, or "specialty outdoor," for outdoor cultivation of less than 5,000 square feet of total area on one property. Maximum of 50 mature plants on the property.

(2) Type 1A, or "specialty indoor," for indoor cultivation of less than 5,000 square feet of total area on one property. Maximum of 50 mature plants on the property.

(3) Type 2, or "small outdoor," for outdoor cultivation between 5,001 and 10,000 square feet of total area on one property. Maximum of 99 mature plants on the property.

(4) Type 2A, or "small indoor," for indoor cultivation between 5,001 and 10,000 square feet of total area on one property. Maximum of 99 mature plants on the property.

(5) Type 3, or "medium outdoor," for outdoor cultivation between 10,001 and 30,000 square feet of total area on one property. Maximum of 299 mature plants on the property. The

Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type.

(6) Type 3A, or "medium indoor," for indoor cultivation between 10,001 and 30,000 square feet of total area on one property. Maximum of 299 mature plants on the property. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type.

(7) Type 4, or "large outdoor," for outdoor cultivation greater than 30,001 square feet of total area on one property. Maximum of 500 mature plants on the property. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type.

(8) Type 5, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 5 licensees may transport live plants.

(d) All license fees collected by the division pursuant to this chapter shall be deposited into the Medical Cannabis Cultivation Fees Account, which is hereby established within the fund. All moneys within this account are available upon appropriation by the Legislature to the division solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the division for its administrative expenses and costs and the costs of regulation.

(e) It is the intent of the Legislature to establish appropriate protocols for the collection of the specific location of cultivation sites.

Article 8. Licensed Dispensing Facilities

19334. (a) The State Board of Equalization shall promulgate regulations governing the licensing and regulation of wholesalers, dispensing facilities, and transporters. State enforcement shall be conducted in coordination with local authorities.

(b) State licenses to be issued by the State Board of Equalization are as follows:

(1) Type 9, or "wholesale," for the storage of medical cannabis or medical cannabis products. Maximum storage shall be two pounds of dried flower or 200 individual units per medical cannabis product.

(2) Type 10, or "small dispensary," for dispensaries with 1-50 employees, including management.

(3) Type 10D, or "small dispensary-delivery," for dispensaries with the same restrictions as Type 10; also allows for delivery.

(4) Type 11, or "medium dispensary," for dispensaries with 51-100 employees, including management.

(5) Type 11D, or "medium dispensary-delivery," for dispensaries with the same restrictions as Type 11; also allows for delivery.

(6) Type 12, or "large dispensary," for dispensaries with 100 employees or more, including management.

(7) Type 12D, or "large dispensary-delivery," for dispensaries with the same restrictions as Type 12; also allows for delivery.

(8) Type 13, or "transport," for transporters of medical cannabis and medical cannabis products.

Article 9. Licensed Transporters

19336. (a) A licensee authorized to transport, or transport and deliver, medical cannabis and medical cannabis products shall do so only as set forth in this chapter.

(b) Prior to transporting or delivering medical cannabis or medical cannabis products, a licensee authorized to transport or deliver medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. All delivery shipping manifests shall not identify the qualified patient or primary caregiver by name or address.

(2) Securely transmit the manifest to the licensing authority and the licensee that will receive the medical cannabis product, as applicable.

(c) During transportation or delivery, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the licensing authority, local law enforcement officers, or any other designated enforcement agency.

(d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to agents of the licensing authority, local law enforcement officers, or any other designated enforcement agency.

(e) Upon receipt of the transported shipment, a licensee shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

19337. (a) Transported and delivered medical cannabis or medical cannabis products shall be transported only in a storage compartment that is securely affixed to the interior of the transporting vehicle and that is not visible from outside the vehicle. This requirement shall only apply to licensees transporting medical cannabis or medical cannabis products with a total retail value of at least an amount equal to a statewide monetary threshold, which shall be adopted by regulation by the licensing authority after review by the task force and the office.

(b) A vehicle transporting medical cannabis or medical cannabis products shall travel only directly between licensed facilities, unless otherwise authorized under its license.

(c) All transport or delivery vehicles shall be staffed with a minimum of two employees. At least one employee shall remain with the vehicle at all times when the vehicle contains medical cannabis. This requirement shall only apply to licensees transporting medical cannabis or medical cannabis products with a total retail value of at least an amount equal to a statewide monetary threshold, which shall be adopted by regulation by the licensing authority after review by the task force and the office.

(d) Each transport or delivery team member shall possess documentation of licensing and a government-issued identification card at all times when transporting or delivering medical cannabis and shall produce it upon the request of agents of any regulatory authority or a law enforcement official.

19338. (a) The licensing authority shall develop a database containing the electronic shipping manifests, which shall include, but not be limited to, the following information:

(1) The quantity, or weight, and variety of products shipped.

(2) The estimated times of departure and arrival.

(3) The quantity, or weight, and variety of products received.

(4) The actual time of arrival.

(5) A categorization of the product.

(b) The database shall be designed to flag irregularities for a regulatory authority to investigate. An authorized enforcement authority may, at any time, inspect shipments and request documentation for current inventory.

19339. (a) This chapter shall not be construed to authorize or permit a licensee to transport or deliver, or cause to be transported or delivered, cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products that acts in compliance with this chapter and applicable local ordinances.

19340. (a) All mobile, vehicular, and Internet-based delivery services are prohibited except as authorized by this chapter.

(b) Upon approval of the licensing authority, a licensee authorized to provide delivery services shall abide by the following:

(1) The city, county, or city and county in which the premises of the licensee is located, and in which each delivery is made, must specifically permit delivery service by ordinance referring to this section.

(2) All employees delivering medical cannabis or medical cannabis products must carry a current license authorizing those services with them during deliveries, and must present that license upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(c) A city, county, or city and county shall have the authority to impose a tax, pursuant to Section 19355, on each delivery transaction completed by a licensee.

(d) Whenever a licensing authority has knowledge that a licensee has transported or delivered, or arranged or facilitated the transport or delivery of, medical cannabis or medical cannabis products in violation of this chapter, the licensing authority shall summarily suspend that facility's license and shall without delay commence proceedings for the revocation of the license in accordance with this chapter.

(e) All license fees collected by the licensing authority pursuant to this chapter shall be deposited into the Medical Cannabis Retail Fees Account, which is hereby established within the fund. All moneys within the Medical Cannabis Retail Fees Account are available upon appropriation to the State Board of Equalization, solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the

board for its administrative expenses and costs and the costs of regulation.

Article 10. Licensed Manufacturers and Certified Laboratories

19342. (a) The Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers.

(b) Licenses to be issued by the division are as follows:

(1) Type 6A, or "small manufacturing level 1," for manufacturing sites that use a maximum of XXX pounds of medical cannabis each year to produce medical cannabis products, using nonvolatile solvents.

(2) Type 6B, or "small manufacturing level 2," for manufacturing sites that use a maximum of XXX pounds of medical cannabis each year to produce medical cannabis products, using volatile solvents.

(3) Type 7A, or "large manufacturing level 1," for manufacturing sites that use a maximum of XXX pounds of medical cannabis each year to produce medical cannabis products, using nonvolatile solvents. The division shall limit the number of licenses of this type.

(4) Type 7B, or "large manufacturing level 2," for manufacturing sites that use a maximum of XXX pounds of medical cannabis each year to produce medical cannabis products, using volatile solvents. The division shall limit the number of licenses of this type.

(5) Type 8, or "testing," for testing of medical cannabis and medical cannabis products. Type 8 licensees shall have their facilities certified according to regulations set forth by the division.

(c) All license fees collected by the division pursuant to this chapter shall be deposited into the Medical Cannabis Manufacturing and Testing Fees Account, which is hereby established within the fund. All moneys within the Medical Cannabis Manufacturing and Testing Fees Account are available upon appropriation by the Legislature to the division, solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the division for its administrative expenses and costs and the costs of regulation.

19343. (a) The State Department of Public Health shall promulgate standards for certification of testing laboratories to perform random sample testing of all medical cannabis products, including standards for onsite testing.

(b) Certification of testing laboratories shall be consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025.

(c) These requirements shall apply to all entities, including third-party laboratories, engaged in the testing of medical cannabis pursuant to this chapter.

19344. (a) A laboratory certified by the department to perform random sample testing of medical cannabis products shall not acquire, process, possess, store, transfer, transport, or dispense medical cannabis for any purpose other than those authorized by Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A laboratory certified by the department to perform random sample testing of medical cannabis products shall not acquire, process, possess, store, transfer, transport, or dispense medical cannabis plants or medical cannabis products except through a patient, primary caregiver, or a facility issued a state license. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(c) The department shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, and specify how often licensees shall test cannabis, that the cost of testing shall be borne by the licensed cultivators, and requiring destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the department, unless remedial measures can bring the cannabis into compliance with quality assurance standards as promulgated by the department.

(d) The department shall establish a certification fee, and laboratories shall pay a fee to be certified. Certification fees shall not exceed the reasonable regulatory cost of the certification activities.

(e) All certification fees collected by the department pursuant to this chapter shall be deposited into the Medical Cannabis Manufacturing and Testing Fees Account, which is hereby established within the fund.

19345. (a) The Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health shall promulgate the following standards:

(1) Health and safety standards applicable to all medical cannabis, and medical cannabis products, including maximum potency standards.

(2) Standards for licensed manufacturers of medical cannabis and medical cannabis products, including, but not limited to, edible products.

(b) At a minimum, the standards required by this section shall do all of the following:

(1) Prescribe sanitation standards analogous to the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code) for food preparation, storage, handling, and sale of edible medical cannabis products. For purposes of this chapter, edible medical cannabis products are deemed to be unadulterated food products.

(2) Require that edible medical cannabis products produced, distributed, provided, donated, or sold by licensees shall be limited to nonpotentially hazardous food, as established by the State Department of Public Health pursuant to Section 114365.5 of the Health and Safety Code.

(3) Require that facilities in which edible medical cannabis products are prepared shall be constructed in accordance with applicable building standards, health and safety standards, and other state laws.

(4) Require that all edible medical cannabis products shall be packaged at the original point of preparation.

(c) No person shall engage in the manufacture, packing, or holding of processed food containing edible cannabis unless the person has a valid registration from the department pursuant to Section 110460 of the Health and Safety Code. Health and safety standards prescribed by this section or promulgated through regulation may be enforced by local environmental health departments.

19346. (a) Prior to sale or distribution at a licensed dispensing facility, edible medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of edible medical cannabis products shall meet the following requirements:

(1) Edible medical cannabis packages and labels shall not be made to be attractive to children.

(2) All edible medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

(C) The statement "FOR MEDICAL USE ONLY."

(D) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."

(E) Net weight of medical cannabis in the package.

(F) A warning if nuts or other known allergens are used and the total weight, in ounces or grams, of medical cannabis in the package.

(G) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD) content, the THC amount in milligrams per serving, servings per package, and the THC amount in milligrams for the package total.

(H) Clear indication, in bold type, that the product contains medical cannabis.

(I) Identification of the source and date of cultivation and manufacture.

(J) The name and location of the licensed dispensing facility providing the product.

(K) The date of sale.

(L) Any other requirement set by the department.

(b) Only generic food names may be used to describe edible medical cannabis products.

Article 11. Cannabis Employee Certification and Apprenticeship

19350. This article applies only to cultivation sites and dispensaries.

19351. The Division of Labor Standards Enforcement shall do all of the following:

(a) Maintain minimum standards for the competency and training of employees of a licensed cultivator or dispensary through a system of testing and certification.

(b) Maintain an advisory committee and panels as necessary to carry out its functions under this article. There shall be employer representation on the committee and panels.

(c) Adopt regulations as determined to be necessary to implement this article.

(d) Issue certification cards to employees certified pursuant to this article.

(e) Establish registration fees in an amount reasonably necessary to implement this article, not to exceed twenty-five dollars ($25) for the initial registration. There shall be no fee for annual renewal of registration. Fees collected for cultivation sites and dispensaries shall be placed into the Medical Cannabis Cultivation Fee Account and the Medical Cannabis Retail Fee Account, respectively.

19352. (a) By January 1, 2017, the Division of Labor Standards Enforcement shall develop a certification program for cannabis employees. Commencing January 1, 2019, except as provided in subdivision (c), certification shall be required of all persons who perform work as cannabis employees.

(b) Individuals desiring to be certified shall submit an application for certification and examination.

(c) (1) Certification is not required for registered apprentices working as cannabis employees as part of a state-approved apprenticeship program. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(2) Commencing January 1, 2019, an uncertified person may perform work for which certification is otherwise required in order to acquire the necessary on-the-job experience for certification provided that the person shall be under the direct supervision of a cannabis employee certified pursuant to this section who is responsible for supervising no more than one uncertified person.

(3) The Division of Labor Standards Enforcement may develop additional criteria governing this subdivision.

19353. (a) The following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license issued pursuant to this chapter:

(1) The licensee willfully employs one or more uncertified persons to perform work as cannabis employees in violation of this article.

(2) The licensee willfully fails to provide adequate supervision of uncertified workers.

(3) The licensee willfully fails to provide adequate supervision of apprentices.

(b) The Labor Commissioner shall maintain a process for referring cases to the appropriate regulatory authority when it has been determined that a violation of this section has likely occurred. The Labor Commissioner shall have a memorandum of understanding with the regulatory authorities in furtherance of this section.

(c) Upon receipt of a referral by the Labor Commissioner alleging a violation under this section, the appropriate licensing authority shall open an investigation. Disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The licensing authority may initiate disciplinary action against a licensee upon his or her own investigation, the filing of a complaint, or a finding that results from a referral from the Labor Commissioner alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or apprentice status shall create a rebuttable presumption of violation of this section.

(d) This section shall become operative on January 1, 2019.

Article 12. Taxation

19355. The office and other state agencies may assist state taxation authorities in the development of uniform policies for the state taxation of state licensees.

19356. (a) (1) In addition to any authority otherwise provided by law, the board of supervisors of a county may impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis by a licensee operating pursuant to this chapter. The tax may be imposed for general governmental

purposes or for purposes specified in the ordinance by the board of supervisors.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, and the manner of collection of the tax. A tax imposed pursuant to this section is a tax and not a fee or special assessment, and the tax is not required to be apportioned on the basis of benefit to any person or property or be applied uniformly to all taxpayers or all real property.

(3) A tax imposed by a county pursuant to this section by a county may include a transactions and use tax imposed solely for cannabis or cannabis products, which shall otherwise conform to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Notwithstanding Section 7251.1 of the Revenue and Taxation Code, the tax may be imposed at any rate specified by the board of supervisors, and the tax rate authorized by this section shall not be considered for purposes of the combined tax rate limitation established by that section.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitously, as determined by the board of supervisors.

(5) The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(b) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county.

(c) Any tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by any other law.

(d) For purposes of this section, "cannabis" shall have the same meanings as the definition set forth in Section 19300.

(e) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any license or service fee or charge upon, or related to, the activities set forth in subdivision (a), as otherwise provided by law. This section shall not be

construed as a limitation upon the taxing authority of any county as provided by other law.

Article 13. Funding

19360. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure or renewal fee. The licensure or renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter, including, but not limited to, provisional license fees set forth in Section 19330, shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

19361. (a) The Medical Cannabis Regulation Fund is hereby established within the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the office, for the purposes of funding the enforcement grant program pursuant to subdivision (c).

(c) (1) The office shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(d) Funds for the establishment and support of the regulatory activities pursuant to this chapter may be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022.

Article 14. Reporting

19363. On or before March 1 of each year, the director shall prepare and submit to the Legislature an annual report on the office's activities and post the report on the office's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the office and licensing authorities for medical cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the office.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

Article 15. Privacy

19365. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250)

of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Nothing in this section precludes the following:

(1) Employees of any of the office or licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

(2) Notifications from any of the office or licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(c) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 7. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. ~~Qualified~~

(a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order *to* collectively or cooperatively ~~to~~ cultivate ~~marijuana~~ *cannabis* for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) This section shall remain in effect only until 180 days after the Division of Medical Cannabis Regulation within the State Board of Equalization posts a notice on its Internet Web site that the licensing authorities have commenced issuing provisional licenses pursuant to the Medical Cannabis Regulation and Control Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code), and as of that date is repealed.

SEC. 8. Section 147.5 is added to the Labor Code, to read:

147.5. (a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 9. Section 3094 is added to the Labor Code, to read:

3094. The Division of Apprenticeship Standards shall investigate, approve, or reject applications for apprenticeship programs for employees of a licensee subject to Article 11 (commencing with Section 19350) of Chapter 3.5 of Division 8 of the Business and Professions Code. The Division of Apprenticeship Standards shall adopt regulations necessary to implement and regulate the establishment of the apprenticeship programs described in this section.

SEC. 10. Section 2402.5 is added to the Vehicle Code, to read:

2402.5. The Department of the California Highway Patrol shall establish protocols to determine whether a driver is operating a vehicle under the influence of cannabis, and shall develop protocols setting forth best practices to assist law enforcement agencies. The costs to the Department of the California Highway Patrol of implementing this subdivision shall, upon appropriation by the Legislature, be paid for with appropriations from moneys in the Fines and Penalties Account of the Medical Cannabis Regulation Fund.

SEC. 11. 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.

SEC. 12. The Legislature finds and declares that Section 6 of this act, which adds Chapter 3.5 (commencing with Section 19300) to Division 8 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the

meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

It is necessary to maintain the confidentiality of patient and physician information provided to the regulatory authorities in order to protect the private medical information of patients who use medical cannabis and to preserve the essential confidentiality of the physician and patient relationship.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

All matter omitted in this version of the bill appears in the bill as amended in the Assembly, May 20, 2015. (JR11)

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 159
Author: Calderon
Bill Date: July 6, 2015, Amended
Subject: Investigational Drugs, Biological Products, and Devices
Sponsor: Author
Position: No Position

DESCRIPTION OF CURRENT LEGISLATION:

This bill would allow the manufacturer of an investigational drug, biological product, or device to make the product available to eligible patients with an immediately life threatening disease or condition, as specified. This bill would prohibit the Medical Board of California (Board) or the Osteopathic Medical Board of California from taking disciplinary action against a physician's license for prescribing or treating a patient with an investigational drug, biological product, or device.

BACKGROUND

Existing law in the Health and Safety Code strictly prohibits the sale, delivery, or giving away of a new drug or device unless the California Department of Public Health has approved the new drug's application, or the drug has been approved by a federal provision, including approval for use from the federal Food and Drug Administration (FDA).

Many patients in California currently seek access to drugs, devices, or other medical products that have not yet received approval for use from the FDA. Current FDA regulations provide for the expanded access program, also referred to as compassionate use, that makes drugs and devices not yet approved by the FDA available to patients with serious or immediately life-threatening diseases. According to the author's office, approval for participation in this program can take anywhere from a few weeks to several months and many of these patients do not have the ability to wait for this approval. In addition, the FDA has been having great difficulty in getting patients to participate in clinical trials of investigational drugs, because patients do not want to take the chance that they will be in the control group and not receive the experimental drug. This exacerbates the time it takes to get these drugs approved by the FDA.

Legislation similar to this bill has been passed with bipartisan support and signed into law in Colorado, Michigan, Missouri, and Louisiana. A "Right to Try" ballot initiative in Arizona passed in November of 2014.

ANALYSIS

This bill would enact the Right to Try Act. This bill would allow a manufacturer of an investigational drug, biological product, or device to make available the drug, product, or device to an eligible patient.

This bill would define an investigational drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the FDA, but has not been approved for general use and remains under investigation in a clinical trial approved by the FDA. This bill would define an eligible patient as a person who meets the following:

- Has an immediately life-threatening disease or condition;
- Has considered all other treatment options currently approved by the FDA;
- Has not been accepted to participate in the nearest clinical trial to his or her home for the immediately life-threatening disease or condition within one week of completion of the clinical trial application process, or, in the treating physician's medical judgment, it is unreasonable for the patient to participate in that clinical trial due to the patient's current condition and stage of disease;
- Has received a recommendation from his or her primary physician and a consulting physician for an investigational drug, biological product, or device;
- Has given written, informed consent for the use of the investigational drug, biological product, or device; and
- Has documentation from his or her primary physician and consulting physician attesting that the patient has met the requirements the law.

This bill would define an immediately life-threatening disease or condition as a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months.

This bill would define written, informed consent as a written document that has been approved by the physician's institutional review board or an accredited independent institutional review board, is signed by an eligible patient, or his or her legally authorized representative where the patient lacks the ability to consent, and attested to by the patient's primary physician and a witness that, at a minimum, does all of the following:

- Explains the currently approved products and treatments for the immediately life-threatening disease or condition from which the patient suffers;
- Attests to the fact that the patient concurs with the patient's primary physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;
- Clearly identifies the specific proposed investigational drug, biological product, or device that the patient is seeking to use;
- Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and describes the most likely outcome;
- Clearly states that the patient's health benefit plan and provider are not obligated to pay

for the investigational drug, biological product, or device, or any treatments consequent to their use;

- Clearly states that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment, and may be reinstated if the curative treatment ends;
- Clearly states that in-home health care may be denied if treatment begins; and
- States that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device.

This bill would require the written informed consent to be consistent with the informed consent requirements of the Protection of Human Subjects in Medical Experimentation Act.

The consulting physician would be required to: examine the qualified individual and his or her relevant medical records; confirm in writing the primary physician's diagnosis and prognosis; and verify, in the opinion of the consulting physician, that the eligible patient is competent, acting voluntarily, and has made an informed decision.

This bill would specify that if a clinical trial for an investigational drug, biological product, or device is closed due to the lack of efficacy or for toxicity, the investigational drug, biological product, or device shall not be offered. If notice is given for an investigational drug, biological product, or device, taken by a patient outside of a clinical trial, the manufacturer and the patient's primary physician shall notify the patient of the information from the safety committee of the clinical trial.

This bill would allow a manufacturer to provide an investigational drug, biological product, or device to an eligible patient without compensation or the manufacturer can require the eligible patient to pay the costs of, or associated with, the manufacture of the drug, product or device. This bill does not require a health benefit plan to provide coverage for the cost of manufacturing or cost for services related to the use of an investigational drug, biological product, or device. This bill does specify that if an eligible patient dies while being treated, the patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance for the treatment.

This bill would not allow the Board or the Osteopathic Medical Board of California to revoke, fail to renew, or take any other disciplinary action against a physician's license based solely on the physician's recommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device, provided that the recommendation or prescription is consistent with the medical protocol approved by the physician's institutional review board or an accredited independent institutional review board. The physician's institutional review board or an accredited institutional review board shall biannually report the following information to the California Department of Public Health, the Board, and the Osteopathic Medical Board of California: the number of requests made for an investigation drug, biological product, or device; the status of the requests made; the duration of treatment; the costs of the treatment paid by eligible patients; the success or failure of the investigational drug, biological produce, or device in treating the immediately life-threatening

disease or condition from which the patient suffers; and any adverse event for each investigational drug, biological product, or device.

This bill also contains liability protections for manufacturers and would not allow state officials and agencies to alter or block recommendations for investigational drugs, biological products, or devices.

The Board, as a regulatory agency, historically has not taken positions on policy bills that affect an individual's rights in end-of-life health care choices. The FDA already allows individuals access to investigational drugs, biological products, or devices in specific circumstances. Board staff has met with the author's office and provided technical assistance, including identifying concerns specific to the Board. Board staff discussed the concern that this bill would not allow the Board to take disciplinary action against a physician who has recommended an investigational drug, biological product, or device if that recommendation is consistent with the medical standard of care; however, recommending non-approved FDA drugs would never be within the standard of care and Board staff also relayed a concern with the broad definition of "terminal illness"; amendments were made to address these concerns.

In addition, there are two other bills in the Legislature that are largely similar to this bill, SB 149 (Stone) and SB 715 (Anderson). The differences in the three bills are in some of the definitions in the bills and in the liability exemptions; however, the concepts are the same.

FISCAL: None to the Board

SUPPORT: Amyotrophic Lateral Sclerosis Association Golden West Chapter
County of Los Angeles

OPPOSITION: Association of Northern California Oncologists
California Nurses Association and National Nurses United
Pharmaceutical Research and Manufacturers of America (Concerns)

AMENDED IN SENATE JULY 6, 2015

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 159

Introduced by Assembly Member Calderon
(Principal coauthor: Senator Stone)
(Coauthors: Assembly Members Brown, Daly, *Cristina Garcia,* Lackey, Obernolte, Olsen, and Waldron)
(Coauthors: Senators ~~Allen, Anderson, and Stone~~ *Allen and Anderson*)

January 21, 2015

An act to add Article 4.5 (commencing with Section 111548) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, relating to drugs and devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 159, as amended, Calderon. Investigational drugs, biological products, and devices.

Existing law, the federal Food, Drug, and Cosmetic Act, prohibits a person from introducing into interstate commerce any new drug unless the drug has been approved by the United States Food and Drug Administration (FDA). Existing law requires the sponsor of a new drug to submit to the FDA an investigational new drug application and to

then conduct a series of clinical trials to establish the safety and efficacy of the drug in human populations and submit the results to the FDA in a new drug application.

Existing law, the Sherman Food, Drug, and Cosmetic Law, regulates the packaging, labeling, and advertising of drugs and devices and is administered by the State Department of Public Health. A violation of that law is a crime. The Sherman Food, Drug, and Cosmetic Law prohibits, among other things, the sale, delivery, or giving away of a new drug or new device unless either the department has approved a new drug or device application for that new drug or new device and that approval has not been withdrawn, terminated, or suspended or the drug or device has been approved pursuant to specified provisions of federal law, including the federal Food, Drug, and Cosmetic Act.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and requires the board to take action against a licensee who is charged with unprofessional conduct. The Osteopathic Act provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California and requires the board to enforce the Medical Practice Act with respect to its licensees.

This bill would permit a manufacturer of an investigational drug, biological product, or device to make the product available to eligible patients with an immediately life-threatening disease or condition, as specified. The bill would authorize, but not require, a health benefit plan, as defined, to provide coverage for any investigational drug, biological product, or device made available pursuant to these provisions. The bill would prohibit the Medical Board of California and the Osteopathic Medical Board of California from taking any disciplinary action against the license of a physician based solely on the physician's recommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device if the recommendation or prescription is consistent with protocol approved by the physician's institutional review board or an accredited institutional review board, and would require the institutional review board to biannually report specified information to the State Department of Public Health, among others. The bill would prohibit a state agency from altering any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care provider's certification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health

care provider that a patient have access to an investigational drug, biological product, or device.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Article 4.5 (commencing with Section 111548) is added to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 4.5. Right to Try Act

111548. This article shall be known and may be cited as the Right to Try Act.

111548.1. For purposes of this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Consulting physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act who performs all of the following:

(1) Examines the qualified individual and his or her relevant medical records.

(2) Confirms, in writing, the primary physician's diagnosis and prognosis.

(3) Verifies, in the opinion of the consulting physician, that the eligible patient is competent, acting voluntarily, and has made an informed decision.

(b) "Eligible patient" means a person who meets all of the following conditions:

(1) Has an immediately life-threatening disease or condition.

(2) Has considered all other treatment options currently approved by the United States Food and Drug Administration.

(3) Has ~~been unable to participate in a clinical trial for the immediately life-threatening disease or condition identified in paragraph (1) within 100 miles of his or her home or has~~ not been accepted to ~~that~~ *participate in the nearest* clinical trial *to his or her home for the immediately life-threatening disease or condition identified in paragraph (1)* within one week of completion of the clinical trial application ~~process.~~ *process, or, in the treating*

physician's medical judgment, it is unreasonable for the patient to participate in that clinical trial due to the patient's current condition and stage of disease.

(4) Has received a recommendation from his or her primary physician and a consulting physician for an investigational drug, biological product, or device.

(5) Has given written informed consent for the use of the investigational drug, biological product, or device, or, if he or she lacks the capacity to consent, his or her legally authorized representative has given written informed consent on his or her behalf.

(6) Has documentation from his or her primary physician and a consulting physician attesting that the patient has met the requirements of this subdivision.

(c) "Health benefit plan" means a plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. "Health benefit plan" includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in Section 1345, and a policy of health insurance, as defined in Section 106 of the Insurance Code, issued by a health insurer.

(d) "Immediately life-threatening disease or condition" means a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months.

(e) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the United States Food and Drug Administration, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration.

(f) "Primary physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act.

(g) "State regulatory board" means the Medical Board of California or the Osteopathic Medical Board of California.

(h) (1) "Written, informed consent" means a written document that has been approved by the primary physician's institutional review board or an accredited independent institutional review board, is signed by an eligible patient, or his or her legally authorized representative when the patient lacks the capacity to

consent, and attested to by the patient's primary physician and a witness that, at a minimum, does all of the following:

(A) Explains the currently approved products and treatments for the immediately life-threatening disease or condition from which the patient suffers.

(B) Attests to the fact that the patient, or when the patient lacks the capacity to consent his or her legally authorized representative, concurs with the patient's primary physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life.

(C) Clearly identifies the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

(D) Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and describes the most likely outcome. This description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the primary physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.

(E) Clearly states that the patient's health benefit plan, if any, and health care provider are not obligated to pay for the investigational drug, biological product, or device or any care or treatments consequent to use of the investigational drug, biological product, or device.

(F) Clearly states that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and that care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements.

(G) Clearly states that in-home health care may be denied if treatment begins.

(H) States that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device, and that this liability extends to the patient's estate, except as otherwise provided in the patient's health benefit plan or a contract between the patient and the manufacturer of the drug, biological product, or device.

(2) Written, informed consent for purposes of this article shall be consistent with the informed consent requirements of the

Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

111548.2. (a) Notwithstanding Section 110280, 111520, or 111550, a manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to an eligible patient pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient.

(b) A manufacturer may do both of the following:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2) Require an eligible patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

(c) (1) This article does not expand the coverage provided under Sections 1370.4 and 1370.6 of this code, Sections 10145.3 and 10145.4 of the Insurance Code, or Sections 14087.11 and 14132.98 of the Welfare and Institutions Code.

(2) This article does not require a health benefit plan to provide coverage for the cost of any investigational drug, biological product, or device, or the costs of services related to the use of an investigational drug, biological product, or device under this article. A health benefit plan may provide coverage for an investigational drug, biological product, or device made available pursuant to this section.

(d) If the clinical trial for an investigational drug, biological product, or device is closed due to the lack of efficacy or for toxicity, the investigational drug, biological product, or device shall not be offered. If notice of closure of a clinical trial is given for an investigational drug, biological product, or device taken by a patient outside of a clinical trial, the manufacturer and the patient's primary physician shall notify the patient of the information from the safety committee of the clinical trial.

(e) If an eligible patient dies while being treated by an investigational drug, biological product, or device made available pursuant to this article, the patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance for the treatment.

111548.3. (a) Notwithstanding any other law, a state regulatory board shall not revoke, fail to renew, or take any other disciplinary action against a physician's license based solely on the physician's recommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device if the recommendation or prescription is consistent with protocol approved by the physician's institutional review board or an accredited independent institutional review board.

(b) The physician's institutional review board or an accredited institutional review board shall biannually report the following information to the State Department of Public Health, the Medical Board of California, and the Osteopathic Medical Board of California:

(1) The number of requests made for an investigational drug, biological product, or device.

(2) The status of the requests made.

(3) The duration of the treatment.

(4) The costs of the treatment paid by eligible patients.

(5) The success or failure of the investigational drug, biological product, or device in treating the immediately life-threatening disease or condition from which the patient suffers.

(6) Any adverse event for each investigational drug, biological product, or device.

(c) A state agency shall not alter any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care provider's certification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health care provider that a patient have access to an investigational drug, biological product, or device.

(d) A violation of this section shall not be subject to Chapter 8 (commencing with Section 111825).

111548.5. This article does not create a private cause of action, and actions taken pursuant to this article shall not serve as a basis for a civil, criminal, or disciplinary claim or cause of action, including, but not limited to, product liability, medical negligence, or wrongful death, against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient for harm done to the eligible patient or his or her heirs resulting from the investigational drug, biological product, or device, or the use or

nonuse thereof, if the manufacturer or other person or entity has complied with the terms of this article in relation to the eligible patient, unless there was a failure to exercise reasonable care.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 266
Author: Bonta, Cooley, Jones-Sawyer, and Lackey
Bill Date: July 13, 2015, Amended
Subject: Medical Cannabis
Sponsor: Authors
Position: Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill would enact the Medical Cannabis Regulation and Control Act and would establish the Office of Marijuana Regulation within the Office of the Governor, the Division of Medical Cannabis Regulation within the State Board of Equalization, the Division of Medical Cannabis Manufacturing and Testing within the California Department of Public Health, and the Division of Medical Cannabis Cultivation within the Department of Food and Agriculture. However, this analysis will only cover the portion of the bill related to the requirements on physicians recommending medical cannabis and the Medical Board of California (Board).

This bill has been significantly amended since the Board took a neutral position at the May 2015 Board Meeting.

BACKGROUND:

In 1996, California voters approved the Compassionate Use Act (Proposition 215), which allowed Californians access to marijuana for medical purposes, and prohibited punitive action against physicians for making marijuana recommendations. SB 420 (Vasconcellos, Chapter 875, Statutes of 2003), the Medical Marijuana Program Act, included issuance of identification cards for qualified patients, and allowed patients and their primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes.

In 2014, AB 1894 (Ammiano) was amended on May 23, 2014 and the amendments basically included the same language as the language included in this bill. The Board took a support position on AB 1894.

ANALYSIS:

The portions of this bill that impact the Board are very similar to the provisions in AB 26 (Jones-Sawyer) and AB 34 (Bonta and Jones-Sawyer). These bills have been merged and Asm. Bonta and Asm. Jones-Sawyer are now co-authors of this bill.

This bill would include in the Board's priorities cases that allege a physician has recommended cannabis to patients for medical purposes without a good faith prior examination and medical reason therefor. This bill would state that physicians

recommending cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

This bill would prohibit a physician from recommending cannabis to a patient unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code (HSC). The HSC defines an "attending physician" as an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Board or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient. The physician also must have conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

This bill would also subject physicians recommending cannabis to the definition of "financial interest" in Business and Professions Code Section (BPC) 650.01 and would not allow a physician to accept, solicit, or offer any form of remuneration from or to a licensed dispenser, producer, or processor of cannabis products in which the licensee or his or her immediate family has a financial interest. This bill would not allow a cannabis clinic or dispensary to directly or indirectly employ physicians to provide marijuana recommendations, a violation would constitute unprofessional conduct.

Lastly, this bill would require the Board to consult with the California Marijuana Research Program, knowns as the Center for Medicinal Cannabis Research (CMCR) on developing and adopting medical guidelines for the appropriate administration and use of cannabis. If this bill were to be signed into law, the Board would need to update its current statement on recommending marijuana and at that time would consult and solicit input from the CMCR.

This bill would give the Board some much needed enforcement tools to more efficiently regulate physicians who recommend marijuana for a medical purpose. This bill expressly requires a physician to perform an appropriate prior examination before recommending marijuana for a medical purpose. This is an important amendment because the prescribing requirements in existing law do not necessarily apply to marijuana recommendations. This bill would also make marijuana recommendation cases a priority of the Board, which will help to ensure consumer protection. Lastly, this bill would not allow physicians to be employed by cannabis clinics or dispensaries, which will help to ensure that physicians are not making marijuana recommendations for financial or employment reasons.

In January 2015, the Board voted to support AB 26 (Jones-Sawyer), which includes very similar language as the language included in this bill. The only exception is the requirement for an in-person examination. The Board voted to support AB 34 (Bonta) in May 2015, but requested that it be amended to require an in-person examination. Both bills were supported by the Board because they would have provided the Board with enforcement tools that would help ensure consumer protection and it would ensure that physicians are not making marijuana recommendations for financial or employment

reasons. As such, Board staff is suggesting that the Board change its position on this bill from a neutral position to a support position.

FISCAL: Minimal and absorbable fiscal impact to the Board

SUPPORT: City of Burbank; City of Camarillo; City of Chino Hills; City of Concord; City of Diamond Bar; City of Sacramento; City of Torrance; and Honorable Board of Equalization Member George Runner

OPPOSITION: American Civil Liberties Union of California (unless amended); Fresno Cannabis Association (unless amended); and Legal Services for Prisoners with Children (unless amended)

POSITION: Recommendation: Support

AMENDED IN SENATE JULY 13, 2015

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY MAY 11, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 266

Introduced by Assembly Members Bonta, Cooley, Jones-Sawyer, and Lackey
(Coauthor: Assembly Member Chiu)

February 10, 2015

An act to amend Sections 2220.05, 2242, and 2264 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend and repeal Section 11362.775 of the Health and Safety Code, to add Sections 147.5 and 3094 to the Labor Code, and to add Section 2402.5 to the Vehicle Code, relating to medical cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 266, as amended, Bonta. Medical cannabis.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the

establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would enact the Medical Cannabis Regulation and Control Act and would establish within the office of the Governor, the Governor's Office of Medical Cannabis Regulation to coordinate and provide oversight of the licensing and regulation of various commercial cannabis activities, as defined. The bill would establish the Division of Medical Cannabis Regulation within the State Board of Equalization, for the licensure and regulation of medical cannabis dispensaries and transporters. The bill would establish the Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health for the licensing and regulation of medical cannabis manufacturers and certified testing laboratories. The bill would also require the Division of Medical Cannabis Manufacturing and Testing to set specified standards for edible cannabis products. The bill would also establish the Division of Medical Cannabis Cultivation within the Department of Food and Agriculture for the licensure and regulation of medical cannabis cultivators. The bill would set forth the duties of these various divisions. The bill would require the office, by April 1, 2016, to convene a task force to advise the office on the development of standards for the regulation of medical cannabis.

This bill would provide for the enforcement of the provisions of the act and of local ordinances relating to medical cannabis by the state and local governments and would require the office, by January 1, 2017, to develop an enforcement framework that clarifies the enforcement roles of the state and local governments. ~~The bill would provide that the director of the office and other prescribed persons employed by licensing and law enforcement authorities are peace officers for purposes of enforcing the provisions of this act.~~ The bill would specify that it does not supersede the provisions of Measure D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot and would require the State Board of Equalization to enter into a memorandum of understanding with the City of Los Angeles to establish specified protocols, including tracking medical cannabis to and from the City of

Los Angeles. The bill would exempt facilities engaged in commercial cannabis activity within the City of Los Angeles from the licensing requirements and would give the city full power and authority to enforce prescribed standards and regulations.

This bill would require, before a business granted a state license commences operation, that the business also obtain a license or permit from the local jurisdiction and would authorize the local jurisdiction to regulate commercial cannabis activity in specified ways. The bill would provide for provisional licensure to engage in commercial cannabis activity, as specified, until the state license application is either granted or denied or until July 1, 2017.

This bill would, by January 1, 2017, require the Division of Labor Standards and Enforcement to develop a certification program for cannabis employees. The bill would require, by January 1, 2019, that all persons who perform work as cannabis employees be certified or participating in an apprenticeship program, as provided.

This bill would establish the Medical Cannabis Regulation Fund and various accounts within that fund for the collection of fines and fees imposed on the licensees conducting commercial cannabis activities.

(2) Existing law establishes the Division of Apprenticeship Standards, which audits and regulates apprenticeship programs for various trades, including electricians.

This bill would require the division to investigate, approve, or reject applications for apprenticeship employees of a licensed cultivation site or a licensed dispensing facility, as defined.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law sets forth the conduct that would constitute unprofessional conduct for a physician and surgeon, including, but not limited to, prescribing certain drugs without an appropriate examination or medical indication. Existing law provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her immediate family has a financial interest. By creating a new crime, the bill would impose a state-mandated local program.

This bill would specify that recommending marijuana to patients without an appropriate prior examination and a medical indication is unprofessional conduct. The bill would provide that specified acts of recommending marijuana for medical purposes without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a physician and surgeon from recommending medical marijuana to a patient unless that person is the patient's attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(4) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill, commencing 180 days after the Governor's Office of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing provisional licenses, would repeal those provisions.

(5) Existing law establishes the Department of the California Highway Patrol. Existing law also prohibits and establishes standards for driving under the influence of alcohol.

This bill would require the Department of the California Highway Patrol to establish protocols to determine whether a driver is operating a vehicle under the influence of cannabis, and to develop protocols setting forth best practices to assist law enforcement agencies.

(6) Existing law regulates the labor practices of agricultural employers. Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt, amend, and repeal occupational safety and health standards and establishes the Division of Occupational Safety and Health to enforce those standards.

This bill would include licensed cultivation sites in the definition of agricultural employer. The bill would require the division to convene

an advisory committee to evaluate whether there is a need to develop industry-specific regulations relating to facilities issued a conditional license.

(7) This bill would provide that its provisions are severable.

(8) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(9) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated 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) The people of California enacted the Compassionate Use Act of 1996 to ensure that seriously ill Californians have access to cannabis for medical purposes. The Compassionate Use Act of 1996 urged the state and federal governments to implement a plan to provide for the safe and affordable distribution of medical cannabis to all patients in medical need of the drug.

(b) Federal enforcement authorities have recognized that in states that have authorized cannabis use and have enacted strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of cannabis, conduct in compliance with those regulatory and enforcement systems is less likely to threaten federal priorities, and, thus, less likely to require federal enforcement intervention (See: Memorandum For All United States Attorneys—Guidance Regarding Marijuana

Enforcement, by James M. Cole, Deputy Attorney General, August 29, 2013).

(c) Greater certainty and minimum statewide standards are urgently needed regarding the obligations of medical cannabis facilities, and for the imposition and enforcement of regulations to prevent unlawful cultivation and the diversion of cannabis to nonmedical use.

(d) The purpose of this act is to establish for California a robust medical cannabis regulatory and enforcement system to ensure that conduct in compliance with California's medical cannabis laws does not threaten the federal priorities as set forth in the James M. Cole memorandum, and, therefore, does not require federal enforcement intervention.

(e) The California Constitution grants cities and counties the authority to make and enforce, within their borders, "all local police, sanitary, and other ordinances and regulations not in conflict with the general laws." This inherent local police power includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within the local jurisdiction's borders. The police power, therefore, allows each city and county to determine whether or not a medical cannabis dispensary or other facility that makes medical cannabis available may operate within its borders. This authority has been upheld by City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, and County of Los Angeles v. Hill (2011) 192 Cal.App.4th 861. Nothing in this act shall diminish, erode, or modify that authority.

(f) If a city or county determines that a dispensary or other facility that makes medical cannabis available may operate within its borders, then there is a need for the state to license these dispensaries and other facilities for the purpose of adopting and enforcing protocols for security standards at dispensaries and in the transportation of medical cannabis, as well as health and safety standards to ensure patient safety. This licensing requirement is not intended in any way nor shall it be construed to preempt local ordinances, regulations, or enforcement actions regarding the sale and use of medical cannabis, including, but not limited to, security, signage, lighting, and inspections.

(g) ~~Nothing~~ *To the extent that this act does not conflict with or violate Section 11362.5 of the Health and Safety Code, nothing* in

this act or Article 2 (commencing with Section 11357) or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code is intended to preempt any local ordinance regulating or banning the cultivation, processing, manufacturing, testing, transportation, distribution, provision, donation, or sale of medical cannabis, or to otherwise prevent or limit a city, county, or city and county from adopting or enforcing a zoning ordinance or other law, ordinance, or regulation that bans or regulates the location, operation, or establishment of any individual or other person that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, provides, donates, or sells cannabis.

(h) Nothing in this act is intended to interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or to affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or otherwise complying with state and federal law.

(i) Nothing in this act shall be construed to promote or facilitate the nonmedical, recreational possession, sale, or use of cannabis.

(j) Nothing in this act shall have a diminishing effect on the protections granted to a patient or primary caregiver pursuant to the Compassionate Use Act of 1996.

SEC. 2. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, or recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(5) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 3. Section 2242 of the Business and Professions Code is amended to read:

2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

SEC. 4. Section 2264 of the Business and Professions Code is amended to read:

2264. (a) The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

(b) Employment by, or other agreement with, a mandatory commercial licensee acting pursuant to the Medical Cannabis Regulation and Control Act or a dispensary to provide recommendations for medical cannabis constitutes unprofessional conduct.

SEC. 5. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Cannabis

2525. (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

2525.2. A physician and surgeon shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

SEC. 6. Chapter 3.5 (commencing with Section 19300) is added to Division 8 of the Business and Professions Code, to read:

Chapter 3.5. Medical Cannabis

Article 1. Definitions

19300. For purposes of this chapter, the following definitions shall apply:

(a) "Cannabinoid" means a chemical compound that is unique to and derived from cannabis, also known as phytocannabinoid.

(b) "Cannabis" means all parts of the plant Cannabis sativa L., Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture,

or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. Without limiting the definition, "cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

(c) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.

(d) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(e) "Certified testing laboratory" means a laboratory that is certified by the State Department of Public Health to perform random sample testing of medical cannabis pursuant to the certification standards for these facilities promulgated by the department.

(f) "Commercial cannabis activity" means any cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or cannabis product, or any technology platform that enables qualified patients or primary caregivers to arrange for or facilitate any of the above-described functions with a third party, except as set forth in Section 19316.

(g) "Cultivation" means any activity involving the planting, growing, harvesting, drying, processing, or trimming of cannabis.

(h) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary to a primary caregiver or qualified patient, as defined in Section 11362.7 of the Health and Safety Code.

(i) "Delivery service" means a person issued a state license by the State Board of Equalization pursuant to this chapter and a local license or permit, to deliver medical cannabis or medical cannabis products, up to an amount determined by the department, to patients, testing laboratories, or to events or locations where it will be used solely for promotional purposes. A delivery service shall not be required to obtain a transporter license.

(j) "Director" means the director of the Office of Medical Cannabis Regulation.

(k) "Dispensary" means a physical retail establishment operating from a fixed location, including mobile deliveries *that are expressly authorized by local ordinance* originating from the location, that makes retail sales of medical cannabis or medical cannabis products.

(*l*) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(m) "Distribution" means the first sale of cannabis in this state. Distribution does not include the sale of cannabis from a cultivator to a distributor.

(n) "Distributor" means a person who is engaged in the business of purchasing medical cannabis in this state from a licensed cultivator and who then distributes the medical cannabis to a manufacturer or dispensary.

(o) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(p) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum.

(q) "Fund" means the Medical Cannabis Regulation Fund established pursuant to Section 19361.

(r) "Identification program" means the universal identification certificate program for licensees.

(s) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(t) "Licensed cultivation site" means a person that plants, grows, cultivates, harvests, dries, or processes medical cannabis, or that does all or any combination of those activities, and that is issued a state license pursuant to this chapter and a local license or permit.

(u) "Licensed dispensing facility" means a person that provides medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products, either individually or in any combination, that is issued a state license pursuant to this chapter and a local license or permit.

(v) "Licensed manufacturer" means a person that conducts the production, preparation, propagation, compounding, or processing of medical cannabis or medical cannabis products, either directly or indirectly or by extraction processes, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes a location that packages or repackages medical cannabis or medical cannabis products or labeling or relabeling of its container, and that has been issued both a local license or permit and a state license pursuant to this chapter.

(w) "Licensed transporter" means a person issued a state license by the Board of Equalization to transport medical cannabis or medical cannabis products above a limit determined by the board between facilities that have been issued a state license or to dispensing facilities in the City of Los Angeles pursuant to this chapter.

(x) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(y) "Licensing authority" means the state agency responsible for granting and renewing state licenses and regulating the relevant licensees. For licensed cultivators, the licensing authority is the Division of Medical Cannabis Cultivation in the Department of Food and Agriculture. For dispensaries and transporters, the licensing authority is the Division of Medical Cannabis Regulation within the State Board of Equalization. For licensed manufacturers and certified testing laboratories, the licensing authority is the Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health.

(z) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(aa) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(ab) "Manufacturing site" means a location that produces, prepares, propagates, compounds, or processes medical cannabis or medical cannabis products, directly or indirectly, by extraction processes, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities pursuant to this chapter.

(ac) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).

(ad) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ae) "Office" means the Governor's Office of Medical Cannabis Regulation.

(af) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(ag) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ah) "State license " or "license" means a state license issued pursuant to this chapter.

(ai) "Topical cannabis" means a product intended for external use.

(aj) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, or to dispensing facilities in the City of Los Angeles, for

the purposes of conducting commercial cannabis activity authorized by licensees pursuant to this chapter.

Article 2. Administration

19301. This chapter shall be known, and may be cited, as the Medical Cannabis Regulation and Control Act.

19302. (a) There is hereby created within the office of the Governor, the Governor's Office of Medical Cannabis Regulation, under the supervision and control of the Director of the Office of Medical Cannabis Regulation, who shall be appointed by the Governor, subject to Senate confirmation. The Governor shall appoint the director at a salary to be fixed and determined by the director with the approval of the Director of Finance.

(b) The director shall be the appointing power of all employees within the office, and all heads of divisions, bureaus, and other employees in the office shall be responsible to the director for the proper carrying out of the duties and responsibilities of their respective positions.

(c) In developing a regulatory framework pursuant to this chapter, the director shall consult with state agencies possessing expertise in licensure and enforcement, including, but not limited to, the Department of Alcoholic Beverage Control and the Department of Consumer Affairs.

(d) The office shall have overall executive authority and responsibility for implementation of all aspects of cannabis regulation pursuant to this chapter.

(e) The office shall coordinate and provide oversight of all activities described in this chapter. The office shall lead all state and local authorities regarding the tracking of medical cannabis, medical cannabis products, and licensees pursuant to this chapter. All departments and divisions specified in Section 19304 shall report directly to the office. Any information technology systems created to store and process data related to commercial cannabis licensing shall be integrated, and all licensing data shall be immediately available to each licensing authority and to the office.

19303. The office shall maintain a registry of all permit holders and shall maintain a record of all state licenses and commercial cannabis activity of the permit holder throughout the length of licensure and for a minimum of seven years following the

expiration of each license. The office shall make limited licensee information available to a licensee so that it may verify whether it is engaging in commercial cannabis activities with a properly licensed entity.

19304. ~~(a)~~ The following entities shall report to and be directly accountable to the office for their respective designated responsibilities within the regulatory and enforcement framework, as follows:

~~(1)~~

(a) The Division of Medical Cannabis Regulation, which is established within the State Board of Equalization, shall do all of the following:

~~(A)~~

(1) Be administered by a person who is ~~appointed~~ *hired* by the ~~Governor, subject to Senate confirmation.~~ *State Board of Equalization, and who shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).*

~~(B)~~

(2) Administer this chapter, as it pertains to commercial cannabis activity relating to dispensaries and transporters.

~~(2)~~

(b) The Division of Medical Cannabis Manufacturing and Testing, which is established within the State Department of Public Health, shall do all of the following:

~~(A)~~

(1) Be administered by a person who is appointed by the ~~Governor, subject to Senate confirmation.~~ *State Department of Public Health, and who shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).*

~~(B)~~

(2) Administer this chapter, as it pertains to manufacturing, testing, and certification of testing laboratories for medical cannabis and medical cannabis products.

~~(3)~~

(c) The Division of Medical Cannabis Cultivation, which is established within the Department of Food and Agriculture, shall do all of the following:

~~(A)~~

(1) Be administered by a person who is appointed by the ~~Governor, subject to Senate confirmation.~~ *Department of Food and Agriculture, and who shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).*

~~(B)~~

(2) Administer this chapter as it pertains to cultivation of medical cannabis.

~~(4)~~

(d) The California Environmental Protection Agency and the California Natural Resources Agency shall coordinate and direct the following entities in the discharge of their designated regulatory responsibilities:

~~(A)~~

(1) The State Water Resources Control Board shall promulgate regulations related to discharge into waterways, and diversion therefrom, resulting from cannabis cultivation.

~~(B)~~

(2) The Department of Fish and Wildlife shall promulgate regulations for the protection of any species affected by cultivation activity, and regulations for any cultivation-related development, including alteration of waterways.

(3) The Department of Pesticide Regulation shall promulgate regulations consistent with Division 6 (commencing with Section 11401) of the Food and Agricultural Code.

~~(5)~~

(e) The Department of Justice shall conduct the following activities:

~~(A)~~

(1) Perform criminal background checks of applicants for licensure.

~~(B)~~

(2) Develop uniform security standards for dispensaries and all phases of transport covered by this chapter.

~~(C)~~

(3) Provide supplemental enforcement on an as-needed basis at the request of the office.

19305. (a) The office and licensing authorities shall have the authority necessary for the implementation of this chapter, including, but not limited to, all of the following:

(1) Establishing rules or regulations necessary to carry out the purposes and intent of this chapter and to enable the office and licensing authorities to exercise the powers and perform the duties conferred by this chapter and in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These rules and regulations shall not limit the authority of a city, county, or city and county specified in Article 3 (commencing with Section 19307), or specified in Section 7 of Article XI of the California Constitution, or any other law. For the performance of its duties, the office has the powers set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. The office shall review all regulations and guidance promulgated by licensing authorities in the administration of this chapter to ensure no duplication, overlap, or inconsistent regulations occur between licensing authorities.

(2) Prescribing, adopting, and enforcing emergency regulations as necessary to implement this chapter. Emergency regulations prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(3) Issuing state licenses to persons for the cultivation, distribution, manufacture, transportation, and retail sale of medical cannabis within the state.

(4) Setting application, licensing, and renewal fees for state licenses issued pursuant to this chapter.

(5) Establishing standards for commercial cannabis activity.

(6) Establishing procedures for the issuance, renewal, suspension, denial, and revocation of state licenses.

(7) Imposing a penalty authorized by this chapter or any rule or regulation adopted pursuant to this chapter.

(8) Taking action with respect to an application for a state license in accordance with procedures established pursuant to this chapter.

(9) Overseeing the operation of the Medical Cannabis Regulation Fund, established pursuant to Section 19361.

(10) Consulting with other state or local agencies, departments, representatives of the medical cannabis community, or public or private entities for the purposes of establishing statewide standards and regulations.

(b) Protection of the public's health and safety shall be the highest priority for the office and the licensing authorities in exercising the licensing, regulatory, and disciplinary functions pursuant to this chapter. Whenever the protection of the public's health and safety is inconsistent with other interests sought to be promoted, the protection of the public's health and safety shall be paramount.

19306. (a) The office, by April 1, 2016, shall convene a task force, which shall advise the office on the development of standards pursuant to this chapter. The task force shall be responsible for recommending to the office the appropriate roles of each state entity as it pertains to this chapter, and shall recommend guidelines on communication and information sharing between state entities, and with local agencies, for implementation of this chapter. Notwithstanding Section 10231.5 of the Government Code, the task force shall submit a report on these standards, determinations, and guidelines for implementation of this chapter to the Legislature and state entities affected by this chapter by August 1, 2016. The report submitted to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

(b) The task force shall be comprised of 15 members, each of whom shall ~~serve~~ *be appointed to* a two-year term, as follows:

(1) Four members to be appointed by the Governor, as follows:

(A) A member representing counties.

(B) A member representing cities.

(C) A member representing local law enforcement.

(D) A member representing state law enforcement.

(2) Three members to be appointed by the *Speaker of the* Assembly, as follows:

(A) A member representing labor.

(B) A member representing the medical cannabis industry.

(C) A member with public health expertise.

(3) Three members to be appointed by the ~~Senate,~~ *Senate Committee on Rules,* as follows:

(A) A member representing qualified medical cannabis patients and caregivers.

(B) A member with environmental expertise.

(C) A member representing physicians. This member shall have a minimum of two years experience recommending medical cannabis to qualified patients.

(4) The director or chief of each of the following state agencies, or his or her designee:

(A) The Department of Food and Agriculture.

(B) State Department of Public Health.

(C) State Board of Equalization.

(D) Department of Justice.

(E) Department of the California Highway Patrol.

(c) Task force members shall serve on a voluntary basis and shall be responsible for costs associated with their participation in the task force. The licensing authorities shall not be responsible for travel costs incurred by task force members or otherwise compensating task force members for costs associated with their participation in the task force.

(d) Each member shall only have one vote in determinations of the task force.

19306.5. (a) The task force established in Section 19306 shall work with representatives of medical cannabis patient groups and physicians and shall, on or before July 1, 2016, establish best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. These best practices and guidelines shall be sent in a report to the Legislature and to all local authorities that have implemented local ordinances that ban exempt individuals of this chapter from engaging in cultivation or possession of medical cannabis or medical cannabis products within their jurisdictions.

(b) The report shall be submitted in compliance with Section 9795 of the Government Code.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

Article 3. Enforcement and Local Control

19307. (a) Each licensing authority shall work in conjunction with local agencies for the purposes of implementing, administering, and enforcing this chapter, and any regulations adopted pursuant to this chapter and taking appropriate action against licensees and others who fail to comply with this chapter or the regulations adopted pursuant to this chapter.

~~(b) Except for persons employed by the State Board of Equalization, the director and the persons employed by the licensing authorities for the administration and enforcement of this chapter are, for purposes of this chapter, peace officers in the enforcement of the penal provisions of this chapter, the regulations adopted pursuant to this chapter, and any other penal provisions of law prohibiting or regulating the cultivation, processing, storing, manufacturing, testing, transporting, or selling of medical cannabis. These persons may, while acting as peace officers, enforce any penal provisions of state law applicable to this chapter while in the course of their employment.~~

~~(c) The regulatory directors, persons employed by the licensing authorities for the administration and enforcement of this chapter, peace officers listed in Section 830.1 of the Penal Code, persons listed in Section 830.11 of the Penal Code, and officers listed in Section 830.6 of the Penal Code, while acting in the course and scope of their employment as peace officers,~~

(b) Peace officers may, in enforcing this chapter, visit and inspect the premises of a licensee pursuant to subdivision (f) of Section 19326.

~~(d)~~

(c) Peace officers of the Department of the California Highway Patrol, members of the University of California and California State University police departments, and peace officers of the Department of Parks and Recreation, as defined in subdivisions (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in enforcing this chapter, visit and inspect the premises of a licensee pursuant to subdivision (f) of Section 19326.

19308. (a) By January 1, 2017, the office shall, in consultation with local governments, develop an enforcement framework that clarifies the enforcement roles of the state and local governments

consistent with this chapter. Local agencies are authorized to enforce any state statutory or regulatory standard.

(b) A state agency is not required by this section to enforce a city, county, city and county, or local law, ordinance, rule, or regulation regarding the site or operation of a facility or transporter issued a state license.

19309. (a) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the rules, regulations, and standards promulgated by the office. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(b) For licensed facilities located within the unincorporated area of a county, the county shall have full power and authority to enforce this chapter and the rules, regulations, and standards promulgated by the office.

(c) ~~All standards and regulations promulgated pursuant to this chapter shall be the minimum standards and regulations for obtaining and maintaining a state license.~~ State agencies shall collaborate with local agencies to enforce state standards and regulations to the extent that it is within the scope of other statutory responsibilities of local agencies and to the extent that resources for this enforcement are available *and appropriated by the local governing body* to the local agencies. ~~This section shall not limit any other state or local requirements.~~

(d) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. For all conflicts between the state and local standards, requirements, and regulations regarding health and safety, testing, security, and worker protections, the state shall preempt local ordinances.

(e) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of

a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

19310. (a) The director of a licensing authority or a district attorney, county counsel, city attorney, or city prosecutor may bring an action in the name of the people of the State of California to enjoin a violation or the threatened violation of any provision of this chapter, including, but not limited to, a licensee's failure to correct objectionable conditions following notice or as a result of a rule promulgated pursuant to this chapter, and to assess and recover civil penalties in accordance with this chapter. The action shall be brought in the county in which the violation occurred or is threatened to occur. A proceeding for injunctive relief brought pursuant to this chapter shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) A state or local agency shall immediately notify the office and the appropriate licensing authority of violations or arrests made for violations over which the licensing authority has jurisdiction that involve a licensee or licensed premises. Notice shall be given within 10 days of the violation or arrest. The office or licensing authority shall promptly investigate as to whether grounds exist for suspension or revocation of the state license.

(c) This chapter shall not be construed to limit a state or local agency's ability to investigate unlawful activity in relation to a state license.

(d) Nothing in this chapter shall prevent a city or other local governing body from taking action as specified in Section 19315 of this code or Section 11362.83 of the Health and Safety Code.

(e) The office shall establish procedures to provide any relevant state and local agencies, including all licensing authorities, upon their request, with 24-hour access to information to verify a state license, track transportation manifests, and track the inventories of facilities issued a state license. This record shall allow state and local law enforcement, agencies, and licensing entities to verify a state license and provide summary information on licensees consisting of the name of the licensee, the date the license was issued, the status of the license, and the licensee's mailing address.

19312. (a) This chapter shall in no way supersede the provisions of Measure D, approved by the voters of the City of

Los Angeles on the May 21, 2013, ballot for the city, which provides potential limited immunity to medical cannabis businesses as defined by Measure D consistent with the terms of the measure and local ordinances. Notwithstanding the provisions of this part, cannabis businesses within the City of Los Angeles shall continue to be subject to Measure D and any and all other applicable ordinances and regulations of the City of Los Angeles.

(b) It is the intent of the Legislature to recognize the unique circumstances of the City of Los Angeles with respect to Measure D and associated rules related to commercial cannabis activity. In light of these unique circumstances, the provisions of Sections 19319 and 19338 shall apply in the City of Los Angeles.

(c) The State Board of Equalization shall enter into a memorandum of understanding with the City of Los Angeles to establish protocols for the following:

(1) Tracking businesses granted immunity pursuant to Measure D, as approved by the voters of the City of Los Angeles at the May 21, 2013, general election.

(2) Tracking medical cannabis and medical cannabis products to and from the City of Los Angeles.

(3) Allowing for the legal transfer of medical cannabis and medical cannabis products from outside the jurisdiction of the City of Los Angeles to within the city by licensees conducting commercial cannabis activities outside of the city.

19313. (a) The actions of a licensee or provisional licensee, its employees, and its agents, that are permitted pursuant to both a state license or provisional license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and that are conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith and upon investigation, allows his or her property to be used by a licensee or provisional licensee, its employees, and its agents, as permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be

an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(c) Conduct that is within the scope of a license issued pursuant to this chapter and permitted by local ordinance but not fully in compliance with this chapter shall be subject to the enforcement provisions of this chapter and shall not be subject to the penal provisions of state law generally prohibiting cannabis-related activity, unless and until the license is revoked.

(d) This section shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, without limitation, Section 7 of Article XI of the California Constitution.

19314. (a) A person engaging in commercial cannabis activity without a license required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the office, licensing authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19361. A day of operation is defined to mean any period of time within a 24-hour period. This section shall not apply to unlicensed facilities in the City of Los Angeles.

(b) If an action for civil penalties is brought by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city in which the judgment was entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in commercial cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

19315. (a) ~~This~~ *To the extent that this chapter does not interfere with or violate Section 11362.5 of the Health and Safety Code, this* chapter does not, nor do Article 2 (commencing with

Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, prevent a city, county, or city and county from doing any of the following:

(1) Adopting local ordinances, whether consistent or inconsistent with this chapter, that do the following:

(A) Regulate the location, operation, or establishment of a licensee or a person that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, or sells medical cannabis.

(B) Prohibit *commercial* cannabis activity within their jurisdiction.

(2) Providing for the administrative, civil, or criminal enforcement of the ordinances described in paragraph (1).

(3) Establishing a fee for the operation within its jurisdiction of any of the following:

(A) A licensee.

(B) Another person that cultivates, processes, possesses, stores, manufactures, tests, transports, distributes, or sells medical cannabis or medical cannabis products.

(C) A person exempt from licensure pursuant to this chapter.

(4) Enacting and enforcing other laws or ordinances pursuant to the authority granted by Section 7 of Article XI of the California Constitution.

(b) ~~Nothing~~ *To the extent that this chapter does not interfere with or violate Section 11362.5 of the Health and Safety Code, nothing* in this chapter or in Article 2 (commencing with Section 11357) or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, shall prevent a city, county, or city and county from adopting or enforcing a zoning ordinance or other law, ordinance, or regulation that bans or regulates the location, operation, or establishment of a licensee or other person that engages in *commercial* cannabis activity.

Article 4. Licensure

19316. (a) This chapter shall not apply to, and shall have no diminishing effect on the protections granted to, a patient or a primary caregiver pursuant to the Compassionate Use Act of 1996.

(b) (1) A qualified patient who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not, thereby, engaged in commercial cannabis activity and is, therefore, exempt from the licensure requirements of this chapter.

(2) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code is not engaged in commercial cannabis activity and is, therefore, exempt from the licensure requirements of this chapter.

(c) ~~Exemption~~ *To the extent that this chapter does not interfere with or violate Section 11362.5 of the Health and Safety Code, exemption* from the license requirements of this chapter shall not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

19317. ~~The~~ *To the extent that this chapter does not interfere with or violate Section 11362.5 of the Health and Safety Code, the* state shall have the right and authority to conduct state licensure activities and to regulate commercial cannabis activity pursuant to this chapter. Local governments have the right and authority to regulate *commercial* cannabis activity within their jurisdiction, including granting or refusing to grant permits pursuant to local ordinances. In the exercise of these rights and powers, the state and each of its agencies, and all local agencies, are hereby deemed not to be engaged in activities requiring licensure under this chapter.

19318. (a) Licensing authorities may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Except as specified in Section ~~19318.1,~~ *19318.5,* beginning January 1, 2018, no person shall engage in commercial cannabis activity without possessing *both* a state license and a local ~~permit.~~ *permit, license, or other authorization.*

For purposes of this section, "state license" includes a provisional license issued pursuant to Article 6 (commencing with Section 19330).

(b) Local permits shall be determined by local ordinances. Licensing authorities issuing state licenses shall have sole authority to revoke a state license. Local agencies issuing local permits shall have sole authority to revoke a local permit.

(c) Each applicant for a state license shall provide notice to every affected local jurisdiction at the same time the state application is filed. The office shall confirm with the applicant a list of each affected local jurisdictions, including those jurisdictions affected by potential deliveries by the applicant.

(d) The issuance of a state license shall not, in and of itself, authorize the recipient to begin business operations. The state license shall certify, at a minimum, that the applicant has paid the state licensing fee, successfully passed a criminal background check, and met state residency requirements.

(e) Even if a state license has been granted pursuant to this chapter, a facility shall not operate in a local jurisdiction that prohibits the establishment of that type of business. A facility shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinances.

(f) If a local government agency notifies the office or a licensing authority and provides evidence that a licensee or applicant within its jurisdiction is in violation of local ordinances relating to *commercial* cannabis activities, the licensing authority shall schedule a hearing to determine whether the evidence is sufficient to constitute grounds for the revocation of the license within 20 working ~~days.~~ *days pursuant to Section 19323.*

(g) Revocation of a state license or local license or permit shall terminate the ability of a medical cannabis business to operate within ~~California.~~ *California until the licensing authority or local jurisdiction reinstates or reissues the state license or local license or permit.*

19318.5. (a) A licensing authority shall not issue a license to an applicant who proposes to operate within the City of Los Angeles, regardless of the activity for which the license is sought.

(b) A medical cannabis business, as defined by Measure D, within the City of Los Angeles shall comply with all standards and regulations applicable to the commercial cannabis activity or activities engaged in by that medical cannabis business with respect to all of the following:

(1) Standards for the production, labeling, and manufacture of medical cannabis and medical cannabis products, in accordance with Article 7 (commencing with Section 19332) and Article 10 (commencing with Section 19342).

(2) Standards regarding the application of pesticides, in accordance with Article 7 (commencing with Section 19332).

(3) Regulations to be promulgated by the State Board of Equalization, in accordance with Article 8 (commencing with Section 19334), governing dispensing facilities and transporters to the extent that those regulations relate to health and safety standards, environmental standards, worker protections, or security requirements.

(4) Security measures regarding transported medical cannabis, in accordance with Section 19337.

(5) Standards to be promulgated by the Division of Medical Cannabis Manufacturing and Testing regarding health and safety, in accordance with Article 10 (commencing with Section 19342).

(c) The City of Los Angeles shall have the full power, authority, and discretion to enforce all standards and regulations required by this section.

19319. (a) A licensing authority shall promulgate regulations for implementation and enforcement of this chapter, including, but not limited to, all of the following:

(1) A description of the various specific forms of commercial cannabis activity to be authorized by the various types of licenses.

(2) Procedures for the issuance, renewal, suspension, denial, and revocation of a state license.

(3) Procedures for appeal of fines and the appeal of denial, suspension, or revocation of a state license.

(4) Application, licensing, and renewal forms and fees. All fees shall be established on a scaled basis, depending on the size or tier of the license.

(5) Time periods, not to exceed 90 days, by which the licensing authority shall approve or deny an application for a state license. The failure of the licensing authority to act upon an application

for licensure within the time prescribed shall not be deemed approval of the application.

(6) Qualifications for licensees.

(7) Security requirements, including, but not limited to, procedures for limiting access to facilities and for the screening of employees. All screening processes shall adhere to guidance and best practices established by the United States Equal Employment Opportunity Commission, including, but not limited to, those on hiring practices relating to the consideration of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act of 1964.

(8) Requirements to ensure that all licensees and certified testing laboratories conform with applicable standards equivalent to state statutory environmental, agricultural, consumer protection, and food and product safety requirements. These standards shall be in addition, and not limited, to any other state and local requirements.

(9) Develop procedures to ensure each licensee holds and maintains a seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(b) Each state license application approved by the respective licensing authority pursuant to this chapter is separate and distinct.

(c) A state license application approved by a licensing authority pursuant to this chapter shall be valid for a period not to exceed one year from the date of approval unless revoked or suspended earlier than that date pursuant to this chapter or the rules or regulations adopted pursuant to this chapter.

(d) Each licensing authority may adopt regulations for additional licenses for cannabis activity within its statutory jurisdiction pursuant to this chapter, as deemed necessary.

(e) Each state license application approved by a licensing authority shall be reported to the office within 24 hours of its approval.

(f) A licensing authority shall not issue a state license unless the applicant has met all of the requirements of this chapter.

(g) The regulations shall not limit the authority of a city, county, or city and county pursuant to Section 7 of Article XI of the California Constitution or any other law. The regulations shall do all of the following:

(1) Establish procedures for approval, renewal, or denial of applications for state licensure for each and every aspect of commercial cannabis activity, including, but not limited to, cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, and sale of cannabis.

(2) Establish applicant qualifications.

(3) Establish state licensee employee qualifications, including, but not limited to, training and screening requirements. All screening processes shall adhere to guidance and best practices established by the United States Equal Employment Opportunity Commission, including, but not limited to, those relating to hiring practices on the consideration of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act of 1964.

(4) Establish state licensee security requirements, including, but not limited to, procedures to limit access to facilities and to prevent diversion of product to nonmedical use.

(5) Establish procedures and protocols for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess product.

(6) Establish advertising, marketing, signage, and labeling requirements and restrictions.

(7) Establish procedures for the suspension, revocation, or surrender of a state license, and establishing related fines and penalties to be assessed against licensees for violations of this chapter.

19320. (a) An applicant for a state license shall do all of the following:

(1) Pay the fee or fees required by this chapter for each state license for which an application is submitted.

(2) Register with the licensing authority on forms prescribed by the licensing authority. The forms shall contain sufficient information to identify the licensee, including all of the following:

(A) Name of the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the applicant.

(B) The name, address, and date of birth of each principal officer and board member.

(C) The address and telephone number of the proposed facility.

(3) Provide a description, in writing, of the scope of business of the proposed facility.

(4) Provide evidence that the applicant and owner have been legal full-time residents of the state for not less than ~~four~~ *three* years. For purposes of this paragraph, "applicant" means the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(5) Provide detailed operating procedures, in writing, for the proposed facility, which shall include, but not be limited to, procedures for facility and operational security, prevention of diversion, employee screening, storage of medical cannabis, personnel policies, and recordkeeping procedures. All screening processes shall adhere to guidance and best practices established by the United States Equal Employment Opportunity Commission, including, but not limited to, those relating to hiring practices on the consideration of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act of 1964.

(6) Submit the applicant's fingerprint images as follows:

(A) For purposes of this paragraph, "applicant" means the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility. If the owner is an entity, fingerprints shall be submitted for each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(B) The applicant shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(C) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(D) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

(E) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(7) Provide documentation issued by the local jurisdiction in which the proposed business is operating or will operate certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(8) Provide evidence of the legal right to occupy and use an established location.

(9) If the proposed facility is a cultivator or a dispensary, provide evidence that the proposed facility is located beyond at least a 600 foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.

(10) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is true.

(11) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(D) Provide the applicant's seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, or indicate that the applicant is currently applying for a seller's permit.

(12) Provide any other information required by the licensing authority.

(13) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section

1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(14) For an applicant seeking a cultivator, distributor, or dispensary license, provide a notarized statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, or dispensing commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, or dispensary activities to be conducted on the property by the tenant applicant.

(b) Each location and each discrete use of a single location shall require a separate state license. Each application for a state license is separate and distinct, and the licensing authority may charge a separate fee for each.

(c) For applicants seeking a state license to cultivate, distribute, or manufacture, the application shall also include a detailed description of the operating procedures for all of the following, as applicable:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) Inventory procedures.

(5) Quality control procedures.

19321. (a) Upon receipt of an application for licensure and the applicable fee, each licensing authority shall make a thorough investigation to determine whether the applicant and the premises for which a state license is applied qualify for the state license and whether this chapter has been complied with, and shall investigate all matters connected therewith that may affect the public welfare and morals.

(b) A licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(c) A licensing authority may place reasonable conditions upon licensure if grounds exist for denial of the state license, and the licensing authority finds those grounds may be removed by the imposition of those conditions. However, the limitations set forth in paragraphs ~~(15)~~ *(6), (15),* and (18) of subdivision (d) shall not be waived.

(d) Each licensing authority ~~may~~ *shall* deny the application for licensure or renewal, or suspend or revoke a state license, if any of the following conditions apply:

(1) An entity making or authorizing in any manner or by any means a written or oral statement that is untrue or misleading and that is known, or that by exercise of reasonable care should be known, to be untrue or misleading.

(2) Conduct that constitutes fraud.

(3) Conduct constituting gross negligence.

(4) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.

(5) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(6) Local agencies have notified the licensing authority or the office and provided evidence that a licensee or applicant within its jurisdiction is in violation of local ordinances relating to medical cannabis activities.

(7) The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter or any applicable city, county, or city and county ordinance or regulation. If a local government adopts an ordinance or resolution authorizing medical cannabis to be cultivated, manufactured, stored, distributed, or sold within its jurisdiction, it may submit to the office documentation detailing their renewal requirements. Failure to submit an ordinance or resolution to the office shall not impair the enforceability of the ordinance or resolution. Ordinances or resolutions that are not submitted pursuant to this subdivision shall not be considered in denial of licensure pursuant to this chapter.

(8) Granting or continuation of a state license would be contrary to the public's safety.

(9) The applicant holding or seeking a state license has been convicted of a misdemeanor involving moral turpitude, excluding misdemeanors involving marijuana.

(10) The application has failed to state with sufficient specificity the jurisdiction and location at which the applicant proposes to establish operations.

(11) The applicant, or any of its officers, directors, or owners, is under 21 years of age.

(12) The applicant fails to provide notarized written proof that the owner of real property or landlord has acknowledged and consented to its tenant's proposed cultivation or dispensing of medical cannabis or medical cannabis products.

(13) The applicant has failed to provide information requested.

(14) The applicant, or any of its officers, directors, or owners, has been convicted of a felony criminal conviction for the possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, including a narcotic drug classified in Schedule II, III, IV, or V, but excluding marijuana, for drug trafficking involving a minor, felonies subject to enhancements Section 11370.4 or 11379.8 of the Health and Safety Code, a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code, a serious felony as specified in subdivision (c) of Section 1192.7 of the Penal Code, a felony offense involving fraud or deceit, or any other felony that, in the licensing authority's determination, would impair the applicant's ability to appropriately operate as a state licensee. The licensing authority may, at its discretion, issue a state license to an applicant that has obtained a certificate of rehabilitation pursuant to Section 4852.13 of the Penal Code. *It is the intent of the Legislature to further determine the suitability of applicants for licensure with prior felonies specific to cannabis.*

(15) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis.

(16) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority, the office, or a city, county, or a city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the previous three years.

(17) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalty for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 of the Fish and Game Code.

(18) The proposed commercial medical cannabis activity will violate any applicable local law or ordinance.

(19) The applicant has had 20 employees or more in the past year and failed to enter into a labor peace agreement.

(20) The applicant or the owner is unable to establish that he or she has been a resident of the state for not less than ~~four~~ *three* years.

(21) Failure to obtain and maintain a valid seller's permit requires pursuant to Part 1 (commencing with Section 6001) of the Revenue and Taxation Code.

(e) Applicants shall be notified of a denied application in writing via personal service or mail addressed to the address of the applicant or licensee set forth in the application. The denial letter shall contain the detailed reasons for which the application was denied. The applicant shall have the right to appeal the denial and be given a hearing within 30 days of the appeal. On appeal, the decision shall be upheld unless the applicant demonstrates that the applicant is in fact eligible for licensure and the application is in compliance with this chapter.

19322. (a) A licensing authority may refuse to issue, reinstate, or renew a state license, or may suspend a state license for failure of a licensee to resolve all outstanding final liabilities, including, but not limited to, taxes, additions to tax, penalties, interest, and fees that have been assessed by the State Board of Equalization.

(1) Until the final liabilities covered by this section are satisfied, a person named on a state license that has been suspended pursuant to this section shall be prohibited from serving in any capacity that is subject to licensure pursuant to this chapter, but may act as a nonsupervising employee.

(2) All state licenses issued with the same personnel of record that have been assessed an outstanding liability covered by this section shall be suspended until the debt has been satisfied or until the indebted personnel of record disassociate themselves from the licensee.

(b) The refusal to issue a state license or the suspension of a state license as provided by this section shall occur only if the licensing authority has mailed a notice, prior to the refusal or suspension, that indicates that the state license will be refused or suspended by a date certain. This preliminary notice shall be mailed to the licensee at least 60 days before the date certain.

(c) This section shall not apply to any outstanding final liability if the licensee has entered into an installment payment agreement for that liability with the State Board of Equalization and is in compliance with the terms of that agreement.

19323. (a) Provided the applicant has not committed an act or crime constituting grounds for the denial of licensure under Section 19321, a licensing authority may issue a state license and send a proof of issuance to the applicant.

(b) A licensing authority shall, by regulation, prescribe conditions upon which a person whose state license has previously been denied, suspended, or revoked, may be issued a state license.

19324. The office may adopt regulations to limit the number of state licenses issued pursuant to this chapter upon a finding that the otherwise unrestricted issuance of state licenses is dangerous to the public's health and safety.

Article 5. Regulation of Medical Cannabis

19325. (a) Except as provided in Section 11362.5 of the Health and Safety Code and Section 19316, a person shall not sell, distribute, provide, or donate medical cannabis or medical cannabis products to a patient or caregiver other than at a licensed dispensing facility or through delivery from a licensed dispensing facility.

(b) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code and Section 19316, a person shall not cultivate medical cannabis other than at a licensed cultivation site.

(c) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code and Section 19316, a person other than a licensed manufacturer shall not manufacture or process medical cannabis or medical cannabis products.

(d) A person other than a licensed transporter shall not transport medical cannabis from one facility issued a state license to another, unless otherwise specified in this chapter.

(e) All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a licensed processor for processing and testing prior to retail or sale of medical cannabis or medical cannabis products or to a dispensary, qualified patient, or caregiver, according to the allowances by their license. Those licensees holding a Type 10A license in addition to a cultivation license shall send all medical cannabis to a licensed processor prior to

dispensing any product. Medical cannabis and medical cannabis products shall not be returned to a cultivation or manufacturing licensee unless that licensee is also a licensed dispensary. The licensing authority shall fine a licensee who violates this subdivision in an amount determined by the licensing authority to be reasonable.

(f) (1) Upon receipt of medical cannabis or medical cannabis products by a holder of a cultivation or manufacturing license, the Type 11 licensee shall first inspect the product to ensure the identity and quantity of the product and then send the medical cannabis or medical cannabis product to be tested by a Type 8 licensee.

(2) Upon certification by the Type 8 licensee that the product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall be processed by a certified processor prior to retail or dispensing to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state. Licensed processors shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use a unique identifier, such as a batch and lot number or bar code, to identify and track the medical cannabis or medical cannabis products. All packaging and sealing shall be completed prior to any medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.

(g) Medical cannabis and medical cannabis products shall be tested by a certified testing laboratory, prior to retail sale or dispensing, as follows:

(1) Medical cannabis from dried flower shall, at a minimum, be tested for potency, pesticides, mold, *rodenticide*, and other contaminants.

(2) Medical cannabis extracts shall, at a minimum, be tested for potency and purity of the product.

(3) This chapter shall not prohibit a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Division of Medical Cannabis Manufacturing and Testing.

(h) For purposes of this section, “license” includes a provisional license issued pursuant to Section 19330.

(i) This section shall become operative on July 1, 2017.

19326. (a) A licensee shall not cultivate, process, store, manufacture, transport, or sell medical cannabis in the state unless accurate records are kept at the licensed premises of the growing, processing, storing, manufacturing, transporting, or selling by the licensee.

(b) A licensee shall keep, at the licensed premises, accurate records of the specific commercial cannabis activity conducted by the licensee. The records shall include, at a minimum, all of the following for each batch of product:

(1) The name and address of the supplier.

(2) The dates on which the product was received.

(3) The amounts, form, and batch and lot number.

(4) The location of the cultivation site.

(5) The name of the employee who received the product.

(6) Records demonstrating compliance by the licensee with state and federal rules and regulations regarding reporting and taxation of income received.

(7) Receipts for all expenditures incurred by the licensee and banking records, if any, for all funds obtained or expended in the performance of any activity under the authority of the state license.

(c) Records shall be kept for a minimum of seven years following approval of a state license.

(d) The office, the local enforcement agency designated in accordance with Section 19309, and any other appropriate state or local agency may examine the books and records of a state licensee and may visit and inspect the premises of a state licensee, as the office or state or local agency deems necessary to perform its duties under this chapter. All inspections shall be conducted during standard business hours of the licensed facility. *Licensees or employees or representatives of licensees are prohibited from refusing, impeding, or interfering with an inspection pursuant to this chapter or local ordinance. A violation shall be a misdemeanor punishable by up to one year in county jail and a fine up to five thousand dollars ($5,000) or by civil penalties of up to five thousand dollars ($5,000).*

(e) Books or records requested by the office or an appropriate state or local agency shall be provided by the licensee no later than five business days after the request is made.

(f) The office, the local enforcement agency designated pursuant to Section 19309, or any other state or local agency may enter and inspect the premises of a facility issued a state license between the hours of 8 a.m. and 8 p.m. on any day that the facility is open, or at any reasonable time, to ensure compliance and enforcement of the provisions of this chapter or a local ordinance.

(g) If a licensee or an employee of a licensee refuses, impedes, obstructs, or interferes with an inspection pursuant to this section, the state license may be summarily suspended and the licensing authority shall directly commence proceedings for the revocation of the state license.

(h) If a licensee or an employee of a licensee fails to maintain or provide the books and records required pursuant to this section, the licensee shall be subject to a civil fine of fifteen thousand dollars ($15,000) per individual violation.

(i) All cultivator, distributor, and dispensing licensees shall be subject to inspection, as specified by the licensing authority, in order to ensure compliance with this chapter, including, but not limited to, maintaining proper documentation at each site or facility.

19327. (a) A licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 2, and 2A licensees, or a combination thereof, may apply for a Type 6 or 7 state license, or a combination thereof.

(2) Type 6 and 7 licensees, or a combination thereof, may apply for a Type 1, 1A, 2, 2A state license, or a combination thereof.

(3) Type 6 and 7 licensees, or a combination thereof, may apply for a Type 10A state license.

(4) Type 10A licensees may apply for a Type 6 and 7 state license, or a combination thereof.

(5) Type 1, 1A, 2, 2A licensees, or a combination thereof, may apply for a Type 10A state license.

(6) Type 10A licensees, may apply for Type 1, 1A, 2, 2A state license, or a combination thereof.

(b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated or used in any other license category.

(c) A licensee conducting commercial cannabis activity in a jurisdiction that, prior to January 1, 2016, imposed a local ordinance requiring a qualified businesses or individuals to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single licensee, may maintain their current categories of licensure.

19327.2. A licensee ~~with a Type 10 or Type 10A state license~~ shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000).

19328. Each licensing authority shall make recommendations to the Legislature pertaining to the establishment of an appeals and judicial review process for persons aggrieved by a final decision of the licensing authority.

19329. This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Article 6. Provisional Licensing

19330. (a) Each licensing authority shall, as soon as practicable following January 1, 2016, allow a qualified applicant for licensure to apply for, receive, and renew a provisional license to engage in commercial cannabis activity so as to ensure an adequate supply of medical cannabis upon full implementation of this chapter. The provisional license shall have a scheduled expiration date, as determined by the licensing authority.

(b) Each licensing authority shall establish appropriate fees not to exceed the reasonable regulatory costs to the licensing authority for the issuance and renewal of a provisional license under its jurisdiction.

(c) Each licensing authority shall, if the applicant meets all the requirements in this section, issue a provisional license to

individuals and entities that the licensing authority determines were, during the three months prior to March 1, 2016, regularly cultivating, processing, manufacturing, transporting, or distributing medical cannabis collectively or cooperatively in full compliance with any applicable local ordinance, and to continue to do so until the licensee's application for a state license has been approved or denied under this chapter, but no later than 90 days after the licensing authority begins accepting applications for regular state licenses. The licensing authority may consult with relevant local agencies in making a determination on whether a provisional license applicant is in compliance with applicable ordinances. Priority for provisional licensure shall be given to those businesses in compliance with local ordinances prior to September 1, 2015.

(d) To qualify for a provisional license, an applicant shall disclose to the appropriate licensing authority all of the following information in writing:

(1) The names, addresses, and dates of birth of each principal officer, owner, or board member.

(2) The common street address and assessor's parcel number of the property at which the licensee conducts activity under the authority of the license.

(3) The common street address and assessor's parcel number of the property at which cultivation activity was or is to be conducted.

(4) For the three months prior to March 1, 2016, the quantity of cannabis cultivated, processed, manufactured, tested, transported, or sold at a location, and the quantity expected to be cultivated, processed, manufactured, tested, transported, or sold from March 1, 2016, to September 1, 2016, inclusive. The licensee shall make its records of current activity, and activity for the three months prior to March 1, 2016, available to the licensing authority upon request.

(5) For an applicant seeking a license to cultivate, distribute, or dispense medical cannabis, a notarized statement from the owner of real property or landlord where the licensed activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit the proposed activities to be conducted on the property by the tenant applicant.

(e) Upon receipt of the application materials and fee, if the applicant meets all the requirements of this section and if the

applicant has not committed any act or crime constituting grounds for the denial of licensure, the licensing authority shall issue or renew a provisional license and send a proof of issuance or renewal to the applicant.

(f) Notwithstanding any other provision of this section, a licensing authority shall not issue or renew a provisional license to an individual or entity, or for a premises, against whom there are pending state or local administrative or judicial proceedings or actions initiated by a city, county, or city and county under an applicable local ordinance, or who has been determined through those proceedings to have violated a local ordinance related to cannabis activity, or that knowingly provides false or fraudulent information on an application for licensure.

(g) A provisional licensee shall comply with all standards and requirements applicable to a licensee under this chapter, including, but not limited to, the production, recordkeeping, security, and transportation requirements and standards.

(h) Beginning July 1, 2017, all commercial cannabis activity shall be conducted between licensees of commercial cannabis activity. If the licensing authority has not promulgated its respective regulations by that date, the licensing authority shall provide an extension for all provisional licenses for applicants abiding by the provisions of this chapter.

(i) A provisional license issued pursuant to this section shall automatically terminate upon a licensing agency's issuance of a regular state license.

Article 7. Licensed Cultivation Sites

19332. (a) The Division of Medical Cannabis Cultivation in the Department of Food and Agriculture shall promulgate regulations governing the licensing of cultivation sites. For purposes of this chapter, the Secretary of the Department of Food and Agriculture shall declare medical cannabis to be an agricultural product. The ~~department shall~~ *division shall, in consultation with the State Department of Public Health and the Department of Pesticide Regulation,* develop standards for the production and labeling of all edible medical cannabis products, standards for the use of pesticides and rodenticides in cultivation, ~~and, in consultation with the State Department of Public Health,~~ *and*

maximum tolerances for pesticides, rodenticides, and other foreign object residue in harvested cannabis.

(b) The Department of Food and Agriculture shall have the authority necessary for the implementation of this chapter. Department regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

~~(2) Require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis shall meet standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.~~

~~(3)~~

(2) Require that indoor and outdoor cannabis cultivation by licensees is conducted in accordance with state and local laws and best practices related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters.

(c) The Department of Pesticide Regulation shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

~~(c)~~

(d) State licenses to be issued by the Division of Medical Cannabis Cultivation are as follows:

(1) Type 1, or "specialty outdoor," for outdoor cultivation of less than 5,000 square feet of total canopy size on one premises.

(2) Type 1A, or "specialty indoor," for indoor cultivation of less than 5,000 square feet of total canopy size on one premises.

(3) Type 2, or "small outdoor," for outdoor cultivation between 5,001 and 10,000 square feet of total canopy size on one premises.

(4) Type 2A, or "small indoor," for indoor cultivation between 5,001 and 10,000 square feet of total canopy size on one premises.

(5) Type 3, or "outdoor," for outdoor cultivation between 10,001 and 44,000 square feet of total canopy size on one premises. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type.

(6) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

~~(d)~~

(e) All license fees collected by the division pursuant to this chapter shall be deposited into the Medical Cannabis Cultivation Fees Account, which is hereby established within the fund. All moneys within this account are available upon appropriation by the Legislature to the division solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the division for its administrative expenses and costs and the costs of regulation.

~~(e)~~

(f) It is the intent of the Legislature to establish appropriate protocols for the collection of the specific location of cultivation sites.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

Article 8. Licensed Distributors, Dispensaries, and Transporters

19334. (a) The State Board of Equalization shall promulgate regulations governing the licensing and regulation of distributors, dispensing facilities, and transporters. State enforcement shall be conducted in coordination with local authorities.

(b) By March 1, 2016, the State Board of Equalization shall submit a request for proposal to the public regarding a tracking program for medical cannabis and medical cannabis products as part of the anti-diversion effort. The State Board of Equalization shall choose a supplier and begin full implementation of the program prior to the issuance of state licenses pursuant to this chapter.

~~(b)~~

(c) State licenses to be issued by the State Board of Equalization are as follows:

(1) Type 10, or "dispensary," for the retail of medical cannabis or medical cannabis products. This license shall allow for delivery ~~upon local approval.~~ *where expressly authorized by local ordinance, pursuant to subdivision (b) of Section 19340.*

(2) Type 10A or "special dispensary status," for dispensers who have no more than three licensed dispensary facilities. This license shall allow for delivery ~~with local approval.~~ *where expressly authorized by local ordinance, pursuant to subdivision (b) of Section 19340.*

(3) Type 11, or "distributor," for the processing and certification of the content of all medical cannabis or medical cannabis products that are transported or delivered by licensees. A Type 11 licensee shall not hold a license in any other license category and shall not own, or have an ownership interest in, a facility licensed pursuant to this chapter other than a security interest, lien, or encumbrance on property that is used by a licensee.

(4) Type 12, or "transport," for transporters of medical cannabis or medical cannabis products.

19334.5. (a) The State Board of Equalization shall adopt a medical cannabis and medical cannabis products track and trace process for reporting the movement of cannabis items throughout the distribution chain that also employs secure packaging and that is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) Any other information deemed necessary by the State Board of Equalization for the taxation and regulation of medical cannabis and medical cannabis products.

~~(b) It is the intent of the Legislature, in subsequent legislation, to adequately fund the medical cannabis and medical cannabis products track and trace process.~~

(b) The State Board of Equalization shall receive initial funding for subdivision (b) of Section 19334 and this section pursuant to subdivision (d) of Section 19361.

19335. (a) The provisions of Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the State Board of Equalization's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) The provisions of Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

Article 9. Licensed Transporters

19336. (a) A licensee authorized to transport, or transport and deliver, medical cannabis and medical cannabis products shall do so only as set forth in this chapter.

(b) Prior to transporting or delivering medical cannabis or medical cannabis products, a licensee authorized to transport or deliver medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. All delivery shipping manifests shall not identify the qualified patient or primary caregiver by name or address.

(2) Securely transmit the manifest to the licensing authority and the licensee that will receive the medical cannabis product, as applicable.

(c) During transportation or delivery, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the licensing authority, local law enforcement officers, or any other designated enforcement agency.

(d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to agents of the licensing authority, local law enforcement officers, or any other designated enforcement agency.

(e) Upon receipt of the transported shipment, a licensee shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

19336.5. An entity licensed pursuant to Section 19332, 19334, or 19342 may transport between licensees medical cannabis or medical cannabis products with a total retail ~~value less than the~~ *value, weight of medical cannabis, and weight of medical cannabis products, below the* statewide ~~monetary~~ threshold, which shall be adopted by regulation by the licensing authority after review by the task force and the office.

19337. (a) Transported and delivered medical cannabis or medical cannabis products shall be transported only in a storage compartment that is securely affixed to the interior of the transporting vehicle and that is not visible from outside the vehicle. This requirement shall only apply to licensees transporting medical

cannabis or medical cannabis products with a total retail value of at least an amount equal to a statewide monetary threshold, which shall be adopted by regulation by the licensing authority after review by the task force and the office.

(b) Except as provided in Section 19340, a vehicle transporting medical cannabis or medical cannabis products shall travel only directly between licensed facilities, unless otherwise authorized under its license. All transport and deliveries shall be conducted between 8:00 a.m. and 8:00 p.m. Transportation and delivery of shipments do not have to be completed in a single day.

(c) All transport or delivery vehicles shall be staffed with a minimum of two direct employees of the licensee. At least one employee shall remain with the vehicle at all times when the vehicle contains medical cannabis. This requirement shall only apply to licensees transporting medical cannabis or medical cannabis products with a total retail value of at least an amount equal to a statewide monetary threshold, which shall be adopted by regulation by the licensing authority after review by the task force and the office.

(d) Each transport or delivery team member shall possess documentation of licensing and a government-issued identification card at all times when transporting or delivering medical cannabis and shall produce it upon the request of agents of any licensing authority or a law enforcement official.

(e) This section shall be enforced by the Department of the California Highway Patrol in collaboration with local agencies.

19337.1. Notwithstanding Section 19337, a licensed transporter may transport medical cannabis products to an unlicensed dispensing facility within the City of Los Angeles, provided the following requirements are met:

(a) The licensed transporter shall comply with subdivisions (b) and (c) of Section 19336, except that, in complying with paragraph (2) of subdivision (b), the licensed transporter shall securely transmit the manifest to the licensing authority and the unlicensed dispensing facility that will receive the medical cannabis products.

(b) The licensed transporter shall record and maintain, in both physical and electronic format, the following information with respect to the delivery of medical cannabis products to the unlicensed dispensing facility:

(1) The date of delivery.

(2) The address of delivery.
(3) The name of the individual who completed the delivery.
(4) The name of the individual at the facility who received the delivery.
(5) The name of the owner or operator of the facility.
(6) The name of the facility, as reflected on any signage.
(7) The quantity, or weight, and variety of all medical cannabis products delivered.
(8) The source of all medical cannabis delivered.
(9) The monetary amount charged and received for all medical cannabis products delivered.
(c) The recorded information specified in subdivision (b) shall be transmitted within five days to the City of Los Angeles, in a manner to be determined and specified by the City of Los Angeles.
(d) The records required by this section shall be maintained and made available in accordance with the provisions of Section 19326.
19338. (a) The licensing authority shall develop a database containing the electronic shipping manifests, which shall include, but not be limited to, the following information:
(1) The quantity, or weight, and variety of products shipped.
(2) The estimated times of departure and arrival.
(3) The quantity, or weight, and variety of products received.
(4) The actual time of arrival.
(5) A categorization of the product.
(b) The database shall be designed to flag irregularities for a licensing authority to investigate. An authorized enforcement authority may, at any time, inspect shipments and request documentation for current inventory.
19339. (a) This chapter shall not be construed to authorize or permit a licensee to transport or deliver, or cause to be transported or delivered, cannabis or cannabis products outside the state, unless authorized by federal law.
(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products that acts in compliance with this chapter.
(c) A local jurisdiction shall not prevent delivery of medical cannabis or medical cannabis products on public roads by a licensee that acts in compliance with this chapter and applicable local ordinances.

19340. (a) All mobile, vehicular, and technology platforms that enable qualified patients or primary caregivers to arrange for any of the above-described functions with a third party are prohibited, except as authorized by this ~~chapter.~~ *chapter and local ordinance.*

(b) Upon approval of the licensing authority, a licensee authorized to provide delivery services shall ~~abide by~~ *comply with* the following:

(1) The city, county, or city and county in which the premises of the licensee is located, and in which each delivery is made, must specifically permit delivery service by ordinance referring to this section.

(2) All employees delivering medical cannabis or medical cannabis products must carry a current license authorizing those services with them during deliveries, and must present that license upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(3) Delivery of medical cannabis or medical cannabis products pursuant to this section shall comply with ~~subdivision (c)~~ *subdivisions (c) and (d)* of Section 19336 and subdivisions (a), (c), and (d) of Section 19337.

(c) A county shall have the authority to impose a tax, pursuant to Section 19355, on each delivery transaction completed by a licensee.

(d) Whenever a licensing authority has knowledge that a licensee has transported or delivered, or arranged or facilitated the transport or delivery of, medical cannabis or medical cannabis products in violation of this chapter, the licensing authority shall summarily suspend that facility's license and shall without delay commence proceedings for the revocation of the license in accordance with this chapter.

(e) All license fees collected by the licensing authority pursuant to this chapter shall be deposited into the Medical Cannabis Retail Fees Account, which is hereby established within the fund. All moneys within the Medical Cannabis Retail Fees Account are available upon appropriation to the State Board of Equalization, solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the

board for its administrative expenses and costs and the costs of regulation.

19341. Notwithstanding any other law or the wage orders of the Industrial Welfare Commission, a driver employed to transport medical cannabis or medical cannabis products shall be entitled to overtime pay pursuant to Section 510 of the Labor Code.

Article 10. Licensed Manufacturers and Certified Laboratories

19342. (a) The Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers.

(b) Licenses to be issued by the division are as follows:

(1) Type 6, or "manufacturing level 1," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

(2) Type 7, or "manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The division shall limit the number of licenses of this type.

(3) Type 8, or "testing," for testing of medical cannabis and medical cannabis products. Type 8 licensees shall have their facilities certified according to regulations set forth by the division. A Type 8 licensee shall not hold a license in another license category of this chapter and shall not own or have ownership interest in a facility licensed pursuant to this ~~chapter, other than a security interest, lien, or encumbrance on property that will be used by the licensee.~~ *chapter.*

(c) All license fees collected by the division pursuant to this chapter shall be deposited into the Medical Cannabis Manufacturing Fees Account, which is hereby established within the fund. All moneys within the Medical Cannabis Manufacturing Fees Account are available upon appropriation by the Legislature to the division, solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the division for its administrative expenses and costs and the costs of regulation.

19343. (a) The State Department of Public Health shall promulgate standards for certification of testing laboratories to perform random sample testing of all medical cannabis and medical cannabis products, including standards for onsite testing.

(b) Certification of testing laboratories shall be consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025.

(c) These requirements shall apply to all entities, including third-party laboratories, engaged in the testing of medical cannabis pursuant to this chapter.

19344. (a) A laboratory certified by the department to perform random sample testing of medical cannabis or medical cannabis products shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products except to the licensed facility from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) The department shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, and specify how often licensees shall test cannabis, that the cost of testing shall be borne by the licensed cultivators, and requiring destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the department, unless remedial measures can bring the cannabis into compliance with quality assurance standards as promulgated by the department.

(c) The department shall establish a certification fee, and laboratories shall pay a fee to be certified. Certification fees shall not exceed the reasonable regulatory cost of the certification activities.

(d) All certification fees collected by the department pursuant to this chapter shall be deposited into the Medical Cannabis Testing Fees Account, which is hereby established within the fund. All moneys in the Medical Cannabis Testing Fees Account shall be available to the division upon appropriation of the Legislature solely for the purpose of fully funding administration of this chapter, including, but not limited to, the costs incurred by the division for the administrative expenses and costs and the costs of regulation.

19345. (a) The Division of Medical Cannabis Manufacturing and Testing within the State Department of Public Health shall promulgate the following standards:

(1) Health and safety standards applicable to all medical cannabis, and medical cannabis products, including maximum potency standards for medical cannabis products.

(2) Standards for licensed manufacturers of medical cannabis and medical cannabis products, including, but not limited to, edible products.

(b) At a minimum, the standards required by this section shall do all of the following:

(1) Prescribe sanitation standards equivalent to the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code) for food preparation, storage, handling, and sale of edible medical cannabis products. For purposes of this chapter, edible medical cannabis products are deemed to be unadulterated food products.

(2) Require that edible medical cannabis products produced, distributed, provided, donated, or sold by licensees shall be limited to nonpotentially hazardous food, as established by the State Department of Public Health pursuant to Section 114365.5 of the Health and Safety Code.

(3) Require that facilities in which edible medical cannabis products are prepared shall be constructed in accordance with applicable building standards, health and safety standards, and other state laws.

(4) Require that all edible medical cannabis products shall be packaged at the original point of preparation.

(c) No person shall engage in the manufacture, packing, or holding of processed food containing edible cannabis unless the person has a valid registration from the department pursuant to Section 110460 of the Health and Safety Code. Health and safety standards prescribed by this section or promulgated through regulation may be enforced by local environmental health departments.

19346. (a) Prior to sale or distribution at a licensed dispensing facility or an unlicensed dispensing facility in the City of Los Angeles, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

(C) The statement "FOR MEDICAL USE ONLY."

(D) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."

(E) For packages containing only dried cannabis, the net weight of medical cannabis in the package.

(F) A warning if nuts or other known allergens are used.

(G) List of pharmacologically active ingredients, including, but not limited to, *tetrahydrocannabinol (THC), cannabidiol (CBD), and other* cannabinoid content, the *THC and other* cannabinoid amount in milligrams per serving, servings per package, and the *THC and other* cannabinoid amount in milligrams for the package total.

(H) Clear indication, in bold type, that the product contains medical cannabis.

(I) Identification of the source and date of cultivation and manufacture.

(J) The date of sale.

(K) Any other requirement set by the department.

(b) Only generic food names may be used to describe edible medical cannabis products.

Article 11. Cannabis Employee Certification and Apprenticeship

19350. This article applies only to cultivation sites and dispensaries.

19351. The Division of Labor Standards Enforcement shall do all of the following:

(a) Maintain minimum standards for the competency and training of employees of a licensed cultivator or dispensary through a system of testing and certification.

(b) Maintain an advisory committee and panels as necessary to carry out its functions under this article. There shall be employer representation on the committee and panels.

(c) Adopt regulations as determined to be necessary to implement this article.

(d) Issue certification cards to employees certified pursuant to this article.

(e) Establish registration fees in an amount reasonably necessary to implement this article, not to exceed twenty-five dollars ($25) for the initial registration. There shall be no fee for annual renewal of registration. Fees collected for cultivation sites and dispensaries shall be placed into the Medical Cannabis Cultivation Fee Account and the Medical Cannabis Retail Fee Account, respectively.

19352. (a) By January 1, 2017, the Division of Labor Standards Enforcement shall develop a certification program for cannabis employees. Commencing January 1, 2019, except as provided in subdivision (c), certification shall be required of all persons who perform work as cannabis employees.

(b) Individuals desiring to be certified shall submit an application for certification and examination.

(c) (1) Certification is not required for registered apprentices working as cannabis employees as part of a state-approved apprenticeship program. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(2) Commencing January 1, 2019, an uncertified person may perform work for which certification is otherwise required in order to acquire the necessary on-the-job experience for certification provided that the person shall be under the direct supervision of a cannabis employee certified pursuant to this section who is responsible for supervising no more than one uncertified person.

(3) The Division of Labor Standards Enforcement may develop additional criteria governing this subdivision.

19353. (a) The following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license issued pursuant to this chapter:

(1) The licensee willfully employs one or more uncertified persons to perform work as cannabis employees in violation of this article.

(2) The licensee willfully fails to provide adequate supervision of uncertified workers.

(3) The licensee willfully fails to provide adequate supervision of apprentices.

(b) The Labor Commissioner shall maintain a process for referring cases to the appropriate licensing authority when it has been determined that a violation of this section has likely occurred. The Labor Commissioner shall have a memorandum of understanding with the regulatory authorities in furtherance of this section.

(c) Upon receipt of a referral by the Labor Commissioner alleging a violation under this section, the appropriate licensing authority shall open an investigation. Disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The licensing authority may initiate disciplinary action against a licensee upon his or her own investigation, the filing of a complaint, or a finding that results from a referral from the Labor Commissioner alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or apprentice status shall create a rebuttable presumption of violation of this section.

(d) This section shall become operative on January 1, 2019.

Article 12. Taxation

19355. The office and other state agencies may assist state taxation authorities in the development of uniform policies for the state taxation of state licensees.

19356. It is the intent of the Legislature to grant authority to the board of supervisors of a county to impose appropriate taxes on facilities licensed pursuant to this chapter.

Article 13. Funding

19360. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure or renewal fee. The licensure or renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, *including, but not limited to, the track and trace program required pursuant to Section 19334.5,* but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter, including, but not limited to, provisional license fees set forth in Section 19330, shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependant on the size of the business.

19361. (a) The Medical Cannabis Regulation Fund is hereby established within the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the office, for the purposes of funding the enforcement grant program pursuant to subdivision (c).

(c) (1) The office shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(d) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter may be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022.

(2) Funds advanced pursuant to this subdivision shall be appropriated to the office, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.

Article 14. Reporting

19363. On or before March 1 of each year, the director shall prepare and submit to the Legislature an annual report on the office's activities and post the report on the office's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the office and licensing authorities for medical cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the office.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

Article 15. Privacy

19365. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or

any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Nothing in this section precludes the following:

(1) Employees of any of the office or licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

(2) Notifications from any of the office or licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(c) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 7. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) This section shall remain in effect only until 180 days after the Governor's Office of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing provisional licenses pursuant to the Medical Cannabis Regulation and Control Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code), and as of that date is repealed.

SEC. 8. Section 147.5 is added to the Labor Code, to read:

147.5. (a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations

related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 9. Section 3094 is added to the Labor Code, to read:

3094. The Division of Apprenticeship Standards shall investigate, approve, or reject applications for apprenticeship programs for employees of a licensee subject to Article 11 (commencing with Section 19350) of Chapter 3.5 of Division 8 of the Business and Professions Code. The Division of Apprenticeship Standards shall adopt regulations necessary to implement and regulate the establishment of the apprenticeship programs described in this section.

SEC. 10. Section 2402.5 is added to the Vehicle Code, to read:

2402.5. The Department of the California Highway Patrol shall establish protocols to determine whether a driver is operating a vehicle under the influence of cannabis, and shall develop protocols setting forth best practices to assist law enforcement agencies. The costs to the Department of the California Highway Patrol of implementing this subdivision shall, upon appropriation by the Legislature, be paid for with appropriations from moneys in the Fines and Penalties Account of the Medical Cannabis Regulation Fund.

SEC. 11. 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.

SEC. 12. The Legislature finds and declares that Section 6 of this act, which adds Chapter 3.5 (commencing with Section 19300) to Division 8 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

It is necessary to maintain the confidentiality of patient and physician information provided to the regulatory authorities in order to protect the private medical information of patients who use medical cannabis and to preserve the essential confidentiality of the physician and patient relationship.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 483
Author: Patterson
Bill Date: June 22, 2015, Amended
Subject: Healing Arts: Initial License Fees: Proration
Sponsor: Author
Position: Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require initial licensing fees for specified healing arts licensees to be prorated on a monthly basis.

BACKGROUND

The Medical Board of California (Board) currently utilizes the physician's birth date to calculate license expiration dates. The purpose of the birth date renewal initially was to ensure that the Board did not have to process a large number of applications or renewals during peak times. However, with the intensive licensing outreach performed by the Board's Licensing Outreach Manager to potential licensees, licenses are not issued only during certain months, but are spread out throughout the year.

The Board gives applicants the option of waiting until their birth month for their physician and surgeon license to be issued. However, if an applicant cannot wait until their birth month to receive their application, their initial license will not be valid for a full two years, resulting in overpayment to the Board.

ANALYSIS

This bill would have required the Board to prorate the initial licensing fees for physicians and surgeons to ensure that licensees are not overcharged. However, per the Board's request, amendments were taken to remove the Board from this bill.

Board staff believes that the goal of this bill can be obtained by requiring the Board to issue a straight two-year license. The Board does not have any issues with peak times, so a two-year license will ensure that applicants are not overcharged and will not create any additional steps in the licensure process. The Board has been added to AB 773 (Baker), which would change the initial license time period from birth date renewal, to a two-year license. The Board took a neutral if amended position on this bill, the Board's requested amendments were taken, so the Board now has a neutral position on this bill.

FISCAL: None

SUPPORT: California Association for Health Services at Home
California Physical Therapy Association
California Veterinary Medical Association
Fresno Chamber of Commerce
Numerous Individuals

OPPOSITION: Dental Hygiene Committee of California

AMENDED IN SENATE JUNE 22, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 483

Introduced by Assembly Member Patterson
(Principal coauthor: Assembly Member Gordon)
(Coauthors: Assembly Members Chang, Chávez, Grove, Obernolte, Waldron, and Wilk)
(Coauthor: Senator Anderson)

February 23, 2015

An act to amend Sections 1724, 1944, 2456.1, ~~2538.57,~~ 2570.16, 2688, 4842.5, 4905, 4970, and 5604 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 483, as amended, Patterson. Healing arts: initial license fees: proration.

Existing law provides for the regulation and licensure of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes fees for initial licenses, initial temporary and permanent licenses, and original licenses for those various professions and vocations. Existing law requires that licenses issued to certain licensees, including, among others, architects, acupuncturists, dental hygienists, dentists, ~~hearing aid dispensers,~~ occupational therapists, osteopathic physicians and surgeons, physical therapists, and veterinarians, expire at 12 a.m. on either the last day of the birth month

of the licensee or at 12 a.m. of the legal birth date of the licensee during the 2nd year of a 2-year term, if not renewed.

This bill would require that the fees imposed on these licensees for an initial ~~license, an initial temporary or permanent license,~~ *license* or an original license be prorated on a monthly basis. The bill would require that the fee assessed an osteopathic physician and surgeon for license renewal be prorated on a monthly basis.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be established by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for application for examination shall not exceed five hundred dollars ($500).

(b) The fee for application for reexamination shall not exceed one hundred dollars ($100).

(c) The fee for examination and for reexamination shall not exceed eight hundred dollars ($800). Applicants who are found to be ineligible to take the examination shall be entitled to a refund in an amount fixed by the board.

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars ($525). The fee for an initial license fee shall be prorated on a monthly basis.

(e) The fee for a special permit shall not exceed three hundred dollars ($300), and the renewal fee for a special permit shall not exceed one hundred dollars ($100).

(f) The delinquency fee shall be the amount prescribed by Section 163.5.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars ($75).

(h) The application fee for permission to conduct an additional place of practice shall not exceed two hundred dollars ($200).

(i) The renewal fee for an additional place of practice shall not exceed one hundred dollars ($100).

(j) The fee for issuance of a substitute certificate shall not exceed one hundred twenty-five dollars ($125).

(k) The fee for a provider of continuing education shall not exceed two hundred fifty dollars ($250) per year.

(*l*) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars ($25).

(m) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars ($25).

The board shall report to the appropriate fiscal committees of each house of the Legislature whenever the board increases any fee pursuant to this section and shall specify the rationale and justification for that increase.

SEC. 2. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for the issuance of an original license shall not exceed two hundred fifty dollars ($250). The fee for the issuance of an original license shall be prorated on a monthly basis.

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(5) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(6) The biennial renewal fee shall not exceed one hundred sixty dollars ($160).

(7) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(8) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater.

(9) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(10) The fee for each curriculum review and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars ($2,100).

(11) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars ($750).

(12) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars ($500).

(13) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars ($5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars ($250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars ($150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars ($250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars ($250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars ($250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(*l*) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 3. Section 2456.1 of the Business and Professions Code is amended to read:

2456.1. (a) All osteopathic physician's and surgeon's certificates shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term if not renewed on or before that day.

(b) The board shall establish by regulation procedures for the administration of a birth date renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire monthly.

(c) To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

(d) The fee assessed pursuant to this section shall be prorated on a monthly basis.

~~SEC. 4. Section 2538.57 of the Business and Professions Code is amended to read:~~

~~2538.57. The amount of fees and penalties prescribed by this article shall be those set forth in this section unless a lower fee is fixed by the board:~~

~~(a) The fee for applicants applying for the first time for a license is seventy-five dollars ($75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars ($50).~~

~~(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.~~

~~(c) The initial temporary license fee is one hundred dollars ($100). The fee for an initial temporary license shall be prorated on a monthly basis. The fee for renewal of a temporary license is one hundred dollars ($100) for each renewal.~~

~~(d) The initial permanent license fee is two hundred eighty dollars ($280). The fee for an initial permanent license shall be prorated on a monthly basis. The fee for renewal of a permanent license is not more than two hundred eighty dollars ($280) for each renewal.~~

~~(e) The initial branch office license fee is twenty-five dollars ($25). The fee for renewal of a branch office license is twenty-five dollars ($25) for each renewal.~~

~~(f) The delinquency fee is twenty-five dollars ($25).~~

~~(g) The fee for issuance of a replacement license is twenty-five dollars ($25).~~

~~(h) The continuing education course approval application fee is fifty dollars ($50).~~

~~(i) The fee for official certification of licensure is fifteen dollars ($15).~~

~~SEC. 5.~~

SEC. 4. Section 2570.16 of the Business and Professions Code is amended to read:

2570.16. Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars ($150) per year. The initial license fee shall be prorated on a monthly basis. The board shall establish the following additional fees:

(a) An application fee not to exceed fifty dollars ($50).

(b) A late renewal fee as provided for in Section 2570.10.

(c) A limited permit fee.

(d) A fee to collect fingerprints for criminal history record checks.

~~SEC. 6.~~

SEC. 5. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees assessed in connection with licenses issued under this chapter is as follows:

(a) (1) The fee for an application for licensure as a physical therapist submitted to the board prior to March 1, 2009, shall be seventy-five dollars ($75). The fee for an application submitted under Section 2653 to the board prior to March 1, 2009, shall be one hundred twenty-five dollars ($125).

(2) The fee for an application for licensure as a physical therapist submitted to the board on or after March 1, 2009, shall be one hundred twenty-five dollars ($125). The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars ($200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of an application fee under this subdivision to an amount that does not exceed the cost of administering the application process, but in no event shall the application fee amount exceed three hundred dollars ($300).

(b) The examination and reexamination fees for the physical therapist examination, physical therapist assistant examination, and the examination to demonstrate knowledge of the California rules and regulations related to the practice of physical therapy shall be the actual cost to the board of the development and writing of, or purchase of the examination, and grading of each written examination, plus the actual cost of administering each

examination. The board, at its discretion, may require the licensure applicant to pay the fee for the examinations required by Section 2636 directly to the organization conducting the examination.

(c) (1) The fee for a physical therapist license issued prior to March 1, 2009, shall be seventy-five dollars ($75).

(2) The fee for a physical therapist license issued on or after March 1, 2009, shall be one hundred dollars ($100).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of administering the process to issue the license, but in no event shall the fee to issue the license exceed one hundred fifty dollars ($150).

(4) The fee assessed pursuant to this subdivision for an initial physical therapist license issued on or after January 1, 2016, shall be prorated on a monthly basis.

(d) (1) The fee to renew a physical therapist license that expires prior to April 1, 2009, shall be one hundred fifty dollars ($150).

(2) The fee to renew a physical therapist license that expires on or after April 1, 2009, shall be two hundred dollars ($200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars ($300).

(e) (1) The fee for application and for issuance of a physical therapist assistant license shall be seventy-five dollars ($75) for an application submitted to the board prior to March 1, 2009.

(2) The fee for application and for issuance of a physical therapist assistant license shall be one hundred twenty-five dollars ($125) for an application submitted to the board on or after March 1, 2009. The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars ($200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of administering the application process, but in no event shall the application fee amount exceed three hundred dollars ($300).

(f) (1) The fee to renew a physical therapist assistant license that expires prior to April 1, 2009, shall be one hundred fifty dollars ($150).

(2) The fee to renew a physical therapist assistant license that expires on or after April 1, 2009, shall be two hundred dollars ($200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars ($300).

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) (1) The duplicate wall certificate fee shall be fifty dollars ($50). The duplicate renewal receipt fee amount shall be fifty dollars ($50).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing duplicates, but in no event shall that fee exceed one hundred dollars ($100).

(i) (1) The endorsement or letter of good standing fee shall be sixty dollars ($60).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing an endorsement or letter, but in no event shall the fee amount exceed one hundred dollars ($100).

~~SEC. 7.~~

SEC. 6. Section 4842.5 of the Business and Professions Code is amended to read:

4842.5. The amount of fees prescribed by this article is fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred fifty dollars ($350).

(b) The fee for the California registered veterinary technician examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred dollars ($300).

(c) The initial registration fee shall be set by the board at not more than three hundred fifty dollars ($350) and shall be prorated on a monthly basis. The board may adopt regulations to provide for the waiver or refund of the initial registration fee when the registration is issued less than 45 days before the date on which it will expire.

(d) The biennial renewal fee shall be set by the board at not more than three hundred fifty dollars ($350).

(e) The delinquency fee shall be set by the board at not more than fifty dollars ($50).

(f) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(g) The fee for filing an application for approval of a school or institution offering a curriculum for training registered veterinary technicians pursuant to Section 4843 shall be set by the board at an amount not to exceed three hundred dollars ($300). The school or institution shall also pay for the actual costs of an onsite inspection conducted by the board pursuant to Section 2065.6 of Title 16 of the California Code of Regulations, including, but not limited to, the travel, food, and lodging expenses incurred by an inspection team sent by the board.

(h) The fee for failure to report a change in the mailing address is twenty-five dollars ($25).

~~SEC. 8.~~

SEC. 7. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars ($350).

(b) The fee for the California state board examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars ($350).

(c) The fee for the Veterinary Medicine Practice Act examination shall be set by the board in an amount it determines reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred dollars ($100).

(d) The initial license fee shall be set by the board not to exceed five hundred dollars ($500) and shall be prorated on a monthly basis. The board, by appropriate regulation, may provide for the waiver or refund of the initial license fee when the license is issued less than 45 days before the date on which it will expire.

(e) The renewal fee shall be set by the board for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed five hundred dollars ($500).

(f) The temporary license fee shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed two hundred fifty dollars ($250).

(g) The delinquency fee shall be set by the board, not to exceed fifty dollars ($50).

(h) The fee for issuance of a duplicate license is twenty-five dollars ($25).

(i) Any charge made for duplication or other services shall be set at the cost of rendering the service, except as specified in subdivision (h).

(j) The fee for failure to report a change in the mailing address is twenty-five dollars ($25).

(k) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed four hundred dollars ($400) annually.

(*l*) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the board shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized board expenditures. The fees set by the board shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized board expenditures.

~~SEC. 9.~~

SEC. 8. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972.

(a) The application fee shall be seventy-five dollars ($75).

(b) The examination and reexamination fees shall be the actual cost to the Acupuncture Board for the development and writing of, grading, and administering of each examination.

(c) The initial license fee shall be three hundred twenty-five dollars ($325) and shall be prorated on a monthly basis.

(d) The renewal fee shall be three hundred twenty-five dollars ($325) and in the event a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The renewal fee shall be assessed on an annual basis until January 1, 1996, and on and after that date the board shall assess the renewal fee biennially.

(e) The delinquency fee shall be set in accordance with Section 163.5.

(f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars ($3,000). This subdivision shall become inoperative on January 1, 2017.

(g) The duplicate wall license fee is an amount equal to the cost to the board for the issuance of the duplicate license.

(h) The duplicate renewal receipt fee is ten dollars ($10).

(i) The endorsement fee is ten dollars ($10).

(j) The fee for a duplicate license for an additional office location as required under Section 4961 shall be fifteen dollars ($15).

~~SEC. 10.~~

SEC. 9. Section 5604 of the Business and Professions Code is amended to read:

5604. The fees prescribed by this chapter for architect applicants or architect licenseholders shall be fixed by the board as follows:

(a) The application fee for reviewing a candidate's eligibility to take any section of the examination shall not exceed one hundred dollars ($100).

(b) The fee for any section of the examination administered by the board shall not exceed one hundred dollars ($100).

(c) The fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued. The fee for

an original license shall be prorated on a monthly basis. The board, by appropriate regulation, may provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

(d) The fee for an application for reciprocity shall not exceed one hundred dollars ($100).

(e) The fee for a duplicate license shall not exceed twenty-five dollars ($25).

(f) The renewal fee shall not exceed four hundred dollars ($400).

(g) The delinquency fee shall not exceed 50 percent of the renewal fee.

(h) The fee for a retired license shall not exceed the fee prescribed in subdivision (c).

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AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 595

Introduced by Assembly Member Alejo
(Principal coauthor: Assembly Member Dodd)
(Coauthors: Assembly Members Dababneh and Cristina Garcia)
(Coauthor: Senator Bates)

February 24, 2015

An act to amend ~~Section 2555 of~~ *Section 3077 of, to add Sections 3090.1 and 3109.1 to, to repeal Section 2556 of, and to repeal and add Sections 655 and 2555 of,* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 595, as amended, Alejo. Registered dispensing opticians: ~~certificates.~~ *optometrists: practices.*

(1) The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, and makes a violation of the act a crime. Existing law requires individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons and optometrists for prescription lenses and kindred products to register with the Division of Licensing of the Medical Board of California as a registered dispensing optician, and makes a violation of the provisions governing registered dispensing opticians a crime.

(2) Existing law prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement, in any form, whether directly or indirectly, with any person licensed as a registered

dispensing optician, and prohibits a registered dispensing optician from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form directly or indirectly with a licensed optometrist. Existing law also prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products. Under existing law, a violation of the above provisions by a licensed optometrist and any person, whether or not licensed, who participates with a licensed optometrist in violating those provisions constitutes a misdemeanor.

This bill would delete those provisions. The bill instead would prohibit a licensed registered dispensing optician or a manufacturer or distributor of optical goods that is renting or leasing office space to or from, sharing office space with, or receiving space from an optometrist from engaging in conduct that would influence or interfere with the clinical decisions, as defined, of that optometrist, as specified. The bill would prohibit an optometrist that is using or sharing office space with a registered dispensing optician from giving or receiving, among other things, a fee or thing of material value, to or from any person in return for referral of patients or to secure patients. The bill would make a violation of these provisions punishable as a misdemeanor.

(3) Existing law permits a certificate of a registered dispensing optician to be suspended, revoked, or subjected to probation for violation of regulations or laws, as specified, or for incompetence, gross negligence, or repeated similar negligent acts by the registrant or an employee, as provided.

This bill would delete those provisions. The bill similarly would permit a certificate of a registered dispensing optician to be suspended, revoked, or subjected to probation for violation of regulations or laws, as specified, or for incompetence, gross negligence, or repeated negligent acts by the registrant or an employee, as provided, and additionally would permit the certificate to be suspended, revoked, or subjected to probation for unprofessional conduct, which includes repeated interference with the optometrist's clinical judgment or compliance with prevailing clinical standards. The bill authorizes

assessment of administrative fines for violation of specified provisions of law and requires registered dispensing opticians to cooperate with investigations into a complaint or alleged violation of law.

(4) Under existing law, it is unlawful for a registered dispensing optician to advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon; to directly or indirectly employ or maintain on or near the premises used for optical dispensing a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes; or to duplicate or change lenses without a prescription or order from a person duly licensed to issue the same.

This bill would delete those prohibitions.

(5) The Optometry Practice Act prohibits a person from having an office for the practice of optometry unless he or she is licensed to practice optometry, and requires an optometrist that has more than one office to comply with certain provisions of the act, including, among others, that an optometrist obtain a branch office license for any additional office. The act prohibits more than one branch office license from being issued to an optometrist or any 2 or more optometrists, jointly. The act requires an optometrist that had a branch office prior to January 1, 1957, and who wants to continue that branch office on or after that date to notify the board, as specified.

The bill would delete the prohibition of an optometrist or 2 or more optometrists, jointly, from having more than one branch office, and would delete the requirement that an optometrist that had a branch office prior to January 1, 1957, and who wants to continue that branch office to notify the board. The bill would prohibit a person from having any proprietary interest in an office for the practice of optometry unless he or she is licensed to practice optometry. The bill would specify that a branch office is any additional office that is not the principal place of business of an optometrist, as specified.

(6) The Optometry Practice Act prohibits an optometrist from directly or indirectly accepting employment from any person not having a valid, unrevoked license as an optometrist, except that the act authorizes an optometrist to be employed by a physician and surgeon who practices in the specialty of ophthalmology or by a health care service plan.

This bill would require an optometrist to report to the State Board of Optometry any action or circumstance that the optometrist reasonably and in good faith believes is an attempt by a registered dispensing optician, or an employee or agent thereof, to interfere with the

optometrist's independent clinical judgment or compliance with prevailing clinical standards. The bill would require the State Board of Optometry to report these complaints to the Division of Licensing of the Medical Board of California.

(7) The bill also would require the State Board of Optometry to receive any complaint made to a state board or department related to care provided to a patient by a licensed optometrist.

(8) A violation of the optometry laws and the law governing registered dispensing opticians is a crime. Therefore, by expanding the scope of an existing 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.

~~Existing law provides for the issuance of a certificate of dispensing optician upon registration. Existing law permits a certificate to be suspended, revoked, or subjected to probation for violations of regulations or laws, as specified, or for incompetence, gross negligence, or repeated similar negligent acts by the registrant or an employee, as provided.~~

~~This bill additionally would permit a certificate to be suspended, revoked, or subjected to probation for unprofessional conduct, as defined. This bill also would permit a certificate to be suspended, revoked, or subjected to probation for actions by the registrant's agent.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ *yes*.

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

SECTION 1. Section 655 of the Business and Professions Code is repealed.

~~655. (a) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division.~~

~~(b) No person licensed under Chapter 5.5 (commencing with Section 2550) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit sharing arrangement in any form directly or indirectly with any person licensed under Chapter 7 (commencing with Section 3000) of this division.~~

~~(c) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products.~~

~~Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.~~

SEC. 2. Section 655 is added to the Business and Professions Code, to read:

655. (a) A person registered under Chapter 5.5 (commencing with Section 2550), (registered dispensing optician), a person who is engaged in the manufacture, sale or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products that is renting or leasing office space, directly or through an intermediary, to or from or otherwise using or sharing office space with, or receiving space from, any person licensed under Chapter 7 (commencing with Section 3000), (optometrist), shall not engage in conduct that would influence or interfere with the clinical decisions of that optometrist including, but not limited to, the following:

(1) Setting quotas for the number of exams or limiting the amount of time that an optometrist can spend with an individual patient.

(2) Holding an optometrist responsible for the sale of, or requiring that person to sell, the eyewear of a registered dispensing optician.

(3) Providing compensation to an optometrist for the sale of the eyewear of a registered dispensing optician.

(b) The optometrist's clinical decisions means the judgment necessary to perform or control any acts as set forth in Section 3041.

(c) An optometrist that is renting or leasing space to or from or otherwise using or sharing office space with any registered dispensing optician shall not give or receive a fee, salary, commission, or thing of material value, in any manner or under any pretext, to or from any person, firm, or corporation for either of the following:

(1) In return for the referral of optometric patients.

(2) In order to secure optometric patients.

(d) In connection with the transactions described in (a), all of the following shall be met:

(1) Registered dispensing opticians shall ensure signs and displays concerning the optometrist's office shall have the name of the doctor or doctors of optometry and the nature of the relationship between the registered dispensing optician and the optometrist.

(2) The optometrist's office shall have a separate telephone listing and number from that of the registered dispensing optician, but may be accessible from a general number that the public associates with the premises.

(3) Registered dispensing opticians shall not:

(A) Constrain the optometrist in scheduling patients, the fees charged for optometric services, the amount of time spent with a patient, or the number of patients to be seen in a particular time period. The optometrist may contract to provide or arrange for the provision of optometric services during agreed-upon hours and days.

(B) Limit the optometrist's participation in managed care or insurance plans.

(C) Have an interest in the optometrist's patient records, to which the optometrist shall have 24-hour access, including physical access or electronic access.

(D) Advertise that it performs eye examinations or other optometric services that it is not permitted to lawfully perform under state law.

(4) The parties shall execute a written agreement, with commercially reasonable terms, providing that rent payments are not affected by either party's referral of any person or sales of product by either party, and a term of at least one year, terminable only for cause as defined under the agreement or at the expiration of the agreement on at least 60 days' written notice.

(5) Optometric office space inside an optical dispensary shall be definite and distinct from space occupied by other occupants of the premises and shall include at least one private room for the exclusive use of providing optometric services to patients by the optometrist.

(6) Forms used by the optometric office shall be separate from those of the registered dispensing optician.

(7) The optometrist shall be free to practice to the full scope of his or her license under law, and shall control the hiring, staffing, training, and office and employment policies of the individuals employed or engaged to assist the optometrist in the management and administrative aspects of his or her practice and in patient care. The optometrist may contract for the provision of technician and administrative services. Nothing herein shall limit the right of the optometrist and the registered dispensing optician to agree to restrict the optometrist from offering or selling spectacles, lenses, frames, contact lenses or other optical goods to the optometrist's patients or to the public in the occupied space during the term of the written agreement.

(8) The optometrist shall be responsible for and shall maintain full and independent control of information disseminated to the public through any advertising or other commercial medium when that information relates to optometric services being provided by the optometrist, whether or not that advertising is paid for or sponsored by the optometrist. It is not a violation of this section to include in an advertisement that is not disseminated by the optometrist a statement advertising the availability of optometric services, including eye examinations, by an independent doctor of optometry located adjacent to or in proximity to a registered dispensing optician or a statement containing substantially similar language.

(e) A violation of this section is punishable as a misdemeanor.

SEC. 3. Section 2555 of the Business and Professions Code is repealed.

~~2555. Certificates issued hereunder may in the discretion of the division be suspended or revoked or subjected to terms and conditions of probation for violating or attempting to violate this chapter, Chapter 5.4 (commencing with Section 2540) or any regulation adopted under this chapter or, Chapter 5.4 (commencing with Section 2540), or Section 651, 654, or 655, or for incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or by an employee of the registrant. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.~~

SEC. 4. Section 2555 is added to the Business and Professions Code, to read:

2555. (a) Certificates issued hereunder may in the discretion of the division be suspended or revoked or subjected to terms and conditions of probation for violating or attempting to violate this chapter, Chapter 5.4 (commencing with Section 2540), any regulation adopted under this chapter or Chapter 5.4 (commencing with Section 2540), or Section 651, 654, or 655, or for incompetence, gross negligence, unprofessional conduct or repeated negligent acts performed by the registrant or by an employee of the registrant. Unprofessional conduct includes, but is not limited to, repeated interference with the independent clinical judgment of an optometrist or the optometrist's compliance with prevailing clinical standards for the practice of optometry and when the registered dispensing optician knows or has reason to know that the repeated interference is impairing the optometrist's ability to provide appropriate health care to his or her patients. Nothing herein shall limit the ability of the optometrist to file a complaint about the registered dispensing optician's interference directly with any state regulatory agency with authority to oversee the practice of optometry or of registered dispensing opticians. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.

(b) If the division determines during a proceeding conducted in accordance with subdivision (a) that a registered dispensing optician has violated Section 655, the division may assess an

administrative fine of up to five thousand dollars ($5,000) for the first violation and up to twenty-five thousand dollars ($25,000) for any subsequent violation that occurs within three years after the division's finding of a first violation. If a registered dispensing optician's second violation of Section 655 occurs after three years of its first violation, then the division shall assess a fine of up to five thousand dollars ($5,000). This section is not to be construed to limit the division's existing authority to enforce the provisions of subdivision (a) or any other law.

(c) Registered dispensing opticians shall comply with all requests for information by the division within 30 days after the request. Failure to provide to the division, as directed, lawfully requested copies of documents relating to a complaint or alleged violation of the law shall constitute unprofessional conduct on the part of the registered dispensing optician, unless the registered dispensing optician is unable to provide the documents within the time period for good cause, including, but not limited to, inability to access the documents in the time allowed.

(d) Failure to cooperate and participate in any division investigation pending against a registered dispensing optician relating to a complaint or alleged violation of the law shall also constitute unprofessional conduct by the registered dispensing optician. This subdivision shall not be construed to deprive a registered dispensing optician of any privilege guaranteed by the Constitution of the United States or any other constitutional or statutory privileges. The registered dispensing optician's assertion of any applicable constitutional, statutory, or other privilege, including, but not limited to, attorney-client privilege or attorney work product privilege, is not a violation of this section.

(e) If the registered dispensing optician disputes a determination by the division regarding a complaint or violation of the law, the registered dispensing optician may appeal the division's decision to an independent administrative law judge pursuant to Chapter 5 (commencing with Section 1100) of Part 1 of Division 3 of Title 2 of the Government Code. Penalties, if any, shall be paid when all appeals have been exhausted and the division's decision has been upheld. In the event that the division's position has been upheld, after all appeals have been exhausted the registered dispensing optician shall be responsible for payment of all costs associated with the prosecution of the matter.

(f) A registered dispensing optician shall not discharge, terminate, suspend, threaten, harass, or retaliate or discriminate against an optometrist because that optometrist files a complaint as set forth in Section 3109.1 or any other complaint against a registered dispensing optician, or for lawful acts done by an optometrist in disclosing information relating to any complaint against a registered dispensing optician. When an optometrist files a complaint against a registered dispensing optician, the optometrist shall have all of the protections provided in Section 1102.5 of the Labor Code.

SEC. 5. Section 2556 of the Business and Professions Code is repealed.

~~2556. It is unlawful to do any of the following: to advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon; to directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes; or to duplicate or change lenses without a prescription or order from a person duly licensed to issue the same.~~

SEC. 6. Section 3077 of the Business and Professions Code is amended to read:

3077. ~~As~~ *(a) As* used in this section, "office" means any office or other place for the practice of optometry.

~~(a) No~~

(b) A person, singly or in combination with others, may ~~have~~ *not have any proprietary interest in* an office unless he or she is licensed to practice optometry under this chapter.

~~(b)~~

(c) An optometrist, or two or more optometrists jointly, may have one office without obtaining a branch office license from the board.

~~(c) On and after October 1, 1959, no~~

(d) An optometrist, ~~and no~~ *or* two or more optometrists jointly, may *not* have more than one office unless he or she or they comply with the provisions of this chapter as to ~~an additional office. The additional office, for the purposes of this chapter,~~ *additional offices. An additional office that is not the optometrist's principal place*

of practice, as described by Section 3070, constitutes a branch ~~office.~~ *office for purposes of this chapter.*

~~(d) Any optometrist who has, or any two or more optometrists, jointly, who have, a branch office prior to January 1, 1957, and who desire to continue the branch office on or after that date shall notify the board in writing of that desire in a manner prescribed by the board.~~

(e) ~~On and after January 1, 1957, any optometrist, or any two or more optometrists, jointly, who desire~~ *Any optometrist who desires* to open a branch office *that is not his or her principal place of business* shall notify the board in writing in a manner prescribed by the board.

(f) ~~On and after January 1, 1957, no~~ *A* branch office may *not* be opened or operated without a branch office license. Branch office licenses shall be valid for the calendar year in or for which they are issued and shall be renewable on January 1 of each year thereafter. Branch office licenses shall be issued or renewed only upon the payment of the fee therefor prescribed by this chapter.

~~On or after October 1, 1959, no more than one branch office license shall be issued to any optometrist or to any two or more optometrists, jointly.~~

(g) Any failure to comply with the provisions of this chapter relating to branch offices or branch office licenses as to any branch office shall work the suspension of the optometrist license of each optometrist who, individually or with others, has a branch office. An optometrist license so suspended shall not be restored except upon compliance with those provisions and the payment of the fee prescribed by this chapter for restoration of a license after suspension for failure to comply with the provisions of this chapter relating to branch offices.

(h) The holder or holders of a branch office license shall pay the ~~annual~~ *biennial* renewal fee therefor in the amount required by this chapter between the first day of January and the first day of February of each ~~year.~~ *renewal period.* The failure to pay the fee in advance on or before February 1 of each year during the time it is in force shall ipso facto work the suspension of the branch office license. The license shall not be restored except upon written application and the payment of the penalty prescribed by this chapter, and, in addition, all delinquent branch office fees.

~~(i) Nothing in this chapter shall limit or authorize the board to limit the number of branch offices that are in operation on October 1, 1959, and that conform to this chapter, nor prevent an optometrist from acquiring any branch office or offices of his or her parent. The sale after October 1, 1959, of any branch office shall terminate the privilege of operating the branch office, and no new branch office license shall be issued in place of the license issued for the branch office, unless the branch office is the only one operated by the optometrist or by two or more optometrists jointly.~~

~~Nothing in this chapter shall prevent an optometrist from owning, maintaining, or operating more than one branch office if he or she is in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry.~~

~~(j)~~

(i) The board shall have the power to adopt, amend, and repeal rules and regulations to carry out the provisions of this section.

~~(k) Notwithstanding any other provision of this section, neither an optometrist nor an individual practice association shall be deemed to have an additional office solely by reason of the optometrist's participation in an individual practice association or the individual practice association's creation or operation. As used in this subdivision, the term "individual practice association" means an entity that meets all of the following requirements:~~

~~(1) Complies with the definition of an optometric corporation in Section 3160.~~

~~(2) Operates primarily for the purpose of securing contracts with health care service plans or other third-party payers that make available eye/vision services to enrollees or subscribers through a panel of optometrists.~~

~~(3) Contracts with optometrists to serve on the panel of optometrists, but does not obtain an ownership interest in, or otherwise exercise control over, the respective optometric practices of those optometrists on the panel.~~

~~Nothing in this subdivision shall be construed to exempt an optometrist who is a member of an individual practice association and who practices optometry in more than one physical location, from the requirement of obtaining a branch office license for each of those locations, as required by this section. However, an~~

~~optometrist shall not be required to obtain a branch office license solely as a result of his or her participation in an individual practice association in which the members of the individual practice association practice optometry in a number of different locations, and each optometrist is listed as a member of that individual practice association.~~

SEC. 7. Section 3090.1 is added to the Business and Professions Code, to read:

3090.1. The State Board of Optometry shall receive any complaint made to a state board or department related to care provided to a patient by a licensed optometrist under Chapter 7 (commencing with Section 3000).

SEC. 8. Section 3109.1 is added to the Business and Professions Code, to read:

3109.1. (a) An optometrist shall report to the board any action or circumstance that the optometrist reasonably and in good faith believes constitutes a continued and unresolved attempt to interfere with his or her independent clinical judgment or compliance with prevailing clinical standards for the practice of optometry by a registered dispensing optician or any employee or agent of the registered dispensing optician that violates Section 655.

(b) The board shall report the complaint to the Division of Licensing of the Medical Board of California, and the division shall investigate the complaint pursuant to Section 2555.

(c) A registered dispensing optician shall not discharge, terminate, suspend, threaten, harass, or in any other manner retaliate or discriminate against an optometrist that files a good faith complaint pursuant to this section or any other law, or for lawful acts done by an optometrist in disclosing information relating to any complaint against a registered dispensing optician. When an optometrist files a good faith complaint against a registered dispensing optician, the optometrist shall have all of the protections provided in Section 1102.5 of the Labor Code.

SEC. 9. 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.

~~SECTION 1. Section 2555 of the Business and Professions Code is amended to read:~~

~~2555. Certificates issued hereunder may in the discretion of the division be suspended or revoked or subjected to terms and conditions of probation for violating or attempting to violate this chapter, Chapter 5.4 (commencing with Section 2540) or any regulation adopted under this chapter or, Chapter 5.4 (commencing with Section 2540), or Section 651, 654, or 655, or for incompetence, gross negligence, unprofessional conduct, or repeated negligent acts performed by the registrant or by an employee or agent of the registrant. Unprofessional conduct includes, but is not limited to, repeated interference with the independent clinical judgment of an optometrist or with compliance by an optometrist with prevailing clinical standards for the practice of optometry. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.~~

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AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 611

Introduced by Assembly Member Dahle

February 24, 2015

An act to amend Section 11165.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Dahle. Controlled substances: prescriptions: reporting.

Existing law requires certain health care practitioners and pharmacists to apply to the Department of Justice to obtain approval to access information contained in the Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program (PDMP) regarding the controlled substance history of a patient under his or her care. Existing law requires the Department of Justice, upon approval of an application, to provide the approved health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care. Existing law authorizes an application to be denied, or a subscriber to be suspended, for specified reasons, including, among others, a subscriber accessing information for any reason other than caring for his or her patients.

This bill would also authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP

regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of a licensee. The bill would, upon approval of an application, require the department to provide to the approved individual the history of controlled substances dispensed to the licensee. The bill would clarify that only a subscriber who is a health care practitioner or a pharmacist may have an application denied or be suspended for accessing subscriber information for any reason other than caring for his or her patients. The bill would also specify that an application may be denied, or a subscriber may be suspended, if a subscriber who has been designated to investigate the holder of a professional license accesses information for any reason other than investigating the holder of a professional license.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before January 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, before January 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that pharmacist the electronic history of controlled

substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

(iii) *(I)* An individual designated by a board, bureau, or program within the Department of Consumer Affairs to investigate a holder of a professional license may, for the purpose of investigating the alleged substance abuse of a licensee, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a licensee that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that individual the electronic history of controlled substances dispensed to the licensee based on data contained in the CURES PDMP. ~~An application for an individual designated by a board, bureau, or program that does not regulate health care practitioners authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150~~ *The application* shall contain facts demonstrating the probable cause to believe the licensee has violated a law governing controlled substances.

(II) This clause does not require an individual designated by a board, bureau, or program within the Department of Consumer Affairs that regulates health care practitioners to submit an application to access the information stored within the CURES PDMP.

(B) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

(i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal DEA registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber described in clause (i) or (ii) of subparagraph (A) accessing information for any other reason than caring for his or her patients.

(vi) Any subscriber described in clause (iii) of subparagraph (A) accessing information for any other reason than investigating the holder of a professional license.

(C) Any authorized subscriber shall notify the Department of Justice within 30 days of any changes to the subscriber account.

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 or a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by an authorized subscriber from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to an authorized subscriber pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 637
Author: Campos
Bill Date: February 24, 2015, Introduced
Subject: Physician Orders for Life Sustaining Treatment Forms
Sponsor: California Medical Association (CMA) and Coalition for Compassionate Care of California
Position: Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill would allow nurse practitioners (NPs) and physician assistants (PAs), under physician supervision, to sign Physician Orders for Life Sustaining Treatment (POLST) forms.

BACKGROUND

In the early 1990's, Congress passed the federal Patient Self-Determination Act and the POLST program was developed to address challenges related to advance care planning, most commonly used for frail and elderly patients. In 2008, AB 3000 (Wolk) created the California POLST, a standardized form that helps to ensure patient's wishes are honored regarding medical treatment towards the end of life. The POLST form is not an advance directive, it compliments an advance directive by identifying the patient's treatment preferences. Currently, the POLST form is a paper document and must be signed by both the patient and their physician to become actionable.

ANALYSIS

According to the author's office, there have been reported difficulties by some nursing homes in obtaining a physician's signature on a POLST form in a timely manner. Currently, patients discuss their end-of-life care wishes with all members of their health care team, including NPs and PAs. The author's office believes that expanding the number and type of healthcare providers who can assist patients in establishing their end-of-life care orders will help to ensure that patient's end-of-life care wishes are followed.

Allowing NPs and PAs, who are under the supervision of a physician, seems to be a reasonable expansion and one that will help to improve patient care. NPs and PAs are involved in providing end-of-life care to patients in California, so it makes sense to allow them to sign off on POLST forms to ensure that patients have better access to providers who can assist in establishing end-of-life care orders. This bill will further the Board's mission of promoting access to care, and Board staff recommends that the Board take a support position on this bill.

FISCAL: None to the Board

SUPPORT: California Medical Association (co-sponsor); Coalition for Compassionate Care of California (co-sponsor); AARP; Association of Northern California Oncologists; Blue Shield of California; California Assisted Living Association; California Association for Health Services at Home; California Association for Nurse Practitioners; California Chapter of the American College of Emergency Physicians; California Long-Term Care Ombudsman Association; Contra Costa County Advisory Council on Aging; Contra Costa County Board of Supervisors; LeadingAge California; Medical Board of California; Medical Oncology Association of Southern California, Inc.; and Physician Assistant Board

OPPOSITION: California Right to Life Committee

Assembly Bill No. 637

Passed the Assembly April 16, 2015

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Chief Clerk of the Assembly

Passed the Senate July 6, 2015

_____

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2015, at _____ o'clock ____M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 4780 of the Probate Code, relating to resuscitative measures.

LEGISLATIVE COUNSEL'S DIGEST

AB 637, Campos. Physician Orders for Life Sustaining Treatment forms.

Existing law defines a request regarding resuscitative measures to mean a written document, signed by an individual, as specified, and the physician, that directs a health care provider regarding resuscitative measures, and includes a Physician Orders for Life Sustaining Treatment form (POLST form). Existing law requires a physician to treat a patient in accordance with the POLST form and specifies the criteria for creation of a POLST form, including that the form be completed by a health care provider based on patient preferences and medical indications, and signed by a physician and the patient or his or her legally recognized health care decisionmaker.

This bill would authorize the signature of a nurse practitioner or a physician assistant acting under the supervision of the physician and within the scope of practice authorized by law to create a valid POLST form.

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

SECTION 1. Section 4780 of the Probate Code is amended to read:

4780. (a) As used in this part:

(1) "Request regarding resuscitative measures" means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual's physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.

(2) "Request regarding resuscitative measures" includes one, or both of, the following:

(A) A prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.

(3) "Physician Orders for Life Sustaining Treatment form" means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

(b) A legally recognized health care decisionmaker may execute the Physician Orders for Life Sustaining Treatment form only if the individual lacks capacity, or the individual has designated that the decisionmaker's authority is effective pursuant to Section 4682.

(c) The Physician Orders for Life Sustaining Treatment form and medical intervention and procedures offered by the form shall be explained by a health care provider, as defined in Section 4621. The form shall be completed by a health care provider based on patient preferences and medical indications, and signed by a physician, or a nurse practitioner or a physician assistant acting under the supervision of the physician and within the scope of practice authorized by law, and the patient or his or her legally recognized health care decisionmaker. The health care provider, during the process of completing the Physician Orders for Life Sustaining Treatment form, should inform the patient about the difference between an advance health care directive and the Physician Orders for Life Sustaining Treatment form.

(d) An individual having capacity may revoke a Physician Orders for Life Sustaining Treatment form at any time and in any manner that communicates an intent to revoke, consistent with Section 4695.

(e) A request regarding resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR," a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

Approved _____, 2015

_____

Governor

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 684
Author: Alejo and Bonilla
Bill Date: June 30, 2015, Amended
Subject: Registered Dispensing Opticians: Disciplinary Actions
Sponsor: Author
Position: Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill would place a moratorium on discipline for registered dispensing opticians (RDOs) and optometrists by the Medical Board of California (Board) or the California Board of Optometry (CBO) for engaging in any business relationship prohibited by Business and Professions Code Sections 655 and 2556. This bill would take effect immediately, as it contains an urgency clause.

BACKGROUND

Existing law prohibits a licensed optometrist and an RDO from having any membership, proprietary interest, co-ownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with each other. Existing law prohibits a licensed optometrist from having any membership, proprietary interest, co-ownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or RDOs of lenses, frames, optical supplies, optometric appliances or devices or kindred products.

AB 595 (Alejo) was introduced this year and was the result of numerous meetings between the National Association of Optometrists and Opticians, California Optometric Association, and other optical stakeholders, including the Board and CBO. AB 595 would have changed the business model of RDOs in California, would have allowed for occupancy arrangements between an optometrist and RDO, would have allowed for direct employment of an optometrist by an optical company, and would have deleted other advertising prohibitions in existing law, among other business model changes. This bill included protections for an optometrist's clinical judgement to address concerns that an RDO would influence or interfere with the clinical decision of an optometrist.

Although meetings were held on the optical issues before AB 595 was introduced, some stakeholders still have concerns that could not be resolved in time for the bill to be heard in Assembly Business and Professions (B&P) Committee. As such, this bill was held in Assembly B&P Committee and made a two-year bill. The Chair of Assembly B&P

Committee, Assembly Member Bonilla and the author of AB 595, Assembly Member Alejo, amended this bill to include safe harbor provisions for the impacted parties, while the RDO business model issue is being worked out in the Legislature.

ANALYSIS

This bill will allow time, until January 1, 2017, for the business model arrangement issues to be worked out. This bill would not allow the Board or CBO to take any action against an RDO or optometrist for engaging in a business model prohibited by existing law. This bill would take effect immediately, as it contains an urgency clause. If AB 595 is passed next year, the language in that bill will take effect; if it does not pass, then after January 1, 2017, existing law will take effect.

The Board is an active stakeholder in this issue and will continue to participate in stakeholder meetings and provide technical input on AB 595 and any proposed language. At this time, putting a moratorium on disciplinary action for RDOs and optometrists makes sense. The Board took a neutral if amended position on this bill and requested an amendment to ensure that the safe harbor only applies to RDOs and optometrists registered and licensed before the safe harbor takes effect. This amendment would prevent new businesses from coming to California and operating under the safe harbor. This requested amendment was taken, so the Board is now neutral on this bill.

FISCAL: None

SUPPORT: EYEXAM of California; For Eyes Optical Company; LensCrafters; National Association of Optometrists and Opticians; National Vision, Inc. and its subsidiaries; Sears Optical; The California Chamber of Commerce; U.S. Vision; Wal-Mart Stores, Inc.; and Numerous Individuals

OPPOSITION: California Association of Dispensing Opticians
The California Optometric Association
VSP Vision Care

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MAY 11, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 684

Introduced by Assembly Members Alejo and Bonilla

February 25, 2015

An act to *amend Section 3137 of, and to* add and repeal Sections 655.1 and 2556.1 ~~of~~ *of*, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 684, as amended, Alejo. Healing arts: licensees: disciplinary actions.

Existing law prohibits a licensed optometrist and a registered dispensing optician from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with each other. Existing law prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric

appliances or devices or kindred products. Existing law makes a violation of these provisions by a licensed optometrist and any other persons, whether or not a healing arts licensee, who participates with a licensed optometrist subject to a crime.

Under existing law, the Medical Board of California is responsible for the registration and regulation of dispensing opticians. Existing law makes the State Board of Optometry responsible for the licensure of optometrists.

This bill, until January 1, 2017, would ~~prohibit a registered dispensing optician or optometrist~~ *exempt a licensed optometrist or an individual, corporation, or firm operating as a registered dispensing optician licensed or registered before the effective date of the bill, or an employee of such an entity,* from being subject to ~~discipline~~ *any action* by the Medical Board of California, the State Board of Optometry, ~~or other~~ *another* state ~~agency~~ *agency, or a district attorney* with enforcement authority for engaging in any of the aforementioned business relationships. *The bill, with respect to an action subject to the exemption, would toll, for the effective period of the exemption, specific limitation periods imposed on the filing of accusations.*

Existing law makes it unlawful to, among other things, advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon, or to directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes.

This bill, until January 1, 2017, would prohibit ~~a~~ *an individual, corporation, or firm operating as a* registered dispensing optician *before the effective date of the bill, or an employee of such an entity,* from being subject to ~~discipline~~ *any action* for engaging in that aforementioned conduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 655.1 is added to the Business and
2 Professions Code, to read:

655.1. (a) Notwithstanding any other law, no *individual, corporation, or firm operating as a registered* dispensing optician ~~registered~~ pursuant to Chapter 5.5 (commencing with Section 2550) *before the effective date of this section, or an employee of such an entity,* or *an* optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) *before the effective date of this section,* shall be subject to ~~discipline~~ *any action* by the Medical Board of California, the State Board of Optometry, ~~or other~~ *another* state ~~agency~~ *agency, or a district attorney,* with enforcement authority for engaging in any business relationship prohibited by Section 655.

(b) Nothing in this section shall be construed to imply or suggest that a registered dispensing optician or optometrist engaging in any business relationship is in violation of or in compliance with the law.

(c) This section shall not apply to any business relationships prohibited by Section 655 registered and operating on or after the effective date of this section.

(d) Nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.

~~(c)~~

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 2. Section 2556.1 is added to the Business and Professions Code, to read:

2556.1. (a) Notwithstanding any other law, ~~a person registered~~ *any individual, corporation, or firm operating as a registered dispensing optician* under this chapter *before the effective date of this section, or an employee of such an entity,* shall not be subject to ~~discipline~~ *any action* for engaging in conduct prohibited by Section 2556, except that a registrant shall be subject to discipline for duplicating or changing lenses without a prescription or order from a person duly licensed to issue the same.

(b) Nothing in this section shall be construed to imply or suggest that a person registered under this chapter is in violation of or in compliance with the law.

(c) This section shall not apply to any business relationships prohibited by Section 2556 registered and operating on or after the effective date of this section.

(d) Nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.

~~(c)~~

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 3. Section 3137 of the Business and Professions Code is amended to read:

3137. (a) Except as otherwise provided in this section, any accusation filed against a licensee pursuant to Section 11503 of the Government Code for the violation of any provision of this chapter shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging fraud or willful misrepresentation is not subject to the limitation in subdivision (a).

(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation in subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.

(d) If an alleged act or omission involves any conduct described in Section 726 committed on a minor, the 10-year limitations period

in subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging conduct described in Section 726 shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging conduct received by the board on and after January 1, 2006.

(f) In any allegation, accusation, or proceeding described in this section, the limitations period in subdivision (a) shall be tolled for the period during which material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) In any allegation, accusation, or proceeding described in this section regarding a violation of Section 655 and subject to Section 655.1, the limitations period in subdivision (a) shall be tolled during the effective period of Section 655.1.

~~SEC. 3.~~

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect various businesses, opticians, and optometrists who engage in a business relationship that is prohibited by Section 655 or 2556 of the Business and Professions Code from discipline by the Medical Board of California, the State Board of Optometry, or other state agency with enforcement authority while the Legislature, with the assistance of appropriate regulatory agencies, develops a model that will allow California businesses to provide services to patients and also protect the interests of practitioners, it is necessary that this act take effect immediately.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 773
Author: Baker
Bill Date: June 1, 2015, Amended
Subject: Licenses: Medical Board of California: Board of Psychology
Sponsor: California Board of Psychology
Position: Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require licenses issued by the California Board of Psychology and the Medical Board of California (Board) to be valid for two years from issuance.

BACKGROUND

The Board currently utilizes a physician's birth date to calculate license expiration dates. The purpose of the birth date renewal initially was to ensure that the Board did not have to process a large number of applications or renewals during peak times. However, with the intensive licensing outreach performed by the Board's Licensing Outreach Manager to potential licensees, licenses are not issued only during certain months, but are spread out throughout the year.

The Board does give applicants the option of waiting until their birth month for their physician and surgeon license to be issued. However, if an applicant cannot wait until their birth month to receive their application, their initial license will not be valid for a full two years, resulting in overpayment to the Board.

ANALYSIS

This bill would resolve the same overpayment issue that AB 483 (Patterson) would address for licenses issued by the California Board of Psychology and the Board. AB 483 would have required the Board to prorate the initial licensing fees for physicians and surgeons to ensure that licensees are not overcharged. However, the proration requirement would result in delays in issuing licenses for physicians and surgeons and increased workload. This bill would require the Board of Psychology and the Board to issue licenses that are valid for two-years from the time of issuance. This would solve the issue of overpayment, but not result in delays in issuing licenses.

Board staff believes that a two-year license would be a better way to resolve the issue of license fee overpayment. The Board does not have any issues with peak times, so a two-year license will ensure that applicants are not overcharged and will not create any additional steps in the licensure process. The Board took a Support if amended position on this bill at the

May Board Meeting, with the amendment being to add the Board to this bill. This bill was amended to add licenses issued by the Board. As such, the Board now has a support position on this bill.

FISCAL: Minimal and absorbable workload to change the Board's licensing process from a birth month expiration to a straight two-year license.

SUPPORT: California Board of Psychology (Sponsor)
The California Psychological Association
Medical Board of California

OPPOSITION: None on file

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 773

Introduced by Assembly Member Baker

February 25, 2015

An act to amend Sections 2423 and 2982 of, *to add Section 2499.7 to,* and to repeal Section 2422 of, the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 773, as amended, Baker. Licenses: Medical Board of California: Board of Psychology.

Existing law provides for the licensure and regulation of specific health care professions by the Medical Board of California or a licensing and regulatory authority within the jurisdiction of that board. The Medical Practice Act determines the expiration of, and governs the renewal of, certificates, licenses, registrations, and permits issued by or under the Medical Board of ~~California, including physician and surgeon's certificates, certificates to practice podiatric medicine, physical therapy licenses and approvals, registrations of research psychoanalysts, registrations of dispensing opticians, registrations of nonresident contact lens sellers, registrations of spectacle lens dispensers, registrations of contact lens dispensers, certificates to practice midwifery, and fictitious-name permits.~~ *California.* Under the act, physician and surgeon's certificates, certificates to practice podiatric medicine, registrations of spectacle lens dispensers and contact lens dispensers, and certificates to practice midwifery expire on the last day

of the birth month of the licensee during the 2nd year of a 2-year term. Under that act, registrations of dispensing opticians expire on the last day of the month in which the license was issued during the 2nd year of a 2-year term.

The Psychology Licensing Law establishes the Board of Psychology to license and regulate the practice of psychology. Under that law, psychology licenses expire on the legal birth date of the licensee during the 2nd year of a 2-year term.

This bill would instead have ~~all of~~ the above licenses, *with the exception of certificates to practice podiatric medicine,* expire at the end, as provided, of a 2-year period from the date the license was issued.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 2422 of the Business and Professions Code is repealed.

SEC. 2. Section 2423 of the Business and Professions Code is amended to read:

2423. (a) All physician and surgeon's certificates, ~~certificates to practice podiatric medicine,~~ registrations of dispensing opticians, spectacle lens dispensers, and contact lens dispensers, and certificates to practice midwifery shall expire at 12 midnight on the last day of the month in which the license was issued during the second year of a two-year term commencing from the date of issuance.

(b) To renew an unexpired license, the licensee, on or before the date on which it would otherwise expire, shall apply for renewal on a form prescribed by the licensing authority and pay the prescribed renewal fee.

SEC. 3. Section 2499.7 is added to the Business and Professions Code, to read:

2499.7. (a) Certificates to practice podiatric medicine shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term.

(b) To renew an unexpired certificate, the licensee, on or before the date on which it would otherwise expire, shall apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

~~SEC. 3.~~

SEC. 4. Section 2982 of the Business and Professions Code is amended to read:

2982. (a) All licenses expire and become invalid at 12 midnight on the last day of February, 1980, and thereafter shall expire at 12 midnight of the last date of the two-year period from the date the license was issued.

(b) To renew an unexpired license, the licensee, on or before the date on which it would otherwise expire, shall apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

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AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 890

Introduced by Assembly Member Ridley-Thomas

February 26, 2015

An act to add Chapter 7.75 (commencing with Section 3550) to Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 890, as amended, Ridley-Thomas. Anesthesiologist assistants.

Existing law provides for the licensure and regulation of specified healing arts licensees, including, among others, physicians and surgeons, physician assistants, nurses, and nurse anesthetists.

This bill would enact the Anesthesiologist Assistant Practice Act, which would make it unlawful for any person to hold himself or herself out as an anesthesiologist assistant unless he or she meets specified requirements. The bill would make it an unfair business practice to violate these provisions. The bill would require an anesthesiologist assistant to work under the *direction and* supervision of an anesthesiologist, and would require the anesthesiologist to be physically present on the premises and immediately available ~~if needed~~ to the anesthesiologist assistant when medical services are being rendered and to oversee the activities of, and accept responsibility for, the medical services being rendered by the anesthesiologist assistant. The bill would authorize an anesthesiologist assistant under the supervision of an

anesthesiologist to ~~deliver medical services, including, but not limited to,~~ *assist the supervising anesthesiologist in* developing and implementing an anesthesia care plan for a patient.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Chapter 7.75 (commencing with Section 3550) is added to Division 2 of the Business and Professions Code, to read:

Chapter 7.75. Anesthesiologist Assistant

3550. This chapter shall be known and may be cited as the Anesthesiologist Assistant Practice Act.

3551. For purposes of this section, the following definitions shall apply:

(a) "Anesthesiologist" means a physician and surgeon who has successfully completed a training program in anesthesiology accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or equivalent organizations and is licensed under Chapter 5 (commencing with Section 2000).

(b) "Anesthesiologist assistant" means a person who meets the requirements of Section 3552.

3552. (a) A person shall not hold himself or herself out to be an anesthesiologist assistant unless he or she meets the following requirements:

(1) Has graduated from an anesthesiologist assistant program recognized by the Commission on Accreditation of Allied Health Education Programs or by its successor agency.

(2) Holds an active certification by the National Commission on Certification for Anesthesiologist Assistants.

(b) It is an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 for any person to use the title "anesthesiologist assistant" or any other term, including, but not limited to, "certified," "licensed," "registered," or "AA," that implies or suggests that the person is

certified as an anesthesiologist assistant, if the person does not meet the requirements of subdivision (a).

3553. An anesthesiologist assistant shall work under the *direction and* supervision of an anesthesiologist. The supervising anesthesiologist shall do both of the following:

(a) Be physically present on the premises and immediately available ~~if needed~~ to the anesthesiologist assistant when medical services are being rendered.

(b) Oversee the activities of, and accept responsibility for, the medical services being rendered by the anesthesiologist assistant.

3554. Notwithstanding any other law, an anesthesiologist assistant under the supervision of an anesthesiologist may ~~deliver medical services, including, but not limited to,~~ *assist the supervising anesthesiologist in* developing and implementing an anesthesia care plan for a patient.

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AMENDED IN SENATE JULY 1, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1306

Introduced by Assembly Member Burke
(Coauthor: Assembly Member Mark Stone)

February 27, 2015

An act to amend Sections 650.01, *650.02*, 2725.1, 2746.2, 2746.5, 2746.51, 2746.52, 4061, 4076, and 4170 of, and to add Section 2746.6 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as amended, Burke. Healing arts: certified nurse-midwives: scope of practice.

(1) Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The act makes the violation of any of its provisions a misdemeanor punishable upon conviction by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than $20 nor more than $1,000, or by both that fine and imprisonment.

This bill would additionally require an applicant for a certificate to practice nurse-midwifery to provide evidence of current advanced level national certification by a certifying body that meets standards established and approved by the board. This bill would also require the board to create and appoint a Nurse-Midwifery Advisory Council

consisting of certified nurse-midwives in good standing with experience in hospital ~~and nonhospital practice~~ settings, *alternative birth settings, and home settings*, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require *the council to consist of a majority of certified nurse-midwives and would require* the council to make recommendations to the board on all matters related to nurse-midwifery practice, education, *disciplinary actions, standards of care*, and other matters specified by the board, and would require the council to meet regularly, but at least twice a year. This bill would ~~also~~ prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified. *The bill would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.*

(2) The act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

This bill would delete those provisions and would instead authorize a certified nurse-midwife to manage a full range of ~~primary health~~ *gynecological and obstetric* care services for women from adolescence beyond menopause, ~~including, but not limited to, gynecologic and family planning services.~~ *as provided.* The bill would authorize a certified nurse-midwife to practice in ~~all~~ *specified* settings, including, but not limited to, a home *setting*. This bill would declare that the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the client and the resources of the medical personnel available in the setting of care, and would provide that the practice of nurse-midwifery emphasizes informed consent, preventive care, and early detection and referral of complications to a physician and surgeon. ~~This bill would authorize a certified nurse-midwife to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated birth.~~

(3) The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified.

This bill would delete the requirement that drugs or devices are furnished or ordered in accordance with standardized procedures and protocols. The bill would authorize a certified nurse-midwife to furnish and order drugs or devices in connection with care rendered in a home, and would authorize a certified nurse-midwife to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and that are consistent with nurse-midwifery education preparation.

(4) The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon.

This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a home, and would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife to provide emergency care to a patient during times when a physician and surgeon is unavailable.

This bill would provide that a consultative relationship between a certified nurse-midwife and a physician and surgeon by it self is not a basis for finding the physician and surgeon liable for any acts or omissions on the part of the certified nurse-midwife. The bill would also update cross-references as needed.

(5) Because the act makes a violation of any of its provisions a misdemeanor, this bill would expand the scope of an existing crime and therefore this bill would impose a state-mandated local program.

(6) Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home

infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing ~~law~~ *law,* the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed unprofessional conduct. *Existing law provides that, among other exceptions, this prohibition does not apply to a licensee who refers a person to a health facility if specified conditions are met.*

This bill would include a certified nurse-midwife under the definition of a licensee, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would ~~also~~ require the Board of Registered Nursing to review the facts and circumstances of any conviction of a certified nurse-midwife for violating that prohibition, and would require the board to take appropriate disciplinary action if the certified nurse-midwife has committed unprofessional conduct. *The bill would additionally authorize a licensee to refer a person to a licensed alternative birth center, as defined, or a nationally accredited alternative birth center.*

(7) 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. State-mandated local program: yes.

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

1 SECTION 1. Section 650.01 of the Business and Professions
2 Code is amended to read:
3 650.01. (a) Notwithstanding Section 650, or any other law, it
4 is unlawful for a licensee to refer a person for laboratory, diagnostic
5 nuclear medicine, radiation oncology, physical therapy, physical
6 rehabilitation, psychometric testing, home infusion therapy, or
7 diagnostic imaging goods or services if the licensee or his or her
8 immediate family has a financial interest with the person or in the
9 entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing,

and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code, and a certified nurse-midwife as defined in Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate

disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a certified nurse-midwife, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

SEC. 2. Section 650.02 of the Business and Professions Code is amended to read:

650.02. The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another

licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars ($75,000,000).

(4) Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company's most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars ($75,000,000).

(5) A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party's referral of any person or the volume of services provided by either party.

(6) A personal services arrangement between a licensee or an immediate family member of the licensee and the recipient of the referral if the arrangement meets all of the following requirements:

(A) It is set out in writing and is signed by the parties.

(B) It specifies all of the services to be provided by the licensee or an immediate family member of the licensee.

(C) The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.

(D) A person who is referred by a licensee or an immediate family member of the licensee is informed in writing of the personal services arrangement that includes information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, *a licensed alternative birth center, as defined in paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code,* or to any facility*, or nationally accredited alternative birth center,* owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not

receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(*l*) This section shall become operative on January 1, 1995.

~~SEC. 2.~~

SEC. 3. Section 2725.1 of the Business and Professions Code is amended to read:

2725.1. (a) Notwithstanding any other law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon or an order by a certified nurse-midwife, nurse practitioner, or physician assistant issued pursuant to Section 2746.51, 2836.1, or 3502.1, respectively, if the registered nurse is functioning within a licensed primary care clinic as defined in subdivision (a) of Section 1204 of, or within a clinic as defined in subdivision (b), (c), (h), or (j) of Section 1206 of, the Health and Safety Code.

(b) No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified nurse-midwife who functions pursuant to Section

2746.51 or a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

(c) This section shall not be construed to limit any other authority granted to a certified nurse-midwife pursuant to Article 2.5 (commencing with Section 2746), to a nurse practitioner pursuant to Article 8 (commencing with Section 2834), or to a physician assistant pursuant to Chapter 7.7 (commencing with Section 3500).

(d) This section shall not be construed to affect the sites or types of health care facilities at which drugs or devices are authorized to be dispensed pursuant to Chapter 9 (commencing with Section 4000).

~~SEC. 3.~~

SEC. 4. Section 2746.2 of the Business and Professions Code is amended to read:

2746.2. (a) Each applicant shall show by evidence satisfactory to the board that he or she has met the educational standards established by the board or has at least the equivalent thereof, including evidence of current advanced level national certification by a certifying body that meets standards established and approved by the board.

(b) The board shall create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital~~ and nonhospital practice settings,~~ *settings, alternative birth center settings, and home settings*, a nurse-midwife educator who has demonstrated familiarity with~~ consumer needs, collegial practice and accompanied liability, and related~~ educational standards in the delivery of maternal-child health care,~~ and~~ a consumer of midwifery~~ care.~~ *care, and at least two qualified physicians appointed by the Medical Board of California, including an obstetrician that has experience working with nurse-midwives.* The council *membership shall consist of a majority of certified nurse-midwives and* shall make recommendations to the board on all matters related to nurse-midwifery practice, education, and

other matters as specified by the board. The council shall meet regularly, but at least twice a year.

(c) Corporations and other artificial legal entities shall have no professional rights, privileges, or powers. However, the Board of Registered Nursing may in its discretion, after such investigation and review of such documentary evidence as it may require, and under regulations adopted by it, grant approval of the employment of licensees on a salary basis by licensed charitable institutions, foundations, or clinics, if no charge for professional services rendered patients is made by any such institution, foundation, or clinic.

(d) Notwithstanding subdivision (c), the following entities may employ a certified nurse-midwife and charge for professional services rendered by a certified nurse-midwife; however, the entity shall not interfere with, control, or otherwise direct the professional judgment of a certified nurse-midwife:

(1) A clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code.

(2) A hospital owned and operated by a health care district pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.

(3) A clinic operated primarily for the purpose of medical education or nursing education by a public or private nonprofit university medical school, which is approved by the Medical Board or the Osteopathic Medical Board of California, provided the certified nurse-midwife holds an academic appointment on the faculty of the university, including, but not limited to, the University of California medical schools and hospitals.

(4) A licensed alternative birth center, as defined in paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code, or a nationally accredited alternative birth center owned or operated by a nursing corporation, as defined in Section 2775 of the Business and Professions Code.

~~SEC. 4.~~

SEC. 5. Section 2746.5 of the Business and Professions Code is amended to read:

2746.5. (a) The certificate to practice nurse-midwifery authorizes the holder to manage a full range of primary ~~health~~ *gynecological and obstetric* care services for women from adolescence to beyond ~~menopause.~~ *menopause, consistent with*

the Core Competencies for Basic Midwifery practice promulgated by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. These services include, but are not limited to, primary health care, gynecologic and family planning services, preconception care, care during pregnancy, childbirth, and the postpartum period, immediate care of the newborn, and treatment of male partners for sexually transmitted ~~infections. A certified nurse-midwife is authorized to practice in all settings, including, but not limited to, private practice, clinics, hospitals, birth centers, and homes.~~ *infections, utilizing consultation, collaboration, or referral to appropriate levels of health care services, as indicated.*

(b) A certified nurse-midwife may practice in the following settings:

~~(b)~~

(1) A licensed clinic as described in Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(2) A facility as described in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(3) A facility as described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(4) A medical group practice, including a professional medical corporation, a medical partnership, a medical foundation exempt from licensure pursuant to Section 1206 of the Health and Safety Code, or another lawfully organized group of physicians that delivers, furnishes, or otherwise arranges for or provides health care services.

(5) A licensed alternative birth center, as described in Section 1204 of the Health and Safety Code, or nationally accredited birth center.

(6) A nursing corporation, as defined in Section 2775 of the Business and Professions Code.

(7) A home setting.

(A) Except as provided in subparagraph (B) of this paragraph, a certified nurse-midwife shall assist during pregnancy and childbirth in the home setting only when all of the following conditions apply:

(i) There is the absence of all of the following:

(I) Any preexisting maternal disease or condition likely to complicate the pregnancy.

(II) Disease arising from the pregnancy likely to cause significant maternal and/or fetal compromise.

(III) Prior caesarean delivery.

(ii) There is a singleton fetus.

(iii) There is cephalic presentation at the onset of labor.

(iv) The gestational age of the fetus is greater than 370/7 weeks and less than 420/7 completed weeks of pregnancy at the onset of labor.

(v) Labor is spontaneous or induced in an outpatient setting.

(B) If a potential certified nurse-midwife client meets the conditions specified in clauses (ii) to (v), inclusive, of subparagraph (A), but fails to meet the conditions specified in clause (i) of subparagraph (A), and the woman still desires to be a client of the certified nurse-midwife, the certified nurse-midwife shall consult with a physician and surgeon trained in obstetrics and gynecology. A certified nurse-midwife may assist the woman in pregnancy and childbirth only if a physician and surgeon trained in obstetrics and gynecology is consulted and the physician and surgeon who performed the consultation determines that the risk factors presented by her disease or condition are not likely to significantly affect the course of pregnancy and childbirth.

(c) As used in this chapter, the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the patient and the resources and medical personnel available in the setting of care. ~~When providing peripartum care in out-of-hospital settings, the certified nurse-midwife shall only provide care to low-risk women with uncomplicated singleton-term pregnancies who are expected to have an uncomplicated birth.~~ The practice of nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications to physicians and surgeons. While practicing in a hospital setting, the certified nurse-midwife shall collaboratively care for women with more complex health needs.

(d) A certified nurse-midwife practicing under subdivision (a) shall be subject to all credentialing and quality standards held by the facility in which he or she practices. The peer review body shall include nurse-midwives as part of the peer review body that reviews nurse-midwives. The peer review body of that facility shall impose standards that assure quality and patient safety in their

facility. The standards shall be approved by the relevant governing body unless found by a court to be arbitrary and capricious.

~~(c)~~

(e) The practice of nurse-midwifery does not include the assisting of childbirth by any forcible, or mechanical means, nor the performance of any version of those means.

(f) A certified nurse-midwife is not authorized to practice medicine and surgery by the provisions of this chapter.

~~(d)~~

(g) Any regulations promulgated by a state department that affect the scope of practice of a certified nurse-midwife shall be developed in consultation with the board *and the Nurse-Midwifery Advisory Council*.

~~SEC. 5.~~

SEC. 6. Section 2746.51 of the Business and Professions Code is amended to read:

2746.51. (a) Neither this chapter nor any other law shall be construed to prohibit a certified nurse-midwife from furnishing or ordering drugs or devices, including controlled substances classified in Schedule II, III, IV, or V under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), when the drugs or devices are furnished or ordered related to the provision of any of the following:

(1) Family planning services, as defined in Section 14503 of the Welfare and Institutions Code.

(2) Routine health care or perinatal care, as defined in subdivision (d) of Section 123485 of the Health and Safety Code.

(3) Care rendered, consistent with the certified nurse-midwife's educational preparation or for which clinical competency has been established and maintained, to persons within a facility specified in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the Health and Safety Code, a clinic as specified in Section 1204 of the Health and Safety Code, a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a licensed birth center as defined in Section 1204.3 of the Health and Safety Code, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of the Health and Safety Code.

(4) Care rendered in a home pursuant to subdivision (a) of Section 2746.5.

(b) (1) The furnishing or ordering of drugs or devices by a certified nurse-midwife is conditional on the issuance by the board of a number to the applicant who has successfully completed the requirements of paragraph (2). The number shall be included on all transmittals of orders for drugs or devices by the certified nurse-midwife. The board shall maintain a list of the certified nurse-midwives that it has certified pursuant to this paragraph and the number it has issued to each one. The board shall make the list available to the California State Board of Pharmacy upon its request. Every certified nurse-midwife who is authorized pursuant to this section to furnish or issue a drug order for a controlled substance shall register with the United States Drug Enforcement Administration.

(2) The board has certified in accordance with paragraph (1) that the certified nurse-midwife has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish the requirements for satisfactory completion of this paragraph.

(3) Certified nurse-midwives who are certified by the board and hold an active furnishing number, who are currently authorized to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration shall provide documentation of continuing education specific to the use of Schedule II controlled substances in settings other than a hospital based on standards developed by the board.

(c) Drugs or devices furnished or ordered by a certified nurse-midwife may include Schedule II controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) when the drugs and devices are furnished or ordered in accordance with requirements referenced in paragraphs (1) to (3), inclusive, of subdivision (b). *In a nonhospital setting, a Schedule II controlled substance shall be furnished by a certified nurse-midwife only during labor and delivery and only after a consultation with a physician and surgeon.*

(d) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient.

(e) "Drug order" or "order" for purposes of this section means an order for medication or for a drug or device that is dispensed to or for an ultimate user, issued by a certified nurse-midwife as an individual practitioner, within the meaning of Section 1306.03 of Title 21 of the Code of Federal Regulations. Notwithstanding any other law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of a physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by certified nurse-midwives; and (3) the signature of a certified nurse-midwife on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(f) A certified nurse-midwife is authorized to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and consistent with nurse-midwifery education preparation.

~~SEC. 6.~~

SEC. 7. Section 2746.52 of the Business and Professions Code is amended to read:

2746.52. (a) Notwithstanding Section 2746.5, the certificate to practice nurse-midwifery authorizes the holder to perform and repair episiotomies, and to repair first-degree and second-degree lacerations of the perineum, in a licensed acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, in a licensed alternate birth center, as defined in paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code, *or a nationally accredited birth center,* and in a home pursuant to ~~subdivision (a)~~ *paragraph (7) of subdivision (b)* of Section 2746.5.

(b) The certified nurse-midwife performing and repairing first-degree and second-degree lacerations of the perineum shall do both of the following:

(1) Ensure that all complications are referred to a physician and surgeon immediately.

(2) Ensure immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife, or

provide emergency care for times when a physician and surgeon is not available.

~~SEC. 7.~~

SEC. 8. Section 2746.6 is added to the Business and Professions Code, to read:

2746.6. A consultative relationship between a certified nurse-midwife and a physician and surgeon shall not, by ~~it self,~~ *itself,* provide the basis for finding a physician and surgeon liable for any act or omission of the certified nurse-midwife.

~~SEC. 8.~~

SEC. 9. Section 4061 of the Business and Professions Code is amended to read:

4061. (a) A manufacturer's sales representative shall not distribute any dangerous drug or dangerous device as a complimentary sample without the written request of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. However, a certified nurse-midwife who functions pursuant to Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to a protocol described in Section 3502.1, or a naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, may sign for the request and receipt of complimentary samples of a dangerous drug or dangerous device that has been identified in the standardized procedure, protocol, or practice agreement. Standardized procedures, protocols, and practice agreements shall include specific approval by a physician. A review process, consistent with the requirements of Section 2725, 3502.1, or 3640.5, of the complimentary samples requested and received by a nurse practitioner, certified nurse-midwife, physician assistant, or naturopathic doctor, shall be defined within the standardized procedure, protocol, or practice agreement.

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records

shall be preserved by the supplier with the records required by Section 4059.

(c) Nothing in this section is intended to expand the scope of practice of a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor.

~~SEC. 9.~~

SEC. 10. Section 4076 of the Business and Professions Code is amended to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who

functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

~~SEC. 10.~~

SEC. 11. Section 4170 of the Business and Professions Code is amended to read:

4170. (a) A prescriber shall not dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

(2) The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

(5) The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

(7) The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

(8) A certified nurse-midwife who functions pursuant to Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section 3640.5, may hand to a patient of the supervising physician and surgeon, *if applicable,* a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.

(b) The Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) "Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice podiatry, and who is duly registered by the Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, or the Board of Osteopathic Examiners of this state.

~~SEC. 11.~~

SEC. 12. 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.

O

Assembly Concurrent Resolution No. 29

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 29—Relative to organ donation.

[Filed with Secretary of State May 26, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 29, Frazier. Donate Life California Day: driver's license.

This measure would designate April 20, 2015, as DMV/Donate Life California Day in the State of California and the month of April 2015, as DMV/Donate Life California Month in the State of California, and would encourage all Californians to sign up with the Donate Life California Organ and Tissue Donor Registry.

WHEREAS, Organ, tissue, eye, and blood donation are compassionate and life-giving acts looked upon and recognized in the highest regard; and

WHEREAS, More than 123,000 individuals nationwide and over 22,000 Californians are currently on the national organ transplant wait list. While about one-third of these patients receive a transplant each year, another one-third die while waiting due to a shortage of donated organs; and

WHEREAS, A single individual's donation of heart, lungs, liver, kidneys, pancreas, and small intestine can save up to eight lives, the donation of tissue can save and enhance the lives of up to 50 others, and a single blood donation can help three people in need; and

WHEREAS, Millions of lives each year are saved and enhanced by donors of organs, tissue, eyes, and blood; and

WHEREAS, The California Department of Motor Vehicles is celebrating 100 years of service to the State of California and ten years as the official partner of Donate Life California; and

WHEREAS, A California resident can register with the Donate Life California Registry when applying for or renewing his or her driver's license or identification card at the Department of Motor Vehicles; and

WHEREAS, Nearly twelve million Californians have joined together to save lives by signing up with the state-authorized Donate Life California Organ and Tissue Donor Registry to ensure that their wishes to be an organ, eye, and tissue donor are recognized and honored; and

WHEREAS, Minorities are more likely to need a life-saving transplant due to higher incidences of hypertension, diabetes, and hepatitis, conditions that can potentially lead to organ failure and placement on the national organ transplant waiting list; and

WHEREAS, Nationwide, minorities make up 58 percent of organ transplant candidates and 64 percent of those awaiting kidney transplants. In California, Latinos make up 39 percent of those waiting for life-saving

transplants, Asians and Pacific Islanders 20 percent, and African Americans another 12 percent; and

WHEREAS, Minorities make up more than one-half of the population of high school students in California, according to the State Department of Education. These high school students will have the opportunity to make a decision about saving lives and joining the state-authorized Donate Life California Registry to ensure that their wishes to be organ, eye, and tissue donors are recognized and honored; and

WHEREAS, Donate Life California has developed a comprehensive Educator Resource Guide that includes many of the health education content standards for California public schools. This Educator Resource Guide includes lesson plans and educational DVDs about organ, eye, and tissue donation, and the Donate Life California Registry created specifically for the youth population; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in recognition of April as National Donate Life Month, the Legislature proclaims April 20, 2015, as DMV/Donate Life California Day in the State of California, and April 2015 as DMV/Donate Life California Month in the State of California. In doing so, the Legislature encourages all Californians to check "YES" when applying for or renewing a driver's license or identification card, or by signing up at www.donatelifecalifornia.org or www.donevidacalifornia.org; and be it further

Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 19
Author: Wolk
Bill Date: June 2, 2015, Amended
Subject: Physician Orders for Life Sustaining Treatment Form: Statewide Registry
Sponsor: Author
Position: Support in Concept

DESCRIPTION OF CURRENT LEGISLATION:

This bill would establish the California Physician Orders for Life Sustaining Treatment (POLST) statewide registry.

BACKGROUND

In the early 1990's, Congress passed the federal Patient Self-Determination Act and the POLST program was developed to address challenges related to advance care planning, most commonly used for frail and elderly patients. In 2008, AB 3000 (Wolk) created the California POLST, a standardized form that helps to ensure patient's wishes are honored regarding medical treatment towards the end of life. The POLST form is not an advance directive, it compliments an advance directive by identifying the patient's treatment preferences. Currently, the POLST form is a paper document.

ANALYSIS

This bill would enact the California POLST Registry Act. This bill would require the California Health and Human Services Agency (CHHS) to establish and operate the California POLST statewide registry (Registry), for the purpose of collecting a POLST form received from a health care provider or their designee and disseminating the information in the form to an authorized user. This bill would specify that CHHS would be required to establish and operate the Registry only after determining that sufficient non-state funds have been received to allow for development of the registry and any related startup costs.

CHHS would be allowed to utilize a contractor to operate and maintain the Registry. CHHS would be required to adopt all rules necessary for the operation of the Registry, which shall include, but not be limited to, the following:

- The means by which an initial or subsequent POLST form may be submitted to, or withdrawn from, the Registry, which shall include a method for electronic delivery of this information and the use of legally sufficient electronic signatures.
- Appropriate and timely methods by which the information in the Registry may be disseminated to an authorized user.
- Procedures for verifying the identity of an authorized user.

- Procedures to ensure the accuracy of, and to appropriately protect the confidentiality of, POLST forms submitted to the Registry.
- The requirement that a patient, or when appropriate, his or her legally recognized health care decision maker, receive confirmation or receipt that the patient's POLST form has been received by the Registry.
- The ability of the physician who signed the POLST form, or his or her designee, and of a patient, or, when appropriate, his or her legally recognized health care decision maker, to review the information in the POLST form for accuracy.
- The ability of a patient, or, when appropriate, his or her legally recognized health care decision maker, to withdraw a POLST form from the Registry.

This bill would require the operation of the Registry to comply with state and federal privacy and security laws and regulations.

This bill would require a physician or physician's designee who completes a POLST form with a patient, or his or her legally recognized health care decision maker, to include the POLST form in the patient's official medical record. The physician or physician's designee is also required to submit a copy of the POLST form to the Registry, unless the patient chooses not to participate in the Registry. This bill includes liability protections for health care providers who honor a patient's request regarding resuscitative measures obtained from the Registry.

According to the author's office, the POLST form is currently a paper document and a key barrier to the effectiveness of the POLST is inaccessibility of the document, which is intended to guide care. This bill would allow medical personnel to access a patient's POLST form in a timely manner in emergency medical situations, when they are most needed.

Although the idea of making the POLST form available electronically is a good one, many of the details on how this will happen are not included in this bill. This bill does not address who will have access to the POLST forms as authorized users, and how the electronic registry will operate. This bill tasks CHHS with establishing, operating, and maintaining the registry, and also deciding who will become authorized users. This bill will not be implemented until CHHS determines that sufficient non-state funds have been received to allow for development of the registry and any related startup costs. Because the details on how this Registry will operate are not included in the bill, the Board took a support in concept position on this bill. The Board will review this bill again once the details are included in the bill regarding how the Registry will work for physicians who will be required to enter POLST information into the Registry and who will have access to the Registry.

FISCAL: None to the Board

SUPPORT: Coalition for Compassionate Care of California (Sponsor); AARP; Alliance of Catholic Health Care: Blue Shield of California; California Assisted Living Association; California Association of Physician

Groups; American College of Emergency Physicians, California Chapter; California Commission on Aging; California Hospital Association; California Long-Term Care Ombudsman Association; Dignity Health; Long Term Ombudsman Services of San Luis Obispo County; Medical Board of California (in concept); On Lok Senior Health Services; Partnership Health Plan of California; Providence Health and Services Southern California; Riverside Family Physicians; and St. Joseph Health – Eureka, Redwood Memorial Hospital, Santa Rosa Memorial, St. Jude, Petaluma Valley, Orange, and Queen of the Valley

OPPOSITION: California Advocates for Nursing Home Reform (unless amended)

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE MARCH 25, 2015

SENATE BILL No. 19

Introduced by Senator Wolk
(Coauthors: Senators Hancock, Monning, and Vidak)
(Coauthors: Assembly Members Bonilla, Dababneh, and Eggman)

December 1, 2014

An act to add Section 4788 to the Probate Code, relating to resuscitative measures.

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Wolk. Physician Orders for Life Sustaining Treatment form: statewide registry.

Existing law defines a request regarding resuscitative measures as a written document, signed by an individual with capacity, or a legally recognized health care decisionmaker, and the individual's physician, directing a health care provider regarding resuscitative measures. Existing law defines a Physician Orders for Life Sustaining Treatment form, which is commonly referred to as a POLST form, and provides that a request regarding resuscitative measures includes a POLST form. Existing law requires that a POLST form and the medical intervention and procedures offered by the form be explained by a health care provider. Existing law distinguishes a request regarding resuscitative measures from an advance health care directive.

This bill would enact the California POLST Registry Act. The bill would require the California Health and Human Services Agency to establish and operate a statewide registry system, to be known as the

California POLST Registry, for the purpose of collecting POLST forms received from a physician or ~~physician~~ *physician's* designee. *The bill would require the agency to implement these provisions only after it determines that sufficient nonstate finds have been received for development of the registry and any related startup costs.* A physician or ~~physician~~ *physician's* designee who completes a POLST form would be required to include the POLST form in the patient's medical record and would be required to submit the form to the registry, unless a patient or his or her health care decisionmaker chooses not to participate in the registry. The bill would require the agency to disseminate the information in the POLST form to an authorized user. The bill ~~defines~~ *would define* "authorized user" to include a health care provider. The bill would require the agency to adopt rules for, among other things, the operation of the registry, including the means by which POLST forms would be submitted electronically, revised, and revoked, the capability to check the POLST form for accuracy prior to it being made available, the appropriate and timely methods for dissemination of POLST form information, the procedures for verifying the identity of an authorized user, and rules for maintaining the confidentiality of a POLST form received by the registry. The bill would require that any disclosure of POLST form information in the registry be made in accordance with applicable state and federal privacy and security laws and regulations. The bill would provide immunity from criminal prosecution, civil liability, discipline for unprofessional conduct, and any other sanction for a health care provider who honors a patient's request regarding resuscitative measures obtained from the registry, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. This act shall be known, and may be cited, as the California POLST Registry Act.

SEC. 2. Section 4788 is added to the Probate Code, to read:

4788. (a) For purposes of this section:

(1) "Agency" means the California Health and Human Services Agency.

(2) "Authorized user" means a person authorized by the agency to submit information to, or to receive information from, the

POLST registry, including health care providers and their designees.

(3) "Health care provider" has the meaning provided in Section 4621.

(4) "POLST form" means a Physician Orders for Life Sustaining Treatment form that fulfills the requirements of Section 4780.

(5) "Registry" means the California POLST Registry established by the agency pursuant to this section.

(b) *(1)* The agency shall establish and operate a statewide registry system, to be known as the California POLST Registry, for the purpose of collecting a POLST form received from a physician or ~~physician~~ *physician's* designee and disseminating the information in the form to an authorized user. ~~The~~

(2) The agency shall implement this section only after determining that sufficient nonstate funds have been received to allow for the development of the registry and any related startup costs.

(3) The registry may be operated and maintained by a contractor of the agency. The agency shall adopt all rules necessary for the operation of the registry, which shall include, but not be limited to, the following:

~~(1)~~

(A) The means by which an initial or subsequent POLST form may be submitted to, or withdrawn from, the registry, which shall include a method for electronic delivery of this information and the use of legally sufficient electronic signatures.

~~(2)~~

(B) Appropriate and timely methods by which the information in the registry may be disseminated to an authorized user.

~~(3)~~

(C) Procedures for verifying the identity of an authorized user.

~~(4)~~

(D) Procedures to ensure the accuracy of, and to appropriately protect the confidentiality of, POLST forms submitted to the registry.

~~(5)~~

(E) The requirement that a patient, or, when appropriate, his or her legally recognized health care decisionmaker, receive a confirmation or a receipt that the patient's POLST form has been received by the registry.

~~(6)~~

(F) The ability of the physician who signed the POLST form, or his or her designee, and of a patient, or, when appropriate, his or her legally recognized health care decisionmaker, to review the information in the patient's POLST form after it has been entered into the registry, and to confirm that it is accurate, prior to the information being available to an authorized user.

~~(7)~~

(G) The ability of a patient, or, when appropriate, his or her legally recognized health care decisionmaker, to withdraw a POLST form from the registry.

(c) The operation of the registry shall comply with state and federal privacy and security laws and regulations, including, but not limited to, compliance with the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), found at Parts 160 and 164 of Title 45 of the Code of Federal Regulations.

(d) A physician or ~~physician~~ *physician's* designee who completes a POLST form with a patient or his or her legally recognized health care decisionmaker shall include the POLST form in the patient's official medical record. The physician or ~~physician~~ *physician's* designee shall submit a copy of the POLST form to the registry unless the patient or the legally recognized health care decisionmaker chooses not to participate in the registry.

(e) A health care provider who honors a patient's request regarding resuscitative measures obtained from the registry shall not be subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction as set forth in Section 4782 of the Probate Code.

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AMENDED IN SENATE JUNE 4, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL No. 22

Introduced by Senator Roth

December 1, 2014

An act to add Chapter 6 (commencing with Section 128590) to Part 3 of Division 107 of the Health and Safety Code, relating to health care, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 22, as amended, Roth. Residency training.

Existing law, the Song-Brown Health Care Workforce Training Act, declares the intent of the Legislature to increase the number of students and residents receiving quality education and training in the specialty of family practice and as primary care physician's assistants and primary care nurse practitioners. Existing law establishes, for this purpose, a state medical contract program with accredited medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners, registered nurses, hospitals, and other health care delivery systems.

Existing law establishes the California Healthcare Workforce Policy Commission and requires the commission, among other things, to identify specific areas of the state where unmet priority needs for primary care family physicians and registered nurses exist, establish standards for family practice training programs, family practice residency programs, primary care physician assistants programs, and

programs that train primary care nurse practitioners, and review and make recommendations to the Director of Statewide Health Planning and Development concerning the funding of those programs that are submitted to the Healthcare Workforce Development Division for participation in the state medical contract program.

This bill would require the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation, to be known as the California Medical Residency Training Foundation, to be governed by a board of trustees consisting of a total of 13 members, to be appointed as specified.

The bill would create the Medical Residency Training Fund in the State Treasury, a continuously appropriated fund, and would require the foundation to solicit and accept funds from business, industry, foundations, and other private or public sources for the purpose of establishing and funding new graduate medical residency training programs in specified areas of the state, including medically underserved areas. By creating a continuously appropriated fund, the bill would make an appropriation. The bill would require the Office of Statewide Health Planning and Development, among other responsibilities, to provide technical support and financial management for the foundation, and to enter into contracts with public and private sector institutions and other health agencies and organizations in order to fund and establish residency positions. *The bill would authorize the Governor to include in the annual budget proposal an amount, as he or she deems reasonable, to be appropriated for this purpose. The bill, if the Legislature appropriates money for this purpose, would require the office to hold the funds and distribute them into the fund, upon request of the foundation, in an amount matching the amount deposited into the fund by the foundation. The bill would require money that was appropriated, but that has not been distributed to the fund at the end of each fiscal year, to be returned to the General Fund.*

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Chapter 6 (commencing with Section 128590) is added to Part 3 of Division 107 of the Health and Safety Code, to read:

Chapter 6. California Medical Residency Training Foundation

128590. As used in this chapter:

(a) "Board" means the Board of Trustees of the California Medical Residency Training Foundation.

(b) "Commission" means the California Healthcare Workforce Policy Commission.

(c) "Director" means the Director of Statewide Health Planning and Development.

(d) "Foundation" means the California Medical Residency Training Foundation.

(e) "Fund" means the Medical Residency Training Fund.

(f) "Office" means the Office of Statewide Health Planning and Development.

(g) "Primary care" means the medical practice areas of family medicine, general surgery, internal medicine, obstetrics and gynecology, pediatrics, psychiatry, and related specialties and subspecialties as the office deems appropriate.

(h) "Residency position" means a graduate medical education residency position in the field of primary care.

128591. (a) (1) The office shall establish a nonprofit public benefit corporation to be known as the California Medical Residency Training Foundation.

(2) The foundation shall be governed by a board of trustees consisting of a total of 13 members. Seven members shall be appointed by the Governor, one member shall be appointed by the Speaker of the Assembly, one member shall be appointed by the Senate Committee on Rules, two members of the Medical Board of California shall be appointed by the Medical Board of California, and two members of the Osteopathic Medical Board of California shall be appointed by the Osteopathic Medical Board of California.

(3) The members of the foundation board appointed by the Governor, the Speaker of the Assembly, and the Senate Committee

on Rules shall consist of representatives of designated and nondesignated public hospitals, private hospitals, community clinics, public and private health insurance providers, the pharmaceutical industry, associations of health care practitioners, and other appropriate members of health or related professions.

(4) All persons considered for appointment shall have an interest in increasing the number of medical residencies in the state, an interest in increasing access to health care in underserved areas of California, and the ability and desire to solicit funds for the purposes of this chapter, as determined by the appointing power.

(5) The chairperson of the commission shall also be a nonvoting, ex officio member of the board.

(b) The Governor shall appoint the president of the board from among those members appointed by the Governor, the Speaker of the Assembly, the Senate Committee on Rules, the Medical Board of California, and the Osteopathic Medical Board of California.

(c) Of the members of the board first appointed by the Governor, three members shall be appointed to serve a one-year term, three members shall be appointed to serve a two-year term, and one member shall be appointed to serve a three-year term.

(d) Of the members of the board first appointed by the Speaker of the Assembly and the Senate Committee on Rules, each member shall be appointed to serve a three-year term.

(e) The members appointed by the Medical Board of California and the Osteopathic Medical Board of California shall be appointed to serve a four-year term.

(f) Upon the expiration of the initial appointments to the board by the Governor, the Speaker of the Assembly, the Senate Committee on Rules, the Medical Board of California, and the Osteopathic Medical Board of California, each member shall be appointed to serve a four-year term.

(g) The director, after consultation with the president of the board, may appoint a council of advisers comprised of up to nine members. The council shall advise the director and the board on technical matters and programmatic issues related to the foundation.

(h) (1) Members of the board appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, and members of the council shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred

in connection with his or her duties as a member of the board or the council.

(2) The members appointed by the Medical Board of California and the Osteopathic Medical Board of California shall serve without compensation, but shall be reimbursed by the Medical Board of California and the Osteopathic Medical Board of California, respectively, for any actual and necessary expenses incurred in connection with his or her duties as a member of the foundation board.

(i) Notwithstanding any law relating to incompatible activities, no member of the foundation board shall be considered to be engaged in activities inconsistent and incompatible with his or her duties solely as a result of membership on the Medical Board of California or the Osteopathic Medical Board of California.

(j) The foundation shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), except that if there is a conflict with this chapter and the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), this chapter shall prevail.

128592. The foundation shall do the following:

(a) Solicit and accept funds from business, industry, foundations, and other private or public sources for the purpose of establishing and funding new residency positions in areas of the state described in subdivision (c).

(b) Encourage public and private sector institutions, including hospitals, colleges, universities, community clinics, and other health agencies and organizations to identify and provide locations for the establishment of new residency positions in areas of the state described in subdivision (c). The foundation shall solicit proposals for medical residency programs, as described in subdivision (c), and provide the office a copy of all proposals it receives.

(c) Upon the sufficient solicitation of funds and at the foundation's discretion, approve proposals and recommend to the office the establishment of new residency positions. A recommendation shall include all pertinent information necessary for the office to enter into the necessary contracts to establish the residency positions. The foundation shall only approve and

recommend to the office proposals that would establish residency positions that will serve *in any of* the following medical service areas:

(1) A service area that is designated as a primary care shortage area by the office.

(2) A service area that is designated as a health professional shortage area for primary care, by either population or geographic designation, by the Health Resources and Services Administration of the United States Department of Health and Human Services.

(3) A service area that is designated as a medically underserved area or medically underserved population by the Health Resources and Services Administration of the United States Department of Health and Human Services.

(d) Upon office approval of a recommendation, deposit into the fund necessary moneys as required to establish and fund the residency position.

(e) Recommend to the director that a portion of the funds solicited from the private sector be used for the administrative requirements of the foundation.

(f) Prepare and submit an annual report to the Legislature documenting the amount of money solicited, the amount of money deposited from the foundation into the fund, the recommendations for the location and fields of practice of residency positions, total expenditures for the year, and prospective fundraising goals.

128593. The office shall do all of the following:

(a) Provide technical and staff support to the foundation in meeting all of its responsibilities.

(b) Provide financial management for the foundation.

(c) Upon receipt of a recommendation made by the foundation pursuant to subdivision (c) of Section 128592, approve the recommendation if the recommendation fulfills the requirements of subdivision (c) of Section 128592 and the recommendation fulfills the goals of this chapter. Upon sufficient funds being available, an approval shall signal the office's intent to establish the residency position.

(d) Establish a uniform process by which the foundation may solicit proposals from public and private sector institutions, including hospitals, colleges, universities, community clinics, and other health agencies and organizations that train primary care residents. The office shall require that these proposals contain all

necessary and pertinent information, including, but not limited to, all of the following:

(1) The location of the proposed residency position.

(2) The medical practice area of the proposed residency position.

(3) Information that demonstrates the area's need for the proposed residency position and for additional primary care practitioners.

(4) The amount of funding required to establish and operate the residency position.

(e) Enter into contracts with public and private sector institutions, including hospitals, colleges, universities, community clinics, and other health agencies and organizations in order to fund and establish residency positions at, or in association with, these institutions.

(f) Ensure that the residency position has been, or will be, approved by the Accreditation Council for Graduate Medical Education.

(g) Provide all of the following information to the board:

(1) The areas of the state that are deficient in primary care services.

(2) The areas of the state that have the highest number of Medi-Cal enrollees and persons eligible to enroll in Medi-Cal, by proportion of population.

(3) Other information that the office or board finds relevant to assist the board in making its recommendations on possible locations for new residency positions.

(h) Monitor the residencies established pursuant to this chapter.

(i) (1) Prepare and submit an annual report to the foundation and the Legislature documenting the amount of money contributed to the fund by the foundation, the amount of money expended from the fund, the purposes of those expenditures, the number and location of residency positions established and funded, and recommendations for the location of future residency positions.

(2) The report pursuant to paragraph (1) shall be made to the Legislature pursuant to Section 9795 of the Government Code.

128594. (a) The Medical Residency Training Fund is hereby created within the State Treasury.

(b) The primary purpose of the fund is to allocate funding for new residency positions throughout the state. Money in the fund shall also be used to pay for the cost of administering the goals of

the foundation, and for any other purpose authorized by this chapter.

(c) The level of expenditure by the office for the administrative support of the foundation is subject to review and approval annually through the ~~State Budget~~ *state budget* process.

(d) The office and foundation may solicit and accept public and private donations to be deposited into the fund. All money in the fund is continuously appropriated to the office for the purposes of this chapter. The office shall manage this fund prudently in accordance with applicable laws.

128595. Any regulations the office adopts to implement this chapter shall be adopted as emergency regulations in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed to be emergency regulations for the purposes of Section 11346.1 of the Government Code.

128596. Notwithstanding any other law, the office may exempt from public disclosure any document in the possession of the office that pertains to a donation made pursuant to this chapter if the donor has requested anonymity.

128597. (a) The Governor may include in the annual budget proposal an amount, as he or she deems reasonable, to be appropriated to the office to be used as provided in this chapter.

(b) If the Legislature appropriates money for purposes of this chapter, the money shall be appropriated to the office, which shall hold the money for distribution to the fund.

(c) Funds appropriated to the office shall be paid into the fund, upon request of the foundation, in an amount matching the amount deposited into the fund by the foundation for the purposes of this chapter. Any money that was appropriated to the office and that has not been distributed to the fund at the end of each fiscal year shall be returned to the General Fund.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Chapter 6 (commencing with Section 128590) to Part 3 of Division 107 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes

the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The need to protect individual privacy of donations made by a donor to fund new residency positions in underserved areas of the state outweighs the interest in the public disclosure of that information.

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AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 14, 2015

AMENDED IN SENATE MARCH 17, 2015

SENATE BILL No. 128

Introduced by Senators Wolk and Monning
(Principal coauthors: Senators Jackson and Leno)
(Principal coauthors: Assembly Members Alejo and Eggman)
(Coauthors: Senators Block, *Glazer,* Hall, Hancock, Hernandez, Hill, McGuire, and Wieckowski)
(Coauthors: Assembly Members Chu, Cooper, Frazier, Cristina Garcia, Low, *McCarty,* Quirk, Rendon, and Mark Stone)

January 20, 2015

An act to add Part 1.85 (commencing with Section 443) to Division 1 of the Health and Safety Code, relating to end of life.

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Wolk. End of life.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for a drug prescribed pursuant to these

provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests. The bill would also establish the forms to request an aid-in-dying drug and, under specified circumstances, an interpreter declaration to be signed subject to penalty of perjury, thereby ~~imposing~~ *creating* a crime and *imposing* state-mandated local program. This bill would require specified information to be documented in the individual's medical record, including, among other things, all oral and written requests for an aid-in-dying drug.

This bill would prohibit a provision in a contract, will, or other agreement from being conditioned upon or affected by a person making or rescinding a request for the above-described drug. The bill would prohibit the sale, procurement, or issuance of any life, health, ~~or accident insurance~~ or annuity policy, health care service plan, contract, or health benefit plan, or the rate charged for any policy or plan contract, from being conditioned upon or affected by the request. The bill would prohibit an insurance carrier from providing any information in communications made to an individual about the availability of an aid-in-dying drug absent a request by the ~~individual,~~ *individual or* his or her attending physician at the behest of the ~~individual, or the individual's designee.~~ *individual.* The bill would also prohibit any communication from containing both the denial of treatment and information as to the availability of aid-in-dying drug coverage.

This bill would provide immunity from civil, criminal, administrative, employment, or contractual liability or professional disciplinary action for participating in good faith compliance with the act, and would specify that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct provided for by the bill. The bill would make participation in activities authorized pursuant to its provisions voluntary, and would make health care providers immune from liability for refusing to ~~participate~~ *engage* in activities authorized pursuant to its provisions. The bill would authorize a health care provider to prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under ~~this~~ *the* act while on the premises owned or under the management or direct control of that prohibiting health care provider, or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

This bill would make it a felony to knowingly alter or forge a request for drugs to end an individual's life without his or her authorization or

to conceal or destroy a withdrawal or rescission of a request for a drug, if it is done with the intent or effect of causing the individual's death. The bill would make it a felony to knowingly coerce or exert undue influence on an individual to request a drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request. By creating a new crime, the bill would impose a state-mandated local program. The bill would provide that nothing in its provisions is to be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among other things, suicide or homicide.

This bill would require the State Public Health Officer to adopt regulations establishing additional reporting requirements for physicians and pharmacists to determine the use of, and compliance with, the act, and would require the State Public Health Officer to annually review a sample of certain records and the State Department of Public Health to make a statistical report of the information collected.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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. State-mandated local program: yes.

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

1 SECTION 1. Part 1.85 (commencing with Section 443) is
2 added to Division 1 of the Health and Safety Code, to read:
3
4 PART 1.85. END OF LIFE OPTION ACT
5
6 443. This part shall be known and may be cited as the End of
7 Life Option Act.

443.1. As used in this part, the following definitions shall apply:

(a) "Adult" means an individual 18 years of age or older.

(b) "Aid-in-dying drug" means a drug determined and prescribed by a physician for a qualified individual, which the qualified individual may choose to self-administer to bring about his or her death due to a terminal disease.

(c) "Attending physician" means the physician who has primary responsibility for the health care of an individual and treatment of the individual's terminal disease.

(d) "Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, pursuant to Section 4609 of the Probate Code, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand its significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision to health care providers, including communication through a person familiar with the individual's manner of communicating, if that person is available.

(e) "Consulting physician" means a physician who is independent from the attending physician and who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's terminal disease.

(f) "Department" means the State Department of Public Health.

(g) "End of Life Option Act Checklist" means a checklist*, as described in Section 443.6,* identifying each and every requirement that must be fulfilled by a health care provider to be in good faith compliance with the End of Life Option Act should the health care provider choose to participate.

(h) "Health care provider" or "provider of health care" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with Section 1797) of this code; and any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of this code.

(i) "Informed decision" means a decision by an individual with a terminal disease to request and obtain a prescription for a drug that the individual may self-administer to end the individual's life,

that is based on an understanding and acknowledgment of the relevant facts, and that is made after being fully informed by the attending physician of all of the following:

(1) The individual's medical diagnosis and prognosis.

(2) The potential risks associated with taking the drug to be prescribed.

(3) The probable result of taking the drug to be prescribed.

(4) The possibility that the individual may choose not to obtain the drug or may obtain the drug but may decide not to ingest it.

(5) The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

(j) "Medically confirmed" means the medical diagnosis and prognosis of the attending physician has been confirmed by a consulting physician who has examined the individual and the individual's relevant medical records.

(k) "Mental health specialist assessment" means one or more consultations between an individual and a mental health specialist for the purpose of determining that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

(*l*) "Mental health specialist" means a psychiatrist or a licensed psychologist.

(m) "Physician" means a doctor of medicine or osteopathy currently licensed to practice medicine in this state.

(n) "Public place" means any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place that is open to the public view, or to which the public has access.

(o) "Qualified individual" means an adult who has the capacity to make medical decisions and is a resident of California and has satisfied the requirements of this part in order to obtain a prescription for a drug to end his or her life.

(p) "Self-administer" means a qualified individual's affirmative, conscious, and physical act of administering and ingesting the aid-in-dying drug to bring about his or her own death.

(q) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months.

443.2. (a) A qualified individual who is an adult with the capacity to make medical decisions and with a terminal disease may make a request to receive a prescription for an aid-in-dying drug if all of the following conditions are satisfied:

(1) The individual's attending physician has diagnosed the individual with a terminal disease.

(2) The individual has voluntarily expressed the wish to receive a prescription for an aid-in-dying drug.

(3) The individual is a resident of California and is able to establish residency through any of the following means:

(A) Possession of a California driver license or other identification issued by the State of California.

(B) Registration to vote in California.

(C) Evidence that the person owns or leases property in California.

(D) Filing of a California tax return for the most recent tax year.

(4) The individual documents his or her request pursuant to the requirements set forth in Section 443.3.

(5) The individual has the physical and mental ability to self-administer the aid-in-dying drug.

(b) A person shall not be considered a "qualified individual" under the provisions of this part solely because of age or disability.

(c) A request for a prescription for an aid-in-dying drug under this part shall be made solely and directly by the individual diagnosed with the terminal disease and shall not be made on behalf of the patient, including, but not limited to, through a power of attorney, an advance health care directive, a conservator, health care agent, surrogate, or any other legally recognized health care decisionmaker.

443.3. (a) An individual seeking to obtain a prescription for an aid-in-dying drug pursuant to this part shall submit two oral requests, a minimum of 15 days apart, and a written request to his or her attending physician. The attending physician shall directly, and not through a designee, receive all three requests required pursuant to this section.

(b) A valid written request for an aid-in-dying drug under subdivision (a) shall meet all of the following conditions:

(1) The request shall be in substantially the form described in Section ~~443.10.~~ *443.11.*

(2) The request shall be signed and dated, in the presence of two witnesses in accordance with paragraph (3), by the individual seeking the aid-in-dying drug.

(3) The request shall be witnessed by at least two other adult persons who, in the presence of the individual, shall attest that to the best of their knowledge and belief that the individual is all of the following:

(A) A person who has the capacity to make medical decisions.

(B) Acting voluntarily.

(C) Not being coerced to make or sign the request.

(c) Only one of the two witnesses at the time the written request is signed may:

(1) Be related to the qualified individual by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the individual's estate upon death.

(2) Own, operate, or be employed at a health care facility where the individual is receiving medical treatment or resides.

(d) The attending physician, consulting physician, or mental health specialist of the individual shall not be one of the witnesses required pursuant to paragraph (3) of subdivision (b).

443.4. (a) An individual may at any time withdraw or rescind his or her request for an aid-in-dying drug, or decide not to ingest an aid-in-dying drug, without regard to the individual's mental state.

(b) A prescription for an aid-in-dying drug provided under this part may not be written without the attending physician directly, and not through a designee, offering the individual an opportunity to withdraw or rescind the request.

443.5. (a) Before prescribing an aid-in-dying drug, the attending physician shall do all of the following:

(1) Make the initial determination of all of the following:

(A) (i) Whether the requesting adult has the capacity to make medical decisions.

(ii) If there are indications of a mental disorder, the physician shall refer the individual for a mental health specialist assessment.

(iii) If a mental health specialist assessment referral is made, no aid-in-dying drugs shall be prescribed until the mental health specialist determines that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

(B) Whether the requesting adult has a terminal disease.

(C) Whether the requesting adult has voluntarily made the request for an aid-in-dying drug pursuant to Sections 443.2 and 443.3.

(D) Whether the requesting adult is a qualified individual pursuant to subdivision ~~(m)~~ *(o)* of Section 443.1.

(2) Confirm that the individual is making an informed decision by discussing with him or her all of the following:

(A) His or her medical diagnosis and prognosis.

(B) The potential risks associated with ingesting the requested aid-in-dying drug.

(C) The probable result of ingesting the aid-in-dying drug.

(D) The possibility that he or she may choose to obtain the aid-in-dying drug but not take it.

(E) The feasible alternatives or additional treatment options, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

(3) Refer the individual to a consulting physician for medical confirmation of the diagnosis and prognosis, and for a determination that the individual has the capacity to make medical decisions and has complied with the provisions of this part.

(4) Confirm that the qualified individual's request does not arise from coercion or undue influence by another person by discussing with the qualified individual, outside of the presence of any other persons, except for an interpreter as required pursuant to this part, whether or not the qualified individual is feeling coerced or unduly influenced by another person.

(5) Counsel the qualified individual about the importance of all of the following:

(A) Having another person present when he or she ingests the aid-in-dying drug prescribed pursuant to this part.

(B) Not ingesting the aid-in-dying drug in a public place.

(C) Notifying the next of kin of his or her request for an aid-in-dying drug. A qualified individual who declines or is unable to notify next of kin shall not have his or her request denied for that reason.

(D) Participating in a hospice program.

(E) Maintaining the aid-in-dying drug in a safe and secure location until the time that the qualified individual will ingest it.

(6) Inform the individual that he or she may withdraw or rescind the request for an aid-in-dying drug at any time and in any manner.

(7) Offer the individual an opportunity to withdraw or rescind the request for an aid-in-dying drug before prescribing the aid-in-dying drug.

(8) Verify, immediately ~~prior to~~ *before* writing the prescription for *an* aid-in-dying drug, that the qualified individual is making an informed decision.

(9) Confirm that all requirements are met and all appropriate steps are carried out in accordance with this part before writing a prescription for an aid-in-dying drug.

(10) Fulfill the record documentation required under Sections ~~443.7 and 443.18.~~ *443.9 and 443.19.*

(11) Complete the End of Life Option Act Checklist*, as described in Section 443.6,* and include it in the individual's medical record.

(b) If the conditions set forth in subdivision (a) are satisfied, the attending physician may deliver the aid-in-dying drug in any of the following ways:

(1) Dispensing the aid-in-dying drug directly, including ancillary medication intended to minimize the qualified individual's discomfort, if the attending physician meets all of the following criteria:

(A) Is authorized to dispense medicine under California law.

(B) Has a current United States Drug Enforcement Administration (USDEA) certificate.

(C) Complies with any applicable administrative rule or regulation.

(2) With the qualified individual's written consent, contacting a pharmacist, informing the pharmacist of the prescriptions, and delivering the written prescriptions personally, by mail, or electronically to the pharmacist, who may dispense the drug to the qualified individual, the attending physician, or a person expressly designated by the qualified individual and with the designation delivered to the pharmacist in writing or verbally.

(c) Delivery of the dispensed drug to the qualified individual, the attending physician, or a person expressly designated by the qualified individual may be made by personal delivery, or, with a signature required on delivery, by United Parcel Service, United States Postal Service, Federal Express, or by messenger service.

1 *443.6. The End of Life Option Act Checklist shall be in*
2 *substantially the following form:*

Attending Physician's Checklist for Patient's Medical Records

Patient Name: _____

Patient Date of Birth: _____

☐ *First oral request for aid-in-dying* Date_____ Initial____

☐ *Determined that patient has terminal illness* Date_____ Initial____

☐ *Verified patient is adult resident of California* Date_____ Initial____

Informed patient of the following:

- *Diagnosis;*
- *Prognosis;*
- *The potential risks associated with ingesting the requested aid-in-dying drug;*
- *The probable result of ingesting the aid-in-dying drug; and*
- *The possibility that he or she may choose to obtain the aid-in-dying drug but not take it.* Date_____ Initial____

Discussed the feasible alternatives or additional treatment options Date_____ Initial____

☐ *Evaluated patient's mental capacity to make medical decisions* Date_____ Initial ____

☐ *Referred for mental health specialist assessment, if needed* Date_____ Initial ____

☐ *If a mental health specialist assessment referral is made, received psychological consultant's compliance form, if needed* Date_____ Initial ____

☐ *Informed patient of right to rescind - 1st time* Date_____ Initial ____

☐ *Why patient requested aid-in-dying drug:*

_____

_____

_____

☐ *Inquired about financial and social issues* Date_____ Initial____

☐ *Confirm the request does not come as a result of coercion in one-on-one meeting with patient, other than licensed interpreter.* Date_____ Initial____

☐ *Recommended patient notify next-of-kin* Date_____ Initial____

☐ *Referred patient to Consulting Physician:*
Dr. _____ Date_____ Initial____

☐ *Received Consulting Physician's Compliance Form* Date_____ Initial____

☐ *Received written Request for Medication dated*_____ Date_____ Initial____

☐ *Second oral request (at least 15 days after 1st request). Verify patient is making informed decision and restate right to rescind.* Date_____ Initial____

☐ *Counseled patient about the importance of all of the following:*

- *Maintaining the aid-in-dying drug in a safe and secure location until the time the qualified individual will ingest it;*
- *Having another person present when he or she ingests the aid-in-dying drug;*
- *Not ingesting the aid-in-dying drug in a public place;*
- *Notifying the next of kin of his or her request for an aid-in-dying drug. (A qualified Individual who declines or is unable to notify next of kin shall not have his or her Request denied for that reason); and*
- *Participating in a hospice program or palliative care.* *Date_____ Initial____*

☐ *Contacted pharmacist _____* *Date_____ Initial____*

☐ *Rx for antiemetic: _____ _____ mg* *Date_____ Initial____*

_____ _____ mg

☐ *Rx for drug: _____ _____ mg* *Date_____ Initial____*

Deliver written prescriptions to pharmacy personally, by mail, or electronically.

☐ *Comply with State Public Health Officer's requirements* ***within*** *30 days of writing Rx.*

Date_____ Initial____

☐ *Physician Signature _____* *Date_____ Initial____*

Printed Physician's Name _____

~~443.6. Prior to~~

443.7. Before a qualified individual ~~obtaining~~ *obtains* an aid-in-dying drug from the attending physician, the consulting physician shall perform all of the following:

(a) Examine the individual and his or her relevant medical records.

(b) Confirm in writing the attending physician's diagnosis and prognosis.

(c) Determine that the individual has *the* capacity to make medical decisions, is acting voluntarily, and has made an informed decision.

(d) If there are indications of a mental disorder, the consulting physician shall refer the individual for a mental health specialist assessment.

(e) Fulfill the record documentation required under this part.

~~443.7.~~

443.8. Upon referral from the attending or consulting physician pursuant to this part, the mental health specialist shall:

(a) Examine the qualified individual and his or her relevant medical records.

(b) Determine that the individual has the mental capacity to make medical decisions, act voluntarily, and make an informed decision.

(c) Determine that the individual is not suffering from impaired judgment due to a mental disorder.

(d) Fulfill the record documentation requirements of this part.

~~443.8.~~

443.9. All of the following shall be documented in the individual's medical record:

(a) All oral requests for aid-in-dying drugs.

(b) All written requests for aid-in-dying drugs.

(c) The attending physician's diagnosis and prognosis, and the determination that a qualified individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision, or that the attending physician has determined that the individual is not a qualified individual.

(d) The consulting physician's diagnosis and prognosis, and verification that the qualified individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed

decision, or that the consulting physician has determined that the individual is not a qualified individual.

(e) A report of the outcome and determinations made during a mental health specialist's assessment, if performed.

(f) The attending physician's offer to the qualified individual to withdraw or rescind his or her request at the time of the individual's second oral request.

(g) A note by the attending physician indicating that all requirements under Sections 443.5 and ~~443.6~~ *443.7* have been met and indicating the steps taken to carry out the request, including a notation of the aid-in-dying drug prescribed.

~~443.9.~~

443.10. A qualified individual may not receive a prescription for an aid-in-dying drug pursuant to this part unless he or she has made an informed decision. Immediately before writing a prescription for an aid-in-dying drug under this part, the attending physician shall verify that the individual is making an informed decision.

~~443.10.~~

443.11. (a) A request for an aid-in-dying drug as authorized by this part shall be in substantially the following form:

REQUEST FOR AN AID-IN-DYING DRUG TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER I, ...,
am an adult of sound mind and a resident of the State of California.
I am suffering from ....., which my attending physician has determined is in its terminal phase and which has been medically confirmed.
I have been fully informed of my diagnosis and prognosis, the nature of the aid-in-dying drug to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options, including comfort care, hospice care, palliative care, and pain control.
I request that my attending physician prescribe an aid-in-dying drug that will end my life in a humane and dignified manner if I choose to take it, and I authorize my attending physician to contact any pharmacist about my request.
INITIAL ONE:
..... I have informed one or more members of my family of my decision and taken their opinions into consideration.
..... I have decided not to inform my family of my decision.
..... I have no family to inform of my decision.

I understand that I have the right to withdraw or rescind this request at any time.

I understand the full import of this request and I expect to die if I take the aid-in-dying drug to be prescribed. My attending physician has counseled me about the possibility that my death may not be immediately upon the consumption of the drug.

I make this request voluntarily, without reservation, and without being coerced.

Signed:.....

Dated:.....

DECLARATION OF WITNESSES

We declare that the person signing this request:

(a) is personally known to us or has provided proof of identity;

(b) signed this request in our presence;

(c) is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and

(d) is not an individual for whom either of us is the attending physician, consulting physician, or mental health specialist.

.....Witness 1/Date

.....Witness 2/Date

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, registered domestic partnership, or adoption) of the person signing this request or be entitled to a portion of the person's estate upon death. Only one of the two witnesses may own, operate, or be employed at a health care facility where the person is a patient or resident.

(b) (1) The written language of the request shall be written in the same translated language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians.

(2) Notwithstanding paragraph (1), the written request may be prepared in English even when the conversations or consultations or interpreted conversations or consultations were conducted in a language other than English if the English language form includes an attached interpreter's declaration that is signed under penalty of perjury. The interpreter's declaration shall state words to the effect that:

I (INSERT NAME OF INTERPRETER), am fluent in English and (INSERT TARGET LANGUAGE).

On (insert date) at approximately (insert time), I read the "Request for an Aid-In-Dying Drug to End My Life" to (insert name of individual/patient) in (insert target language).

Mr./Ms. (insert name of patient/qualified individual) affirmed to me that he/she understood the content of this form and affirmed his/her desire to sign this form under his/her own power and volition and that the request to sign the form followed consultations with an attending and consulting physician.

I declare that I am fluent in English and (insert target language) and further declare under penalty of perjury that the foregoing is true and correct.

Executed at (insert city, county, and state) on this (insert day of month) of (insert month), (insert year).

X_____Interpreter signature

X_____Interpreter printed name

X_____Interpreter address

(3) An interpreter whose services are provided pursuant to paragraph (2) shall not be related to the qualified individual by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the person's estate upon death. An interpreter whose services are provided pursuant to paragraph (2) shall meet the standards promulgated by the California Healthcare Interpreting Association or the National Council on Interpreting in Health Care or other standards deemed acceptable by the department for health care providers in California.

~~443.11.~~

443.12. (a) A provision in a contract, will, or other agreement executed on or after January 1, 2016, whether written or oral, to the extent the provision would affect whether a person may make, withdraw, or rescind a request for an aid-in-dying drug is not valid.

(b) An obligation owing under any contract executed on or after January 1, 2016, may not be conditioned or affected by a qualified individual making, withdrawing, or rescinding a request for an aid-in-dying drug.

~~443.12.~~

443.13. (a) *(1)* The sale, procurement, or issuance of a life, health, ~~or accident insurance~~ or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for a policy

or plan contract may not be conditioned upon or affected by a person making or rescinding a request for an aid-in-dying drug.

(2) Pursuant to Section 443.18, death resulting from the self-administration of an aid-in-dying drug is not suicide, and therefore health and insurance coverage shall not be exempted on that basis.

(b) Notwithstanding any other law, a qualified individual's act of self-administering an aid-in-dying drug ~~may~~ *shall* not have an effect upon a life, health, ~~or accident insurance~~ or annuity policy other than that of a natural death from the underlying disease.

(c) An insurance carrier shall not provide any information in communications made to an individual about the availability of an aid-in-dying drug absent a request by the individual or his or her attending physician at the behest of the individual. Any communication shall not include both the denial of treatment and information as to the availability of aid-in-dying drug coverage. For the purposes of this subdivision, "insurance carrier" means a health care service plan as defined in Section 1345 of this code or a carrier of health insurance as defined in Section 106 of the Insurance Code.

~~443.13.~~

443.14. (a) Notwithstanding any other law, a person shall not be subject to civil, criminal, administrative, employment, or contractual liability or professional disciplinary action for participating in good faith compliance with this part, including an individual who is present when a qualified individual self-administers the prescribed aid-in-dying drug.

(b) A health care provider or professional organization or association shall not subject an individual to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating in good faith compliance with this part or for refusing to participate in accordance with subdivision (e).

(c) Notwithstanding any other law, a health care provider shall not be subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for participating in this part, including, but not limited to, determining the diagnosis or prognosis of an individual, determining the capacity of an individual for purposes of qualifying

for the act, providing information to an individual regarding this part, and providing a referral to a physician who participates in this part.

(d) (1) A request by a qualified individual to an attending physician to provide an aid-in-dying drug in good faith compliance with the provisions of this part shall not provide the sole basis for the appointment of a guardian or conservator.

(2) No actions taken in compliance with the provisions of this part shall constitute or provide the basis for any claim of neglect or elder abuse for any purpose of law.

(e) (1) Participation in activities authorized pursuant to this part shall be voluntary. Notwithstanding Sections 442 to 442.7, inclusive, a person or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities authorized pursuant to this part is not required to take any action in support of an individual's decision under this part.

(2) Notwithstanding any other law, a health care provider is not subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for refusing to participate in activities authorized under ~~the End of Life Option Act,~~ *this part,* including, but not limited to, refusing to inform a patient regarding his or her rights under ~~the End of Life Option Act~~ *this part,* and not referring an individual to a physician who participates in activities authorized under ~~the End of Life Option Act.~~ *this part.*

(3) If a health care provider is unable or unwilling to carry out a qualified individual's request under this part and the qualified individual transfers care to a new health care provider, the individual may request a copy of his or her medical records pursuant to law.

~~443.14.~~

443.15. (a) Subject to subdivision (b), notwithstanding any other law, a health care provider may prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under this part while on premises owned or under the management or direct control of that prohibiting health care provider or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

(b) A health care provider that elects to prohibit its employees, independent contractors, or other persons or entities, including health care providers, from participating in activities under this part, as described in subdivision (a), shall first give notice of the policy prohibiting participation under this part to the individual or entity. A health care provider that fails to provide notice to an individual or entity in compliance with this subdivision shall not be entitled to enforce such a policy against that individual or entity.

(c) Subject to compliance with subdivision (b), the prohibiting health care provider may take action, including, but not limited to, the following, as applicable, against any individual or entity that violates this policy:

(1) Loss of privileges, loss of membership, or other action authorized by the bylaws or rules and regulations of the medical staff.

(2) Suspension, loss of employment, or other action authorized by the policies and practices of the prohibiting health care provider.

(3) Termination of any lease or other contract between the prohibiting health care provider and the individual or entity that violates the policy.

(4) Imposition of any other nonmonetary remedy provided for in any lease or contract between the prohibiting health care provider and the individual or entity in violation of the policy.

(d) Nothing in this section shall be construed to prevent, or to allow a prohibiting health care provider to prohibit any other health care provider, employee, independent contractor, or other person or entity from any of the following:

(1) Participating, or entering into an agreement to participate, in activities under this part, while on premises that are not owned or under the management or direct control of the prohibiting provider or while acting outside the course and scope of the participant's duties as an employee of, or an independent contractor for, the prohibiting health care provider.

(2) Participating, or entering into an agreement to participate, in activities under this part as an attending physician or consulting physician while on premises that are not owned or under the management or direct control of the prohibiting provider.

(e) In taking actions pursuant to subdivision (c), a health care provider shall comply with all procedures required by law, its own

policies or procedures, and any contract with the individual or entity in violation of the policy, as applicable.

(f) For purposes of this section:

(1) "Notice" means a separate statement in writing advising of the prohibiting health care provider policy with respect to participating in activities under this part.

(2) "Participating, or entering into an agreement to participate, in activities under this part" means doing or entering into an agreement to do any one or more of the following:

(A) Performing the duties of an attending physician as specified in Section 443.5.

(B) Performing the duties of a consulting physician as specified in Section ~~443.6.~~ *443.7.*

(C) Performing the duties of a mental health specialist, in the circumstance that a referral to one is made.

(D) Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drug pursuant to paragraph (2) of subdivision (b) of, and subdivision (c) of, Section 443.5.

(E) Being present when the qualified individual takes the aid-in-dying drug prescribed pursuant to this part.

(3) "Participating, or entering into an agreement to participate, in activities under this part" does not include doing, or entering into an agreement to do, any of the following:

(A) Diagnosing whether a patient has a terminal disease, informing the patient of the medical prognosis, or determining whether a patient has the capacity to make decisions.

(B) Providing information to a patient about this part.

(C) Providing a patient, upon the patient's request, with a referral to another health care provider for the purposes of participating in the activities authorized by this part.

(g) Any action taken by a prohibiting provider pursuant to this section shall not be reportable under Sections 800 to 809.9, inclusive, of the Business and Professions Code. The fact that a health care provider participates in activities under this part shall not be the sole basis for a complaint or report by another health care provider of unprofessional or dishonorable conduct under Sections 800 to 809.9, inclusive, of the Business and Professions Code.

(h) Nothing in this part shall prevent a health care provider from providing an individual with health care services that do not constitute participation in this part.

~~443.15.~~

443.16. (a) A health care provider may not be sanctioned for any of the following:

(1) Making an initial determination pursuant to the standard of care that an individual has a terminal disease and informing him or her of the medical prognosis.

(2) Providing information about the End of Life Option Act to a patient upon the request of the individual.

(3) Providing an individual, upon request, with a referral to another physician.

(b) A health care provider that prohibits activities under this part in accordance with Section ~~443.14~~ *443.15* shall not sanction an individual health care provider for contracting with a qualified individual to engage in activities authorized by this part if the individual health care provider is acting outside of the course and scope of his or her capacity as an employee or independent contractor of the prohibiting health care provider.

(c) Notwithstanding any contrary provision in this section, the immunities and prohibitions on sanctions of a health care provider are solely reserved for actions taken pursuant to this part, and those health care providers may be sanctioned for conduct and actions not included and provided for in this part if the conduct and actions do not comply with the standards and practices set forth by the Medical Board of California.

~~443.16.~~

443.17. (a) Knowingly altering or forging a request for an aid-in-dying drug to end an individual's life without his or her authorization or concealing or destroying a withdrawal or rescission of a request for an aid-in-dying drug is punishable as a felony if the act is done with the intent or effect of causing the individual's death.

(b) Knowingly coercing or exerting undue influence on an individual to request an aid-in-dying drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request is punishable as a felony.

(c) For purposes of this section, "knowingly" has the meaning provided in Section 7 of the Penal Code.

(d) Nothing in this section shall be construed to limit civil liability.

(e) The penalties in this section do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this section.

~~443.17.~~

443.18. Nothing in this part may be construed to authorize a physician or any other person to end an individual's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this part shall not, for any purposes, constitute suicide, assisted suicide, homicide, or elder abuse under the law.

~~443.18.~~

443.19. (a) The State Public Health Officer shall annually review a sample of records maintained pursuant to Section ~~443.8~~ *443.9* and shall adopt regulations establishing additional reporting requirements for physicians and pharmacists pursuant to this part.

(b) The reporting requirements shall be designed to collect information to determine utilization and compliance with this part. The information collected shall be confidential and shall be collected in a manner that protects the privacy of the patient, the patient's family, and any medical provider or pharmacist involved with the patient under the provisions of this part.

(c) Based on the information collected, the department shall provide an annual compliance and utilization statistical report aggregated by age, gender, race, ethnicity, and primary language spoken at home and other data the department may determine relevant. The department shall make the report public within 30 days of completion of each annual report.

(d) The State Public Health Officer shall make available to health care providers the End of Life Option Act Checklist*, as described in Section 443.6,* by posting it on its Internet Web site.

~~443.19.~~

443.20. A person who has custody or control of any unused aid-in-dying drugs prescribed pursuant to this part after the death of the patient shall personally deliver the unused aid-in-dying drugs for disposal by delivering it to the nearest qualified facility that properly disposes of controlled substances, or if none is available, shall dispose of it by lawful means in accordance with guidelines promulgated by the California State Board of Pharmacy or a federal Drug Enforcement Administration approved take-back program.

~~443.20.~~

443.21. Any governmental entity that incurs costs resulting from a qualified individual terminating his or her life pursuant to the provisions of this part in a public place shall have a claim against the estate of the qualified individual to recover those costs and reasonable attorney fees related to enforcing the claim.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section ~~443.18~~ *443.19* to the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) Any limitation to public access to personally identifiable patient data collected pursuant to Section ~~443.18~~ *443.19* of the Health and Safety Code as proposed to be added by this act is necessary to protect the privacy rights of the patient and his or her family.

(b) The interests in protecting the privacy rights of the patient and his or her family in this situation strongly outweigh the public interest in having access to personally identifiable data relating to services.

(c) The statistical report to be made available to the public pursuant to subdivision (c) of Section ~~443.18~~ *443.19* of the Health and Safety Code is sufficient to satisfy the public's right to access.

SEC. 3. The provisions of this part are severable. If any provision of this part 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.

SEC. 4. 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

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL No. 149

Introduced by Senator Stone
(Coauthor: Senator Anderson)

January 29, 2015

An act to add Article 4.1 (commencing with Section 111546) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, relating to drugs and devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 149, as amended, Stone. Investigational drugs, biological products, or devices: right to try.

Existing law, the Federal Food, Drug, and Cosmetic Act, prohibits a person from introducing into interstate commerce any new drug unless the drug has been approved by the United States Food and Drug Administration (FDA). Existing law requires the sponsor of a new drug to submit to the FDA an investigational new drug application and to then conduct a series of clinical trials to establish the safety and efficacy of the drug in human populations and submit the results to the FDA in a new drug application.

Existing law, the Sherman Food, Drug, and Cosmetic Law, regulates the packaging, labeling, and advertising of drugs and devices and is administered by the State Department of Public Health. A violation of that law is a crime. The Sherman Food, Drug, and Cosmetic Law prohibits, among other things, the sale, delivery, or giving away of a new drug or new device unless either the department has approved a

new drug or device application for that new drug or new device and that approval has not been withdrawn, terminated, or suspended or the drug or device has been approved pursuant to specified provisions of federal law, including the Federal Food, Drug, and Cosmetic Act.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and requires the board to take action against a licensee who is charged with unprofessional conduct. The Osteopathic Act provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California and requires the board to enforce the Medical Practice Act with respect to its licensees.

This bill, among other things, would permit a manufacturer of an investigational drug, biological product, or device to make the product available to eligible patients with ~~a terminal disease,~~ *an immediately life-threatening disease or condition*, as specified. ~~The bill would require a manufacturer that provides an investigational drug, biological product, or device to an eligible patient to report specified data to the State Department of Public Health.~~ The bill would provide that the act does not require a health benefit plan, as defined, or governmental agency to provide coverage for the cost of any investigational drug, biological product, or device made available pursuant to these provisions, but would authorize a health benefit plan to provide coverage for an investigational drug, biological product, or device. The bill would also prohibit the Medical Board of California and the Osteopathic Medical Board of California from taking any disciplinary action against the license of a physician based solely on the physician's recommendation to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or ~~device.~~ *device if the recommendation or prescription is consistent with protocol approved by the physician's institutional review board or an accredited institutional review board, and would require the institutional review board to biannually report specified information to the State Department of Public Health, among others.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Article 4.1 (commencing with Section 111546) is added to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 4.1. Right to Try Act

111546. This article shall be known and may be cited as the Right to Try Act.

111546.1. In this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Consulting physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act who performs all of the following:

(1) Examines the qualified individual and his or her relevant medical records.

(2) Confirms, in writing, the physician's diagnosis and prognosis.

(3) Verifies, in the opinion of the consulting physician, that the eligible patient is competent, acting voluntarily, and has made an informed decision.

~~(a)~~

(b) "Eligible patient" means a person to whom all of the following conditions apply:

(1) He or she has ~~a terminal disease as determined by that person's physician and a consulting physician.~~ *an immediately life-threatening disease or condition.*

(2) His or her physician has determined that the person has no comparable or satisfactory United States Food and Drug Administration approved treatment options available to diagnose, monitor, or treat the disease or condition involved, and that the probable risk to the person from the investigational drug, biological product, or device is not greater than the probable risk from the disease or condition.

(3) He or she has received a prescription or recommendation from his or her physician for an investigational drug, biological product, or device.

(4) He or she has given written informed consent for the use of the investigational drug, biological product, or device, or if he or she is a minor or lacks the capacity to provide informed consent, his or her parent, legal guardian, or legally authorized representative has given written informed consent on his or her behalf.

(5) He or she has documentation from his or her physician that the patient has met the requirements of this subdivision.

~~(b)~~

(c) "Health benefit plan" means any plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. "Health benefit plan" includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in Section 1345 of this code, and a policy of health insurance, as defined in Section 106 of the Insurance Code, issued by a health insurer.

~~(c)~~

(d) "Health facility" has the same meaning as in Section 1250.

(e) "Immediately life-threatening disease or condition" means a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months.

~~(d)~~

(f) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the United States Food and Drug Administration, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration.

~~(e)~~

(g) "Physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act, and who is providing medical care or treatment to the eligible patient for the ~~terminal illness,~~ *immediately life-threatening disease or condition*, but does not include a primary care physician.

~~(f)~~

(h) "State regulatory board" means the Medical Board of California or the Osteopathic Medical Board of California.

~~(g) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, according to reasonable medical judgment, result in death within six months of diagnosis.~~

(i) (1) "Written, informed consent" means a written document that has been approved by the physician's institutional review board or an accredited independent institutional review board, is signed by an eligible patient, or his or her legally authorized representative when the patient lacks the capacity to consent, and is attested to by the patient's physician and a witness that, at a minimum, does all of the following:

(A) Explains the currently approved products and treatments for the immediately life-threatening disease or condition from which the patient suffers.

(B) Attests to the fact that the patient, or his or her legally authorized representative when the patient lacks the capacity to consent, concurs with the patient's physician in believing that all existing approved and conventionally recognized treatments are unlikely to prolong the patient's life.

(C) Clearly identifies the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

(D) Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and describes the most likely outcome. This description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.

(E) Clearly states that the patient's health benefit plan, if any, and health care provider are not obligated to pay for the investigational drug, biological product, or device or any care or treatments consequent to use of the investigational drug, biological product, or device.

(F) Clearly states that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and that care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements.

(G) Clearly states that in-home health care may be denied if treatment begins.

(H) States that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device, and that this liability extends to the patient's estate, except as otherwise provided in the patient's health benefit plan or a contract between the patient and the manufacturer of the drug, biological product, or device.

(2) Written, informed consent for purposes of this article shall be consistent with the informed consent requirements of the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

111546.2. (a) Notwithstanding Section 110280, 111520, or 111550, a manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to an eligible patient pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient.

(b) A manufacturer may do any of the following:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2) Require an eligible patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

(3) Require an eligible patient to participate in data collection relating to the use of the investigational drug, biological product, or device.

(c) (1) Except as otherwise required by law, this article does not require a health benefit plan or any state agency to provide coverage for the cost of any investigational drug, biological product, or device.

(2) A health benefit plan may provide coverage for an investigational drug, biological product, or device.

(d) If the clinical trial for an investigational drug, biological product, or device is closed due to the lack of efficacy or for toxicity, the investigational drug, biological product, or device shall not be offered. If notice of closure of a clinical trial is given for an investigational drug, biological product, or device taken by an eligible patient outside of a clinical trial, the manufacturer and the patient's physician shall notify the patient of the information from the safety committee of the clinical trial.

111546.3. (a) Notwithstanding any other law, a state regulatory board shall not revoke, fail to renew, or take any other disciplinary action against a physician's license based solely on the physician's recommendation to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or device ~~pursuant to this article.~~ *if the recommendation or prescription is consistent with protocol approved by the physician's institutional review board or an accredited independent institutional review board.*

(b) Notwithstanding any other law, a state agency shall not take any action against a health facility's license based solely on the facility's participation in the treatment by or use of an investigational drug, biological product, or device pursuant to this article.

(c) A violation of this article shall not be subject to Chapter 8 (commencing with Section 111825).

(d) This article does not create a private cause of action against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm to the eligible patient resulting from the investigational drug, biological product, or device so long as the manufacturer or other person or entity complies in good faith with the terms of this article and exercises reasonable care.

111546.4. (a) ~~A manufacturer that provides an investigational drug, biological product, or device to an eligible patient pursuant to Section 111546.2 shall~~ *A physician's institutional review board or an accredited institutional review board shall biannually* report all of the following information to the State Department of Public ~~Health:~~ *Health, the Medical Board of California, and the Osteopathic Medical Board of California:*

(1) The number of requests made for an investigational drug, biological product, or device.

(2) The number of requests that were approved.

(3) The duration of treatments.

(4) The success or failure of the investigational drug, biological product, or device in treating the ~~terminal disease~~ *immediately life-threatening disease or condition* with which the eligible patient was diagnosed.

(5) Any adverse event for each investigational drug, biological product, or device.

(6) Costs paid by each eligible patient for each investigational drug.

(7) The *physician and* consulting physician's diagnosis and prognosis, and verification that the eligible patient is competent, acting voluntarily, and has made an informed decision, or that the consulting physician has determined that the person is not an eligible patient.

(b) The information collected shall be confidential and shall be collected in a manner that protects the privacy of the patient, the patient's family, and any medical provider or pharmacist involved with the patient under the provisions of this part.

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Senate Bill No. 277

CHAPTER 35

An act to amend Sections 120325, 120335, 120370, and 120375 of, to add Section 120338 to, and to repeal Section 120365 of, the Health and Safety Code, relating to public health.

[Approved by Governor June 30, 2015. Filed with Secretary of State June 30, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 277, Pan. Public health: vaccinations.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her admission to that institution he or she has been fully immunized against various diseases, including measles, mumps, and pertussis, subject to any specific age criteria. Existing law authorizes an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the governing authority. Existing law requires the governing authority of a school or other institution to require documentary proof of each entrant's immunization status. Existing law authorizes the governing authority of a school or other institution to temporarily exclude a child from the school or institution if the authority has good cause to believe that the child has been exposed to one of those diseases, as specified.

This bill would eliminate the exemption from existing specified immunization requirements based upon personal beliefs, but would allow exemption from future immunization requirements deemed appropriate by the State Department of Public Health for either medical reasons or personal beliefs. The bill would exempt pupils in a home-based private school and students enrolled in an independent study program and who do not receive classroom-based instruction, pursuant to specified law from the prohibition described above. The bill would allow pupils who, prior to January 1, 2016, have a letter or affidavit on file at a private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center stating beliefs opposed to immunization, to be enrolled in any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center within the state until the pupil enrolls in the next grade span, as defined. Except as under the circumstances described above, on and after July 1, 2016, the bill would prohibit a governing authority from unconditionally admitting to any of those institutions for the first time or

admitting or advancing any pupil to the 7th grade level, unless the pupil has been immunized as required by the bill. The bill would specify that its provisions do not prohibit a pupil who qualifies for an individualized education program, pursuant to specified laws, from accessing any special education and related services required by his or her individualized education program. The bill would narrow the authorization for temporary exclusion from a school or other institution to make it applicable only to a child who has been exposed to a specified disease and whose documentary proof of immunization status does not show proof of immunization against one of the diseases described above. The bill would make conforming changes to related provisions.

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

SECTION 1. Section 120325 of the Health and Safety Code is amended to read:

120325. In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1) Diphtheria.

(2) Hepatitis B.

(3) Haemophilus influenzae type b.

(4) Measles.

(5) Mumps.

(6) Pertussis (whooping cough).

(7) Poliomyelitis.

(8) Rubella.

(9) Tetanus.

(10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able

to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 2. Section 120335 of the Health and Safety Code is amended to read:

120335. (a) As used in this chapter, "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.
(2) Haemophilus influenzae type b.
(3) Measles.
(4) Mumps.
(5) Pertussis (whooping cough).
(6) Poliomyelitis.
(7) Rubella.
(8) Tetanus.
(9) Hepatitis B.
(10) Varicella (chickenpox).
(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents that may be utilized and the manner in which immunizations are administered.

(f) This section does not apply to a pupil in a home-based private school or a pupil who is enrolled in an independent study program pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code and does not receive classroom-based instruction.

(g) (1) A pupil who, prior to January 1, 2016, submitted a letter or affidavit on file at a private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center stating beliefs opposed to immunization shall be allowed enrollment to any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center within the state until the pupil enrolls in the next grade span.

(2) For purposes of this subdivision, "grade span" means each of the following:

(A) Birth to preschool.

(B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.

(C) Grades 7 to 12, inclusive.

(3) Except as provided in this subdivision, on and after July 1, 2016, the governing authority shall not unconditionally admit to any of those institutions specified in this subdivision for the first time, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized for his or her age as required by this section.

(h) This section does not prohibit a pupil who qualifies for an individualized education program, pursuant to federal law and Section 56026 of the Education Code, from accessing any special education and related services required by his or her individualized education program.

SEC. 3. Section 120338 is added to the Health and Safety Code, to read:

120338. Notwithstanding Sections 120325 and 120335, any immunizations deemed appropriate by the department pursuant to paragraph (11) of subdivision (a) of Section 120325 or paragraph (11) of subdivision (b) of Section 120335, may be mandated before a pupil's first admission to any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, only if exemptions are allowed for both medical reasons and personal beliefs.

SEC. 4. Section 120365 of the Health and Safety Code is repealed.

SEC. 5. Section 120370 of the Health and Safety Code is amended to read:

120370. (a) If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician does not recommend immunization, that child shall be exempt from the requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician's statement.

(b) If there is good cause to believe that a child has been exposed to a disease listed in subdivision (b) of Section 120335 and his or her documentary proof of immunization status does not show proof of

immunization against that disease, that child may be temporarily excluded from the school or institution until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease.

SEC. 6. Section 120375 of the Health and Safety Code is amended to read:

120375. (a) The governing authority of each school or institution included in Section 120335 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the department he or she has been fully immunized against all of the diseases listed in Section 120335, and immunizations received subsequent to entry shall be added to the pupil's immunization record.

(b) The governing authority of each school or institution included in Section 120335 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the department, unless the pupil is exempted under Section 120370, until that pupil has been fully immunized against all of the diseases listed in Section 120335.

(c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the department and the local health department at times and on forms prescribed by the department. As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 120335 in order to determine immunization deficiencies.

(d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse as provided in Section 2727.3 of the Business and Professions Code to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

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AMENDED IN ASSEMBLY JULY 9, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE MARCH 26, 2015

SENATE BILL No. 323

Introduced by Senator Hernandez
(Principal coauthor: Assembly Member Eggman)
(Coauthor: Assembly Member Mark Stone)

February 23, 2015

An act to amend Sections 650.01 and 805 of, to amend and renumber Section 2837 of, and to add Section 2837 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 323, as amended, Hernandez. Nurse practitioners: scope of practice.

The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. The act authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment

or plan of care after consultation with a physician and surgeon. A violation of those provisions is a crime.

This bill would authorize a nurse practitioner who holds a national certification from a national certifying body recognized by the board to practice without the supervision of a physician and surgeon, if the nurse practitioner meets existing requirements for nurse practitioners and practices in one of certain specified settings. The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a nurse practitioner, as specified, and would authorize such a nurse practitioner, in addition to any other practice authorized in statute or regulation, to perform specified acts, including the acts described above, without reference to standardized procedures or the specific need for the supervision of a physician and surgeon. The bill, instead, would require a nurse practitioner to refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of the patient is beyond the scope of the nurse practitioner's education and training. The bill would require a nurse practitioner practicing under these provisions to maintain professional liability insurance appropriate for the practice setting. By imposing new requirements on nurse practitioners, the violation of which would be a crime, this bill would impose a state-mandated local program.

Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing law, the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed unprofessional conduct.

This bill would include a nurse practitioner, as specified, under the definition of a licensee, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would also require the Board of Registered Nursing to review the facts and circumstances of any conviction of a nurse practitioner, as specified, for violating that prohibition, and would require the board to take appropriate disciplinary action if the nurse practitioner has committed unprofessional conduct.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process. Existing law defines the term "licentiate" for those purposes to include, among others, a physician and surgeon.

This bill would include a nurse practitioner, as specified, under the definition of licentiate, and would require the Board of Registered Nursing to disclose reports, as specified.

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. State-mandated 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) Nurse practitioners are a longstanding, vital, safe, effective, and important part of the state's health care delivery system. They are especially important given California's shortage of physicians, with just 16 of 58 counties having the federally recommended ratio of physicians to residents.

(b) Nurse practitioners will play an especially important part in the implementation of the federal Patient Protection and Affordable Care Act (Public Law 111-148), which will bring an estimated five million more Californians into the health care delivery system, because they will provide for greater access to primary care services in all areas of the state. This is particularly true for patients in medically underserved urban and rural communities.

(c) In the interest of providing patients with comprehensive care and consistent with the spirit of the federal Patient Protection and Affordable Care Act, this measure is supportive of the national health care movement towards integrated and team-based health care models.

~~(c)~~

(d) Due to the excellent safety and efficacy record that nurse practitioners have earned, the Institute of Medicine of the National Academies has recommended full practice authority for nurse

practitioners. Currently, 20 states allow nurse practitioners to practice to the full extent of their training and education.

~~(d)~~

(e) Furthermore, nurse practitioners will assist in addressing the primary care provider shortage by removing delays in the provision of care that are created when dated regulations require a physician's signature or protocol before a patient can initiate treatment or obtain diagnostic tests that are ordered by a nurse practitioner.

SEC. 2. Section 650.01 of the Business and Professions Code is amended to read:

650.01. (a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training

program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code, and a nurse practitioner practicing pursuant to Section 2837.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed

pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the

same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a nurse practitioner functioning pursuant to Section 2837, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

SEC. 3. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) (A) “Peer review” means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) "Peer review body" includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, physician assistant, or nurse practitioner practicing pursuant to Section 2837. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is

denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons his or her application for staff privileges or membership.

(3) Withdraws or abandons his or her request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a

copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California, the Board of Registered Nursing, or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available

at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(*l*) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

SEC. 4. Section 2837 of the Business and Professions Code is amended and renumbered to read:

2837.5. Nothing in this article shall be construed to limit the current scope of practice of a registered nurse authorized pursuant to this chapter.

SEC. 5. Section 2837 is added to the Business and Professions Code, to read:

2837. (a) Notwithstanding any other law, a nurse practitioner who holds a national certification from a national certifying body recognized by the board may practice under this section without supervision of a physician and surgeon, if the nurse practitioner meets all the requirements of this article and practices in one of the following:

(1) A clinic as described in Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(2) A facility as described in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(3) A facility as described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(4) An accountable care organization, as defined in Section 3022 of the federal Patient Protection and Affordable Care Act (Public Law 111-148).

(5) A group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians that delivers, furnishes, or otherwise arranges for or provides health care services.

(6) A medical group, independent practice association, or any similar association.

(b) An entity described in subdivision (a) shall not interfere with, control, or otherwise direct the professional judgment of a nurse practitioner functioning pursuant to this section in a manner prohibited by Section 2400 or any other law.

(c) Notwithstanding any other law, in addition to any other practice authorized in statute or regulation, a nurse practitioner who meets the qualifications of subdivision (a) may do any of the following without physician and surgeon supervision:

(1) Order durable medical equipment. Notwithstanding that authority, this paragraph shall not operate to limit the ability of a third-party payer to require prior approval.

(2) After performance of a physical examination by the nurse practitioner and collaboration, if necessary, with a physician and surgeon, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

(3) For individuals receiving home health services or personal care services, after consultation, if necessary, with the treating physician and surgeon, approve, sign, modify, or add to a plan of treatment or plan of care.

(4) Assess patients, synthesize and analyze data, and apply principles of health care.

(5) Manage the physical and psychosocial health status of patients.

(6) Analyze multiple sources of data, identify a differential diagnosis, and select, implement, and evaluate appropriate treatment.

(7) Establish a diagnosis by client history, physical examination, and other criteria, consistent with this section, for a plan of care.

(8) Order, furnish, prescribe, or procure drugs or devices.

(9) Delegate tasks to a medical assistant pursuant to Sections 1206.5, 2069, 2070, and 2071, and Article 2 of Chapter 3 of Division 13 of Title 16 of the California Code of Regulations.

(10) Order hospice care, as appropriate.

(11) Order diagnostic procedures and utilize the findings or results in treating the patient.

(12) Perform additional acts that require education and training and that are recognized by the nursing profession as appropriate to be performed by a nurse practitioner.

(d) A nurse practitioner shall refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of the patient is beyond the scope of the education and training of the nurse practitioner.

(e) A nurse practitioner practicing under this section shall maintain professional liability insurance appropriate for the practice setting.

SEC. 6. 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.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 337
Author: Pavley
Bill Date: June 16, 2015, Amended
Subject: Physician Assistants
Sponsor: California Academy of Physician Assistants (CAPA)
Position: Oppose Unless Amended

DESCRIPTION OF CURRENT LEGISLATION:

This bill would establish alternative means for a supervising physician to ensure adequate supervision of a physician assistant (PA) for routine care and the administration, provision, or issuance of a Schedule II drug.

BACKGROUND:

The Physician Assistant Practice Act (Act) was established to encourage the utilization of PAs by physicians, and by physicians and podiatrists practicing in the same medical group, and to provide that existing legal constraints should not be an unnecessary hindrance to the more effective provision of health care services. It is also the purpose of the Act to allow for innovative development of programs for the education, training, and utilization of PAs. There are approximately 10,000 PAs practicing in California.

Existing law requires a supervising physician to review, countersign, and date a sample consisting of, at a minimum, five percent of the medical records of patients treated by a PA within 30 days of the date of treatment. Existing law requires the supervising physician to select for review those cases that by diagnosis, problem, treatment, or procedure represent the most significant risk to the patient.

Existing law requires a supervising physician who delegates the authority to issue a drug order to a PA to prepare and adopt a formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. Protocols for Schedule II controlled substances shall address the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is being administered, provided, or issued. Existing law requires a supervising physician to review and countersign, within seven days, the record of any patient cared for by a PA for whom the PA's Schedule II drug order has been issued or carried out.

In October 2014, hydrocodone combination products (HCPs) were re-scheduled from a Schedule III medication to a Schedule II medication, which, according to the sponsor, significantly increased administrative responsibilities related to documentation in various practice types.

According to the sponsor, this bill recognizes the need to streamline patient care performed by PAs under the supervision of physician and surgeons. The sponsor believes this bill provides greater flexibility to medical practices by offering physicians several options to ensure adequate supervision of PA medical visits.

ANALYSIS:

This bill would define a medical records review meeting as a meeting between the supervising physician and the PA during which medical records are reviewed to ensure adequate supervision of the PA functioning under protocols. This bill would allow medical records review meetings to occur in person or by electronic communication.

This bill would require the medical record to identify the physician who is responsible for the supervision of the PA for each episode of care for a patient.

This bill would add two additional mechanisms, in addition to the existing five percent medical record countersign requirement, for a supervising physician to choose from to ensure adequate PA supervision. For all mechanisms, the supervising physician shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient. The two additional mechanisms have been significantly amended to address the Board's concerns, and are as follows:

- The supervising physician and the PA shall conduct a medical records review meeting, at least once a month during at least 10 months of the year. During any month in which a medical records review meeting occurs, the supervising physician and PA shall review an aggregate of at least 10 medical records of patients treated by the PA functioning under protocols. Documentation of medical records reviewed during the month shall be jointly signed and dated by the supervising physician and the PA.
- The supervising physician shall supervise the care provided by the PA through a review of cases involving treatment by the PA functioning under protocols adopted by the supervising physician. The review methods used shall be identified in the delegation of services agreement and shall include no less than an aggregate of 10 cases per month for at least 10 months of the year. Documentation of the cases reviewed during the month shall be jointly signed and dated by the supervising physician and the PA.

Existing law requires all medical charts for Schedule II drug orders to be countersigned with seven days by the supervising physician. This bill would create an additional mechanism for a supervising physician to ensure adequate supervision of the administration, provision, or issuance by a PA of a Schedule II drug order. The additional mechanism is only allowed if the PA has documentation evidencing the successful completion of an education course that covers

controlled substances and meets specified standards. The mechanism would require the supervising physician to review, countersign, and date, within seven days, a sample consisting of the medical records of at least 20 percent of the patients cared for by the PA for whom the PA's Schedule II drug order has been issued or carried out.

The intent of this bill is to provide flexibility and allow for a more team-based approach in PA supervision, which is a laudable goal. This bill has been amended to ensure that there are minimum requirements in the mechanisms allowed to ensure adequate physician supervision, and these minimum requirements will ensure consumer protection and provide for a more team-based approach. Although this bill still reduces the physician review of medical records for Schedule II drug orders from 100 percent to 20 percent, the supervising physician will be responsible for choosing the 20 percent of Schedule II drug orders that get signed, and these records could potentially be discussed at medical records review meetings or case reviews with the supervising physician and the PA. This bill would also require the PA to receive controlled substances training. With the amendments that have been taken to address the Board's concerns, Board staff is suggesting that the Board change its position from oppose unless amended to neutral.

FISCAL: None

SUPPORT: CAPA (sponsor)
CAPG, the Voice of the Accountable Physician
Planned Parenthood
253 PAs
56 M.D.s and D.O.s

OPPOSITION: Medical Board of California
California Pharmacists Association

POSITION: Recommendation: Neutral

AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL No. 337

Introduced by Senator Pavley

February 23, 2015

An act to amend Sections 3501, 3502, and 3502.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Pavley. Physician assistants.

Existing law, the Physician Assistant Practice Act, provides for regulation of physician assistants and authorizes a physician assistant to perform medical services as set forth by regulations when those services are rendered under the supervision of a licensed physician and surgeon, as specified. The act requires the supervising physician and surgeon to review, countersign, and date a sample consisting of, at a minimum, 5% of the medical records of patients treated by the physician assistant functioning under adopted protocols within 30 days of the date of treatment by the physician assistant. The act requires the supervising physician and surgeon to select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient. A violation of those supervision requirements is a misdemeanor.

This bill would require that the medical record for each episode of care for a patient identify the physician and surgeon who is responsible for the supervision of the physician assistant. ~~The bill would require a physician assistant who transmits an oral order to identify the name of the supervising physician and surgeon responsible for the patient.~~ The bill would delete those medical record review provisions, and, instead,

require the supervising physician and surgeon to use one or more of described review mechanisms. By adding these new requirements, the violation of which would be a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

The act authorizes a physician assistant, while under prescribed supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device. The act prohibits a physician assistant from administering, providing, or issuing a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets approved standards. The act requires that the medical record of any patient cared for by a physician assistant for whom a physician assistant's Schedule II drug order has been issued or carried out to be reviewed, countersigned, and dated by a supervising physician and surgeon within 7 days.

This bill would delete that review and countersignature requirement for a physician assistant's Schedule II drug order, and, instead, require that the supervising physician and surgeon use one of 2 described mechanisms to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances.

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. State-mandated local program: yes.

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

1 SECTION 1. Section 3501 of the Business and Professions
2 Code is amended to read:
3 3501. (a) As used in this chapter:
4 (1) "Board" means the Physician Assistant Board.
5 (2) "Approved program" means a program for the education of
6 physician assistants that has been formally approved by the board.

(3) "Trainee" means a person who is currently enrolled in an approved program.

(4) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the board.

(5) "Supervising physician" or "supervising physician and surgeon" means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(6) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

(7) "Regulations" means the rules and regulations as set forth in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(8) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

(9) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

(10) "Delegation of services agreement" means the writing that delegates to a physician assistant from a supervising physician the medical services the physician assistant is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of Regulations.

(11) "Other specified medical services" means tests or examinations performed or ordered by a physician assistant practicing in compliance with this chapter or regulations of the Medical Board of California promulgated under this chapter.

(12) "Medical records review meeting" means a meeting between the supervising physician *and surgeon* and the physician assistant during which ~~a sample of~~ medical records ~~is~~ *are* reviewed to ensure adequate supervision of the physician assistant functioning under protocols. ~~The number of medical records and the specific issues to be reviewed shall be established in the~~

~~delegation of services agreement.~~ *Medical records review meetings may occur in person or by electronic communication.*

(b) A physician assistant acts as an agent of the supervising physician when performing any activity authorized by this chapter or regulations adopted under this chapter.

SEC. 2. Section 3502 of the Business and Professions Code is amended to read:

3502. (a) Notwithstanding any other law, a physician assistant may perform those medical services as set forth by the regulations adopted under this chapter when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant. The medical record, for each episode of care for a patient, shall identify the physician and surgeon who is responsible for the supervision of the physician assistant. ~~When a physician assistant transmits an oral order, he or she shall also identify the name of the supervising physician and surgeon responsible for the patient.~~

(b) (1) Notwithstanding any other law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from the supervising physician and surgeon.

(2) The supervising physician and surgeon shall be physically available to the physician assistant for consultation when that assistance is rendered. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties included within the scope of practice of a doctor of podiatric medicine.

(c) (1) A physician assistant and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervision of the physician assistant. This requirement may be satisfied by the supervising physician and surgeon adopting protocols for some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to this subdivision shall comply with the following requirements:

(A) A protocol governing diagnosis and management shall, at a minimum, include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be provided to the patient.

(B) A protocol governing procedures shall set forth the information to be provided to the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the followup care.

(C) Protocols shall be developed by the supervising physician and surgeon or adopted from, or referenced to, texts or other sources.

(D) Protocols shall be signed and dated by the supervising physician and surgeon and the physician assistant.

(2) (A) The supervising physician and surgeon shall use one or more of the following mechanisms to ensure adequate supervision of the physician assistant functioning under the protocols:

(i) The supervising physician and surgeon shall review, countersign, and date a sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician assistant functioning under the protocols within 30 days of the date of treatment by the physician assistant.

(ii) The supervising physician and surgeon and physician assistant shall conduct ~~at least 10 times annually~~ a medical records review ~~meeting, which may occur in person or by electronic communication.~~ *meeting, at least once a month during at least 10 months of the year. During any month in which a medical records review meeting occurs, the supervising physician and surgeon and physician assistant shall review an aggregate of at least 10 medical records of patients treated by the physician assistant functioning under protocols. Documentation of medical records reviewed during the month shall be jointly signed and dated by the supervising physician and surgeon and the physician assistant.*

(iii) The supervising physician and surgeon shall supervise the care provided by the physician assistant through a review of ~~those cases or patients deemed appropriate~~ *cases involving treatment by the physician assistant functioning under protocols adopted* by the supervising physician and surgeon. The review methods used shall be identified in the delegation of services ~~agreement, and~~

~~review may occur in person or by electronic communication.~~ *agreement and shall include no less than an aggregate of 10 cases per month for at least 10 months of the year. Documentation of the cases reviewed during the month shall be jointly signed and dated by the supervising physician and surgeon and the physician assistant.*

(B) In complying with subparagraph (A), the supervising physician and surgeon shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

(3) Notwithstanding any other law, the Medical Board of California or the board may establish other alternative mechanisms for the adequate supervision of the physician assistant.

(d) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

(f) Compliance by a physician assistant and supervising physician and surgeon with this section shall be deemed compliance with Section 1399.546 of Title 16 of the California Code of Regulations.

SEC. 3. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the Medical Board of California, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or

transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. Protocols for Schedule II controlled substances shall address the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is being administered, provided, or issued. The drugs listed in the protocols shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order," for purposes of this section, means an order for medication that is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be approved by the supervising physician and surgeon before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant shall not administer, provide, or issue a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets standards, including pharmacological content, approved by the board. The education course shall be provided either by an accredited continuing education provider or by an approved physician assistant training program. If the physician assistant will administer, provide, or issue a drug order for Schedule II controlled substances, the course shall contain a minimum of three hours exclusively on Schedule II controlled substances. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established by the board prior to the physician assistant's use of a registration number issued by the United States Drug Enforcement Administration to the physician assistant to administer, provide, or issue a drug order to a patient for a controlled substance without advance approval by a supervising physician and surgeon for that particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and telephone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug

order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant and shall otherwise comply with Section 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances registration number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The supervising physician and surgeon shall use either of the following mechanisms to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances:

(1) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed, countersigned, and dated by a supervising physician and surgeon within seven days.

(2) If the physician assistant has documentation evidencing the successful completion of an education course that covers controlled substances, and that controlled substance education course (A) meets the standards, including pharmacological content, ~~approved by the board,~~ *established in Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, and* (B) is provided either by an accredited continuing education provider or by an approved physician assistant training program, ~~and (C) satisfies Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations,~~ the supervising physician and surgeon shall review, countersign, and date, within seven days, a sample consisting of the medical records of at least 20 percent of the patients cared for by the physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established in Section 1399.612 of Title 16 of the California Code of Regulations. Physician assistants who

have a certificate of completion of the course described in paragraph (2) of subdivision (c) shall be deemed to have met the education course requirement of this subdivision.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The board shall consult with the Medical Board of California and report during its sunset review required by Article 7.5 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 4. 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.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 396
Author: Hill
Bill Date: June 29, 2015, Amended
Subject: Outpatient Settings
Sponsor: Author
Position: Support

DESCRIPTION OF CURRENT LEGISLATION:

SB 396 would make consumer protection enhancements that the Medical Board of California (Board) already voted to sponsor/support for accredited outpatient settings. This bill would require peer review evaluations for physicians and surgeons working in accredited outpatient settings; and it would allow accredited outpatient setting facility inspections performed by Accreditation Agencies (AAs) be unannounced (after the initial inspection). For unannounced inspections, AAs must provide at least a 60-day window to the outpatient setting.

This bill would also delay the report from the Board on the vertical enforcement and prosecution model from March 1, 2015, to March 1, 2016.

The bill would allow an accredited outpatient setting or "Medicare certified ambulatory surgical center" (i.e. ASC) to access 805 reports from the Board when credentialing, granting or renewing staff privileges for providers at that facility.

BACKGROUND

AB 595 (Chapter 1276) of 1994 required that certain outpatient settings (including ASCs) either be licensed by the state, Medicare certified, or accredited by an agency approved by the Division of Licensing within the Board. The intent was to "ensure that health care services are safely and effectively performed in these settings." In 2007, a September court ruling (Capen v. Shewry: 155 Cal.App.4th 378) prohibited CDPH from issuing state licenses to physician-owned outpatient settings. As a result, the vast majority of outpatient settings are now accredited by AAs approved by the Board.

Accredited outpatient settings and Medicare certified ASCs are currently not on the list of eligible facilities that can obtain 805 reports from the Board, so these facilities are unable to ensure that physician and surgeons and others providing care in those facilities have not been denied staff privileges, been removed from a medical staff, or have had his or her staff privileges restricted.

In addition, existing law allows a physician who owns his or her own outpatient setting to choose not to have peer review of his or her practice, which means that procedures

performed in outpatient settings are not subject to peer review. Lastly, routine inspections currently performed by AAs for outpatient setting accreditation are announced.

ANALYSIS

This bill has been significantly amended to address concerns raised by the opposition. A number of provisions were removed from this bill and now the only two provisions that remain related to accredited outpatient settings are related to peer review and unannounced inspections.

The Board believes that peer review is important to ensure consumer protection, and that procedures that are being done in outpatient settings should be subject to peer review evaluations. This bill would require physicians working in accredited outpatient settings to be subjected to the peer review process at least every two years. The findings would be given to the governing body of the outpatient setting and the findings and peer review process would be reviewed by the AAs at the next inspection of the outpatient setting.

Inspections currently performed by AAs for outpatient setting accreditation are announced. This bill would allow subsequent routine inspections to be unannounced, however AAs must give a 60-day window to accredited outpatient settings for unannounced routine inspections. Allowing for unannounced inspections will help to ensure that facilities do not have time to prepare for an inspection and will be in line with inspections on other types of ASCs.

This bill would allow an accredited outpatient setting or "Medicare certified ambulatory surgical center" to access 805 reports from the Board to ensure patient protection when credentialing, granting or renewing staff privileges for providers at that facility. The Board already voted to support and/or sponsor these provisions.

Unrelated to outpatient settings, this bill would extend the deadline for the Board's legislative report on the vertical enforcement (VE) and prosecution model by one year, to March 1, 2016. This will give the Board adequate time to assess how the VE model is working with the transfer of the investigators to the Department of Consumer Affairs, Division of Investigation. This change is needed as the report due date has passed and the Board currently has insufficient information to complete the VE report.

FISCAL: None

SUPPORT: California Ambulatory Surgery Association
California Hospital Association
Medical Board of California

OPPOSITION: None on File

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL No. 396

Introduced by Senator Hill

February 25, 2015

An act to amend Section 805.5 ~~of, and to add Section 2216.5 to,~~ *of* the Business and Professions Code, to amend Section 12529.7 of the Government Code, and to amend Sections ~~1204,~~ 1248.15, and 1248.35 of the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 396, as amended, Hill. Health care: outpatient settings and surgical clinics: facilities: licensure and enforcement.

~~Existing law provides for the licensure and regulation of clinics by the State Department of Public Health. A violation of those provisions is a misdemeanor. Existing law provides that certain types of specialty clinics, including surgical clinics, as defined, are eligible for licensure. Existing law excludes from the definition of surgical clinic any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice. Existing law requires a surgical clinic that is licensed or seeking licensure to comply with federal certification standards for an ambulatory surgical clinic until the department adopts regulations relating to the provision of services by a surgical clinic.~~

~~This bill would provide that a surgical clinic that has met the federal certification standards and requirements for an ambulatory surgical~~

~~clinic is eligible for licensure by the department regardless of physician, podiatrist, or dentist ownership. The bill would provide that a surgical clinic is deemed to have met the licensure requirements under the chapter upon presenting documentation that the surgical clinic has met the federal certification requirements for an ambulatory surgical clinic in the 3 years prior to applying for licensure.~~

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that it is unprofessional conduct for a physician and surgeon to perform procedures in any outpatient setting except in compliance with specified provisions. Existing law prohibits an association, corporation, firm, partnership, or person from operating, managing, conducting, or maintaining an outpatient setting in the state unless the setting is one of the specified settings, which ~~includes~~ *include*, among others, an ambulatory surgical clinic that is certified to participate in the Medicare program, a surgical clinic licensed by the State Department of Public Health, or an outpatient setting accredited by an accreditation agency approved by the Division of Licensing of the Medical Board of California.

Existing law provides that an outpatient setting that is accredited shall be inspected by the accreditation agency and may be inspected by the Medical Board of California. Existing law requires that the inspections be conducted no less often than once every 3 years by the accreditation agency and as often as necessary by the Medical Board of California to ensure quality of care provided.

~~This bill would require that all subsequent inspections after the initial inspection for accreditation be unannounced. This bill would require an outpatient setting accredited by the division and a facility certified to participate in the federal Medicare program as an ambulatory surgical center to pay certain fees and to comply with certain data submission requirements.~~

This bill would authorize the accrediting agency to conduct unannounced inspections subsequent to the initial inspection for accreditation, if the accreditation agency provides specified notice of the unannounced routine inspection to the outpatient setting.

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 would additionally require that each licensee who performs procedures in an outpatient setting that requires the outpatient setting to be accredited be peer reviewed, as specified, at least every 2 years, by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The bill would require the findings of the peer review to be reported to the ~~accrediting~~ *governing* body ~~who~~, *which* shall determine if the licensee continues to be professionally qualified and appropriately credentialed for the performance of privileges granted. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law requires specified entities, including any health care service plan or medical care foundation, to request a report from 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 a certain report has been made 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.

This bill would also require an outpatient setting and a facility certified to participate in the federal Medicare program as an ambulatory surgical center to request that report. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law establishes a vertical enforcement and prosecution model for cases before the Medical Board of California, and requires the board to report to the Governor and the Legislature on that model by March 1, 2015.

This bill would extend the date that report is due to March 1, 2016.

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. State-mandated local program: yes.

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

SECTION 1. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, any health care service plan or medical care foundation, the medical staff of the institution, a facility certified to participate in the federal Medicare program as an ambulatory surgical center, or an outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California to determine if any report has been made pursuant to Section 805 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 as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff the board shall furnish a copy of any report made pursuant to Section 805 as well as any additional exculpatory or explanatory information submitted electronically to the board by the licensee pursuant to subdivision (f) of that section. However, the board shall not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, (3) if a court finds, in a final judgment, that the peer review, as defined in Section 805, resulting in the report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, or (4) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licentiate has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. If a request

is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

If the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

~~SEC. 2. Section 2216.5 is added to the Business and Professions Code, to read:~~

~~2216.5. An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code and a facility certified to participate in the federal Medicare program as an ambulatory surgical center are subject to the requirements of the following provisions: Section 1216, subdivision (f) of Section 127280, Section 127285, and Section 128737 of the Health and Safety Code. Any fees collected pursuant to subdivision (f) of Section 127280 of the Health and Safety Code shall not exceed the reasonable costs incurred by the Office of Statewide Health Planning and Development in collecting and managing the data reported by the outpatient setting and the facility.~~

~~SEC. 3.~~

SEC. 2. Section 12529.7 of the Government Code is amended to read:

12529.7. By March 1, 2016, the Medical Board of California, in consultation with the Department of Justice and the Department of Consumer Affairs, shall report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model created under Section 12529.6.

~~SEC. 4. Section 1204 of the Health and Safety Code is amended to read:~~

~~1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.~~

~~(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:~~

~~(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.~~

~~(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.~~

~~(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.~~

~~(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:~~

~~(1) (A) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians, podiatrists, or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment.~~

~~(B) A physician, podiatrist, or dentist may, at his or her option, apply for licensure. A surgical clinic shall be eligible for licensure by the department regardless of physician, podiatrist, or dentist ownership. A surgical clinic that has met the federal certification standards and requirements for an ambulatory surgical clinic, as specified in Part 416 of Title 42 of the Code of Federal Regulations, shall be eligible for licensure by the department pursuant to this chapter.~~

~~(C) Until the department adopts regulations relating to the provision of services by a surgical clinic pursuant to Section 1225, a surgical clinic is deemed to have met the licensure requirements under this chapter upon presenting documentation that the surgical clinic has met the federal certification standards for an ambulatory surgical clinic in the three years prior to applying for licensure.~~

~~(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.~~

~~(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.~~

~~(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.~~

~~SEC. 5.~~

SEC. 3. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The board shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(D) The outpatient setting shall submit for approval by an accreditation agency at the time of accreditation a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited

or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

(E) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) (i) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges

granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(ii) Each licensee who performs procedures in an outpatient setting that requires the outpatient setting to be accredited shall be, at least every two years, peer reviewed, which shall be 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, including when the outpatient setting has only one licensee. The peer review shall be performed by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The findings of the peer review shall be reported to the ~~accrediting~~ *governing* body ~~who~~*, which* shall determine if the licensee continues to meet the requirements described in clause (i). *The process that resulted in the findings of the peer review shall be reviewed by the accrediting agency at the next survey to determine if the outpatient setting meets applicable accreditation standards pursuant to this section.*

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations shall have all of the sites inspected.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

~~SEC. 6.~~

SEC. 4. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) Every outpatient setting that is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided. After the initial inspection for accreditation, ~~all~~ subsequent inspections ~~shall~~ *may* be unannounced. *For unannounced routine inspections, the accreditation agency shall notify the outpatient setting that the inspection will occur within 60 days.*

(3) The Medical Board of California or the accreditation agency may enter and inspect any outpatient setting that is accredited by an accreditation agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(c) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Require correction of any identified deficiencies within a set timeframe. Failure to comply shall result in the accrediting agency issuing a reprimand or suspending or revoking the outpatient setting's accreditation.

(2) Issue a reprimand.

(3) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the board or the accreditation agency, to correct the deficiencies.

(4) Suspend or revoke the outpatient setting's certification of accreditation.

(d) (1) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting reasonable time to supply information demonstrating compliance with the standards of the

accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient setting. During the allotted time to correct the deficiencies, the plan of correction, which includes the deficiencies, shall be conspicuously posted by the outpatient setting in a location accessible to public view. Within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to the board and to the California State Board of Pharmacy if an outpatient setting is licensed pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code. The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(2) If an outpatient setting does not comply with a corrective action within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation or suspend or revoke the accreditation of the outpatient setting, and shall notify the board of its action. This section shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

(e) The accreditation agency shall, within 24 hours, report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation. If an outpatient setting has been issued a license by the California State Board of Pharmacy pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code, the accreditation agency shall also send this report to the California State Board of Pharmacy within 24 hours.

(f) The accreditation agency, upon receipt of a complaint from the board that an outpatient setting poses an immediate risk to public safety, shall inspect the outpatient setting and report its

findings of inspection to the board within five business days. If an accreditation agency receives any other complaint from the board, it shall investigate the outpatient setting and report its findings of investigation to the board within 30 days.

(g) Reports on the results of any inspection shall be kept on file with the board and the accreditation agency along with the plan of correction and the comments of the outpatient setting. The inspection report may include a recommendation for reinspection. All final inspection reports, which include the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed, shall be public records open to public inspection.

(h) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. An outpatient setting that is denied accreditation is permitted to reapply for accreditation with the same accrediting agency. The outpatient setting also may apply for accreditation from another accrediting agency, but only if it discloses the full accreditation report of the accrediting agency that denied accreditation. Any outpatient setting that has been denied accreditation shall disclose the accreditation report to any other accrediting agency to which it submits an application. The new accrediting agency shall ensure that all deficiencies have been corrected and conduct a new onsite inspection consistent with the standards specified in this chapter.

(i) If an outpatient setting's certification of accreditation has been suspended or revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following:

(1) Notify the board of the action.

(2) Send a notification letter to the outpatient setting of the action. The notification letter shall state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation.

(3) Require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

(j) The board may take any appropriate action it deems necessary pursuant to Section 1248.7 if an outpatient setting's certification of accreditation has been suspended or revoked, or if accreditation has been denied.

~~SEC. 7.~~

SEC. 5. 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.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 408
Author: Morrell
Bill Date: May 6, 2015, Amended
Subject: Midwife Assistants
Sponsor: Medical Board of California (Board)
Position: Sponsor/Support

DESCRIPTION OF CURRENT LEGISLATION:

SB 408 would ensure that midwife assistants meet minimum training requirements and sets forth the duties that a midwife assistant could perform, which should be at the same level as duties that a medical assistant can perform, technical support services only. This bill would allow the Board to adopt regulations and standards for any additional midwife technical support services.

BACKGROUND

The Board licenses Licensed Midwives (LMs). It has been brought to the attention of the Board that LMs need to use assistants. As such, this issue was raised in the Board's 2012 Sunset Review Report. Currently, there is no definition for a midwife assistant in statute, nor are there specific training requirements or duties that a midwife assistant may perform. Some LMs use other LMs as assistants, while some use a midwife student who is enrolled in a recognized midwifery school and who has an official agreement with the student and midwifery school to provide clinical training to the student midwife. Other LMs use someone who may or may not have formal midwifery training and/or someone that the LM has trained. The duties that a midwife assistant performs also varies greatly from LM to LM. This unregulated practice is a serious consumer protection issue and this bill would define midwife assistants and define the services they can provide. This bill is modeled after existing law related to medical assistants, which are under the supervision of a physician and surgeon (Business and Professions Code Section 2069 - 2071).

ANALYSIS

SB 408 would define a "midwife assistant" as a person, who may be unlicensed, who performs basic administrative, clerical, and midwife technical support services in accordance with existing law for a LM, is at least 18 years of age, and has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Board for a medical assistant. This bill would define "midwife technical support services" as simple routine medical tasks and procedures that may be safely performed by a midwife assistant who has limited training and who functions under the supervision of a LM or a certified nurse midwife (CNM).

This bill would allow a midwife assistant to do the following:

- Administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical support services upon the specific authorization and supervision of a LM or CNM.
- Perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and under supervision of a LM or CNM if the educational and training requirements have been met.
- Perform the following midwife technical support services:
    - Administer medications orally, sublingually, topically, or rectally, or by providing a single dose to a patient for immediate self-administration, and administer oxygen at the direction of a supervising LM or CNM. The LM or CNM must verify the correct medication and dosage before the midwife assistant administers the medication.
    - Assist in immediate newborn care when a LM or CNM is engaged in a concurrent activity that precludes the LM or CNM from doing so.
    - Assist in placement of the device used for auscultation of fetal heart tones when a LM or CNM is engaged in concurrent activity that precludes the LM or CNM from doing so.
    - Collect, by noninvasive techniques, and preserve specimens for testing, including, but not limited to, urine.
    - Assist patients to and from a patient examination room, bed, or bathroom.
    - Assist patient in activities of daily living, such as assisting with bathing or clothing.
    - As authorized by the LM or CNM, provide patient information and instructions.
    - Collect and record patient data, including height, weight, temperature, pulse, respiration rate, blood pressure, and basic information about the presenting and previous conditions.
    - Perform simple laboratory and screening tests customarily performed in a medical or midwife office.
    - Perform additional midwife technical support services under regulations established by the Board.

This bill would establish training requirements in statute for midwife assistants and parameters on what services can be provided by midwife assistants, which furthers the Board's mission of consumer protection. For this reason, the Board voted to sponsor this important legislation. Amendments were taken in committee to address concerns raised by the California Medical Association and the American College of Obstetricians and Gynecologists and to add CNMs as supervisors, as requested by the CNM Association.

FISCAL: Minimal and absorbable to update regulations related to training requirements

SUPPORT: Medical Board of California (Sponsor)

American Nurses Association of California
County of Santa Cruz Board of Supervisors
Monterey County Board of Supervisors
Planned Parenthood

OPPOSITION: None on File

AMENDED IN SENATE MAY 6, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 408

Introduced by Senator Morrell

February 25, 2015

An act to add Section 2516.5 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as amended, Morrell. Midwife assistants.

The Licensed Midwifery Practice Act of 1993 provides for the licensing and regulation of midwives by the Medical Board of California. The license to practice midwifery authorizes the ~~holder, under the supervision of a licensed physician and surgeon, as specified,~~ *holder* to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family planning care, for the mother, and immediate care for the newborn. The ~~act~~ *Licensed Midwifery Practice Act of 1993* requires a midwife to ~~immediately~~ refer ~~all complications~~ to a physician and ~~surgeon.~~ *surgeon under prescribed circumstances.* A violation of the ~~act~~ *Licensed Midwifery Practice Act of 1993* is a crime.

The Nursing Practice Act provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The Nursing Practice Act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including

family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

This bill would authorize a midwife assistant to perform certain assistive activities under the supervision of a licensed ~~midwife,~~ *midwife or certified nurse-midwife,* including the administration of medicine, the withdrawing of blood, and midwife technical support services. The bill would define terms for these purposes. The bill would prohibit a midwife assistant from being employed for inpatient care in a licensed general acute care hospital. By adding new requirements and prohibitions to the ~~act,~~ *Licensed Midwifery Practice Act of 1993,* the violation of which would be a crime, the 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. State-mandated local program: yes.

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

SECTION 1. Section 2516.5 is added to the Business and Professions Code, to read:

2516.5. (a) As used in this section, the following definitions apply:

(1) "Midwife assistant" means a person, who may be unlicensed, who performs basic administrative, clerical, and midwife technical supportive services in accordance with this chapter for a licensed ~~midwife,~~ *midwife or certified nurse-midwife,* is at least 18 years of age, and has had at least the minimum amount of hours of appropriate training pursuant to standards established by the board for a medical assistant pursuant to Section 2069. The midwife assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required

training. Each employer of the midwife assistant or the midwife assistant shall retain a copy of the certificate as a record.

(2) "Midwife technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a midwife assistant who has limited training and who functions under the supervision of a licensed ~~midwife.~~ *midwife or certified nurse-midwife.*

(3) "Specific authorization" means a specific written order prepared by the supervising midwife *or supervising nurse-midwife* authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising midwife *or supervising nurse-midwife* authorizing the procedures to be performed. A notation of the standing order shall be placed in the patient's medical record.

(4) "Supervision" means the supervision of procedures authorized by this section by a licensed ~~midwife,~~ *midwife or certified nurse-midwife,* within his or her scope of practice, who is physically present on the premises during the performance of those procedures.

(b) Notwithstanding any other provision of law, a midwife assistant may do all of the following:

(1) Administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical support services upon the specific authorization and supervision of a licensed ~~midwife.~~ *midwife or certified nurse-midwife.* A midwife assistant may also perform all these tasks and services in a clinic licensed in accordance with subdivision (a) of Section 1204 of the Health and Safety Code upon the specific authorization of a licensed ~~midwife.~~ *midwife or certified nurse-midwife.*

(2) Perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and under the supervision of a licensed midwife *or certified nurse-midwife,* if the midwife assistant has met the educational and training requirements for medical assistants as established in Section 2070. Each employer of the assistant shall retain a copy of any related certificates as a record.

(3) Perform the following midwife technical support services:

(A) Administer medications orally, sublingually, topically, or rectally, or by providing a single dose to a patient for immediate

self-administration, and administer oxygen at the direction of the supervising licensed ~~midwife.~~ *midwife or certified nurse-midwife.* The licensed midwife *or certified nurse-midwife* shall verify the correct medication and dosage before the midwife assistant administers medication.

(B) Assist in immediate newborn care when the licensed midwife *or certified nurse-midwife* is engaged in a concurrent activity that precludes the licensed midwife *or certified nurse-midwife* from doing so.

(C) Assist in placement of the device used for auscultation of fetal heart tones when a licensed midwife *or certified nurse-midwife* is engaged in a concurrent activity that precludes the licensed midwife *or certified nurse-midwife* from doing so.

(D) Collect by noninvasive techniques and preserve specimens for testing, including, but not limited to, urine.

(E) Assist patients to and from a patient examination room, bed, or bathroom.

(F) Assist patients in activities of daily living, such as assisting with bathing or clothing.

(G) As authorized by the licensed ~~midwife,~~ *midwife or certified nurse-midwife,* provide patient information and instructions.

(H) Collect and record patient data, including height, weight, temperature, pulse, respiration rate, blood pressure, and basic information about the presenting and previous conditions.

(I) Perform simple laboratory and screening tests customarily performed in a medical or midwife office.

(4) Perform additional midwife technical support services under regulations and standards established by the board.

(c) (1) Nothing in this section shall be construed as authorizing the licensure of midwife assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a midwife assistant. Nothing in this section shall be construed as authorizing the board to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(2) Nothing in this section shall be construed as authorizing a midwife assistant to perform any clinical laboratory test or examination for which he or she is not authorized under Chapter 3 (commencing with Section 1200).

(d) Notwithstanding any other law, a midwife assistant shall not be employed for inpatient care in a licensed general acute care

hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

SEC. 2. 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.

O

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 464
Author: Hernandez
Bill Date: May 22, 2015, Amended
Subject: Healing Arts: Self Reporting Tools
Sponsor: Planned Parenthood Affiliates of California

DESCRIPTION OF CURRENT LEGISLATION:

This bill would authorize specified health care practitioners to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and after an appropriate examination, prescribe, furnish, or dispense self-administered hormonal contraceptives to the patient.

ANALYSIS

This bill would allow a physician and surgeon, registered nurse, a certified nurse-midwife, a nurse practitioner, a physician assistant, and a pharmacist, acting within the scope of each respective license type, to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient. This bill would require an appropriate prior examination, and after that examination, the practitioner can prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. This bill would allow blood pressure, weight, height, and patient health history to be self-reported using the self-screening tool that identifies patient risk factors.

The sponsors believe that the bill will help to improve preventive health services by increasing access to services in rural communities through the utilization of telemedicine by allowing patients to provide information to a health provider through self-screening tools.

A physician could already use a self-screening tool for the purposes provided for in this bill, as long as an appropriate prior exam is performed, which this bill also requires. If telehealth is used, the existing telehealth laws would also apply. The other health care practitioners named in this bill would also have to comply with their existing laws related to prescribing and can only provide services that are within their current scope. Board staff would have concerns if an appropriate prior exam was not required, but since it is, Board staff is recommending that the Board take a neutral position on this bill.

FISCAL: None

SUPPORT: Planned Parenthood Affiliates of California (Sponsor); California Primary Care Association; California Women's Law Center; Icebreaker Health; Planned Parenthood – Los Angeles, Mar Monte, Northern

California; Orange and San Bernardino Counties, Pasadena and San Gabriel Valley, Santa Barbara, Ventura, and San Luis Obispo Counties; and Five MDs.

OPPOSITION: Union of American Physicians and Dentists

POSITION: Recommendation: Neutral

AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL No. 464

Introduced by Senator Hernandez

February 25, 2015

An act to ~~amend~~ *add* Section ~~2242.1 of~~ *2242.2 to* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 464, as amended, Hernandez. Healing arts: self-reporting tools.

The Medical Practice Act provides for licensure and regulation of physicians and surgeons by the Medical Board of California, and authorizes a physician and surgeon to, among other things, use drugs or devices in or upon human beings. *The Medical Practice Act makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication.* The act prohibits, with specified exceptions, a person or entity from prescribing, dispensing, or furnishing, or causing to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices on the Internet for delivery to a person in California without an appropriate prior examination and medical indication.

The Nursing Practice Act provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing within the Department of Consumer Affairs. The Nursing Practice Act authorizes a registered nurse to dispense self-administered hormonal contraceptives, as specified, in accordance with standardized procedures, including demonstration of competency in providing the

appropriate prior examination comprised of checking blood pressure, weight, and patient and family health history, including medications taken by the patient. The Nursing Practice Act also authorizes certified nurse-midwives and nurse practitioners to furnish or order drugs or devices, as specified.

The Physician Assistant Practice Act provides for the licensure and regulation of physician assistants by the Physician Assistant Board within the jurisdiction of the Medical Board of California, and authorizes a physician assistant to administer or provide medication to a patient or to transmit a drug order, as specified.

The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs, and authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures and protocols. The Pharmacy Law requires the standardized procedures and protocols to require a patient to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives, as specified.

This bill, *notwithstanding any other law,* would authorize ~~the board to consider the use of self-reporting tools by licensees, as that use may be allowed by law.~~ *a physician and surgeon, a registered nurse acting in accordance with the authority of the Nursing Practice Act, a certified nurse-midwife acting within the scope of specified existing law relating to nurse-midwives, a nurse practitioner acting within the scope of specified existing law relating to nurse practitioners, a physician assistant acting within the scope of specified existing law relating to physician assistants, or a pharmacist acting within the scope of a specified existing law relating to pharmacists to use a self screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. The bill would authorize blood pressure, weight, height, and patient health history to be self-reported using the self-screening tool.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

SECTION 1. Section 2242.2 is added to the Business and Professions Code, to read:

2242.2. Notwithstanding any other law, a physician and surgeon, a registered nurse acting in accordance with Section 2725.2, a certified nurse-midwife acting within the scope of Section 2746.51, a nurse practitioner acting within the scope of Section 2836.1, a physician assistant acting within the scope of Section 3502.1, and a pharmacist acting within the scope of Section 4052.3 may use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. Blood pressure, weight, height, and patient health history may be self-reported using the self-screening tool that identifies patient risk factors.

~~SECTION 1. Section 2242.1 of the Business and Professions Code is amended to read:~~

~~2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.~~

~~(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.~~

~~(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).~~

~~(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under~~

~~Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.~~

~~(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.~~

~~(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242.~~

~~(g) The board may consider the use of self-screening tools by a licensee, as that use may be allowed by law.~~

O

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 201, 5000, ~~and 5015.6~~ *5015.6, 7000.5, 7011, and 7071.6* of, ~~and~~ to add Sections 312.2, 328, and 5100.5 to, *and to repeal Section 7067.5 of,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department

may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the department is responsible for the licensure and regulation of accountants and is required to designate an execute officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Under existing law, the Contractors' State License Law, the Contractors' State License Board is responsible for the licensure and

regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

This bill would extend these repeal dates to January 1, 2020.

Existing law requires every applicant for an original license, the reactivation of an inactive license, or the reissuance or reinstatement of a revoked license to evidence financial solvency, as specified, and requires the registrar to deny the application of any applicant who fails to comply with that requirement. Existing law, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, requires the applicant or licensee to file or have on file a contractor's bond in the sum of $12,500.

This bill would repeal that evidence of financial solvency requirement and would instead require that bond to be in the sum of $15,000.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 201 of the Business and Professions Code is amended to read:

201. (a) (1) A charge for the estimated administrative expenses of the department, not to exceed the available balance in any appropriation for any one fiscal year, may be levied in advance on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, with the approval of the Legislature.

(2) The department shall submit a report of the accounting of the pro rata calculation of administrative expenses to the appropriate policy committees of the Legislature on or before July 1, 2015, and on or before July 1 of each subsequent year.

(b) The department shall conduct a one-time study of its current system for prorating administrative expenses to determine if that system is the most productive, efficient, and cost-effective manner for the department and the agencies comprising the department. The study shall include consideration of whether some of the administrative services offered by the department should be outsourced or charged on an as-needed basis and whether the agencies should be permitted to elect not to receive and be charged for certain administrative services. The department shall include

the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.

SEC. 2. Section 312.2 is added to the Business and Professions Code, to read:

312.2. (a) The Attorney General shall submit a report to the department, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2018, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:

(1) The number of accusation matters referred to the Attorney General.

(2) The number of accusation matters rejected for filing by the Attorney General.

(3) The number of accusation matters for which further investigation was requested by the Attorney General.

(4) The number of accusation matters for which further investigation was received by the Attorney General.

(5) The number of accusations filed by each constituent entity.

(6) The number of accusations a constituent entity withdraws.

(7) The number of accusation matters adjudicated by the Attorney General.

(b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:

(1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.

(2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.

(3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.

(4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.

(5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.

(6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.

(c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 328 is added to the Business and Professions Code, to read:

328. In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

SEC. 4. Section 5000 of the Business and Professions Code is amended to read:

5000. (a) There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, 7 of whom shall be licensees, and 8 of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

(b) The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint individuals representing a cross section of the accounting profession.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(d) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate

policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

SEC. 5. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 6. Section 5100.5 is added to the Business and Professions Code, to read:

5100.5. (a) After notice and hearing the board may, for unprofessional conduct, permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services described in Section 5051.

(b) A licensee may petition the board pursuant to Section 5115 for reduction of penalty or reinstatement of the privilege to engage in the service or act restricted or limited by the board.

(c) The authority or sanctions provided by this section are in addition to any other civil, criminal, or administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other disciplinary authority, penalties, or sanctions.

(d) Failure to comply with any restriction or limitation imposed by the board pursuant to this section is grounds for revocation of the license.

(e) For purposes of this section, both of the following shall apply:

(1) “Unprofessional conduct” includes, but is not limited to, those grounds for discipline or denial listed in Section 5100.

(2) “Permanently restrict or limit the practice of” includes, but is not limited to, the prohibition on engaging in or performing any attestation engagement, audits, or compilations.

SEC. 7. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.

(b) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

(c) This section shall remain in effect only until January 1, ~~2016,~~ *2020,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2016,~~ *2020,* deletes or extends that date.

SEC. 8. Section 7011 of the Business and Professions Code is amended to read:

7011. (a) The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.

(b) The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

(c) For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.

(d) Appointments shall be made in accordance with the provisions of civil service laws.

(e) This section shall remain in effect only until January 1, ~~2016,~~ *2020,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2016,~~ *2020,* deletes or extends that date.

SEC. 9. Section 7067.5 of the Business and Professions Code is repealed.

~~7067.5. Every applicant for an original license, or for the reactivation of an inactive license, or for the reissuance or reinstatement of a revoked license shall possess and every such applicant, other than one applying under Section 7029 unless required by the registrar, shall evidence financial solvency. The registrar shall deny the application of any applicant who fails to comply with this section. For purposes of this section financial solvency shall mean that the applicant's operating capital shall exceed two thousand five hundred dollars ($2500).~~

~~The applicant shall provide answers to questions contained in a standard form of questionnaire as required by the registrar relative to his financial ability and condition and signed by the applicant under penalty of perjury.~~

~~In any case in which further financial information would assist the registrar in an investigation, the registrar may obtain such information or may require any licensee or applicant under investigation pursuant to this chapter to provide such additional financial information as the registrar may deem necessary.~~

~~The financial information required by the registrar shall be confidential and not a public record, but, where relevant, shall be admissible as evidence in any administrative hearing or judicial action or proceeding.~~

~~The registrar may destroy any financial information which has been on file for a period of at least three years.~~

SEC. 10. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of ~~twelve~~ *fifteen* thousand ~~five hundred~~ dollars ~~($12,500).~~ *($15,000).*

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars ($7,500). The bond proceeds in excess of seven thousand five hundred dollars ($7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other ~~provision of~~ law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to

subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

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AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL No. 482

Introduced by Senator Lara

February 26, 2015

An act to add Section 11165.4 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 482, as amended, Lara. Controlled substances: CURES database.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires dispensing pharmacies and clinics to report specified information for each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance to the department.

This bill would require all prescribers, as defined, prescribing a Schedule II or Schedule III controlled substance, ~~and all dispensers, as defined, dispensing a Schedule II or Schedule III controlled substance,~~ to consult a patient's electronic history in the CURES database before prescribing ~~or dispensing~~ the controlled substance to the patient for the first time. The bill would also require the prescriber to consult the CURES database at least annually when the prescribed controlled substance remains part of the patient's treatment. The bill would prohibit prescribing an additional Schedule II or Schedule III controlled

substance to a patient with an existing prescription until the prescriber determines that there is a legitimate need for the controlled substance.

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's ~~or dispenser's~~ licensing board and would require the ~~respective licensing boards~~ *licensing boards* to notify all ~~licensees~~ *prescribers* authorized to prescribe ~~or dispense~~ controlled substances of these requirements. The bill would provide that a prescriber ~~or dispenser~~ is not in violation of these requirements during any time that the CURES database is suspended or not accessible, or during any time that the Internet is not operational. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 11165.4 is added to the Health and Safety Code, to read:

11165.4. (a) A prescriber shall access and consult the CURES database for the electronic history of controlled substances dispensed to a patient under his or her care before prescribing a Schedule II or Schedule III controlled substance for the first time to that patient and at least annually when that prescribed controlled substance remains part of his or her treatment. If the patient has an existing prescription for a Schedule II or Schedule III controlled substance, the prescriber shall not prescribe an additional controlled substance until the prescriber determines that there is a legitimate need for that controlled substance.

~~(b) A dispenser shall access and consult the CURES database for the electronic history of controlled substances dispensed to a patient under his or her care before dispensing a Schedule II or Schedule III controlled substance for the first time to that patient. If the patient has an existing prescription for a Schedule II or Schedule III controlled substance, the dispenser shall not dispense an additional controlled substance until the dispenser checks the CURES database.~~

~~(c)~~

(b) Failure to consult a patient's electronic history as required by subdivision (a) ~~or (b)~~ is cause for disciplinary action by the ~~respective licensing board of the prescriber or dispenser~~ *prescriber's licensing board*. The licensing boards of all prescribers ~~and dispensers~~ authorized to write or issue prescriptions for controlled substances shall notify these licensees of the requirements of this section.

~~(d)~~

(c) Notwithstanding any other law, a prescriber ~~or dispenser~~ is not in violation of this section during any period of time in which the CURES database is suspended or not accessible or any period of time in which the Internet is not operational.

~~(e)~~

(d) This section shall not become operative until the Department of Justice certifies that the CURES database is ready for statewide use.

~~(f)~~

(e) For purposes of this section, ~~the following terms shall have the following meanings:~~ *"prescriber" means a health care practitioner who is authorized to write or issue prescriptions under Section 11150, excluding veterinarians.*

~~(1) "Dispenser" means a person who is authorized to dispense a controlled substance under Section 11011.~~

~~(2) "Prescriber" means a health care practitioner who is authorized to write or issue prescriptions under Section 11150, excluding veterinarians.~~

~~(g)~~

(f) A violation of this section shall not be subject to the provisions of Section 11374.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 538
Author: Block
Bill Date: July 7, 2015, Amended
Subject: Naturopathic Doctors
Sponsor: California Naturopathic Doctor Association
Position: Oppose

DESCRIPTION OF CURRENT LEGISLATION:

This bill would expand the scope of practice for a naturopathic doctor (ND) and would allow an ND to prescribe certain drugs without physician supervision.

BACKGROUND:

NDs can currently prescribe natural and synthetic hormones, epinephrine, vitamins, minerals, and amino acids, independent of physician supervision. California NDs complete 72 pharmacology course hours as part of their schooling and are required to complete a minimum of 20 hours of pharmacotherapeutic training every two years as part of their 60 hour continuing education requirement. NDs attend four year, graduate-level accredited naturopathic medical schools and take a national, standardized licensing examination. NDs perform at least 1500 hours of clinical rotations at mostly clinics and private doctors' offices during their education program. There are over 500 ND licenses that have been issued to date in California.

Current law allows an ND to furnish or order legend drugs and Schedule III-V drugs in accordance with standardized procedures or protocols developed by the ND and his or her supervising physician. Current law authorizes an ND to provide repair and care incidental to superficial lacerations and abrasions, except suturing, and permits an ND to remove foreign bodies located in the superficial tissues. A physician may supervise up to four NDs at a time.

ANALYSIS:

This bill has been amended and significantly narrowed. This bill would expand the scope of an ND, as follows:

- Authorize an ND to order diagnostic imaging studies consistent with the practice of naturopathic medicine (instead of only those determined appropriate by the Naturopathic Medicine Committee (NMC)).
- Clarify that an ND may order, provide, or furnish devices consistent with the naturopathic training, as determined by NMC.
- Authorize an ND to prescribe, administer, or order Schedule V and unclassified drugs labeled "for prescription only", except chemotherapeutics, without physician

supervision.

- Require an ND to be subject to peer review reporting provisions.

This bill expands the scope of practice of an ND and would allow an ND to prescribe specified drugs without physician supervision. Although NDs may be well qualified to practice naturopathic medicine that utilizes natural medicine and treatments in a natural approach, NDs do not receive the education and training in naturopathic education programs to safely prescribe without physician supervision. Physician supervision helps to ensure that the patient care provided by an ND includes physician involvement and oversight.

The Board's primary mission is consumer protection. The Board took an oppose position on this bill previously because it believed that expanding the scope of practice for an ND could compromise patient care and consumer protection. Although this bill has been narrowed, it still allows NDs to prescribe Schedule V and legend drugs without physician supervision. As such, Board staff is recommending that the Board continue to oppose this bill.

FISCAL: None

SUPPORT: California Naturopathic Doctor Association (Sponsor); AARP; Akasha Center for Integrative Medicine; American Association of Naturopathic Physicians; Arizona Naturopathic Medical Association; Bastyr University; California Chiropractic Association; California Naturopathic Clinic; California Naturopathic Medicine Committee; Center for Health Santa Cruz; Endocrinology Association of Naturopathic Physicians; Integrative Medicine for the Underserved; National College of Natural Medicine; Naturopathic Academy of Primary Care Physicians; Paracelsus Natural Family Health Center; Pediatric Association of Naturopathic Physicians; Santa Cruz Naturopathic Medical Center; Southwest College of Naturopathic Medicine and Health Statistics; Stengler Center for Integrative Medicine; The Oncology Association of Naturopathic Physicians; Washington Association of Naturopathic Physicians; Women's View Medical Group, Inc.; and 1,155 individuals

OPPOSITION: California Academy of Family Physicians; California Chapter of the American College of Cardiology; California Chapter of the American College of Emergency Physicians; California Orthopaedic Association; California Society of Anesthesiologists; California Society of Dermatology and Dermatologic Surgery; California Society of Plastic Surgeons; Medical Board of California; and Osteopathic Physicians and Surgeons of California

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 538

Introduced by Senator Block
(Coauthor: Senator Hueso)

February 26, 2015

An act to amend Sections 3640 and 3640.5 of the Business and Professions Code, relating to naturopathic doctors.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Block. Naturopathic doctors.

(1) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee in the Osteopathic Medical Board of California. Existing law authorizes a naturopathic doctor to perform certain tasks, including physical and laboratory examinations for diagnostic ~~purposes,~~ *purposes* and to order diagnostic imaging studies, ~~as specified.~~ *consistent with naturopathic training as determined by the committee.* Under the act, a naturopathic doctor is authorized to dispense, administer, order, prescribe, furnish, or perform certain things, including health education and health counseling. ~~The act also authorizes a naturopathic doctor to utilize routes of administration that include, among others, intramuscular.~~

This bill would ~~revise and recast those provisions and would expressly~~, *instead, authorize a naturopathic doctor to perform certain tasks, consistent with the practice of naturopathic medicine, and would additionally* authorize a naturopathic doctor to dispense, administer,

order, prescribe, provide, *or* furnish, ~~or perform parenteral therapy and minor procedures. The bill would define terms for those purposes. The bill would authorize a naturopathic doctor to use a cervical route of administration only for the purpose of administering barrier contraception.~~ *devices and durable medical equipment consistent with the naturopathic training as determined by the committee.*

(2) Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitation generally placed on controlled substances classified in Schedule V.

Existing law states that nothing in the Naturopathic Doctors Act or any other law shall be construed to prohibit a naturopathic doctor from furnishing or ordering drugs when, among other requirements, the naturopathic doctor is functioning pursuant to standardized procedure, as defined, or protocol developed and approved, as specified, and the Naturopathic Medicine Committee has certified that the naturopathic doctor has satisfactorily completed adequate coursework in pharmacology covering the drugs to be furnished or ordered. Existing law requires that the furnishing or ordering of drugs by a naturopathic doctor occur under the supervision of a physician and surgeon. Existing law also authorizes a naturopathic doctor to furnish or order controlled substances classified in Schedule III, IV, or V of the California Uniform Controlled Substances Act, but limits this authorization to those drugs agreed upon by the naturopathic doctor and physician and surgeon as specified in the standardized procedure. Existing law further requires that drugs classified in Schedule III be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician.

This bill would instead provide that, except as specified, nothing in the provisions governing naturopathic doctors or any other law shall be construed to prohibit a naturopathic doctor from administering, furnishing, ordering, or prescribing drugs and would make a conforming change to the scope of the certification duties of the Naturopathic Medicine Committee. The bill would delete certain provisions described above restricting the authority of naturopathic doctors to furnish or order drugs, including the requirements that the naturopathic doctor function pursuant to a standardized procedure, or furnish or order drugs under the supervision of a physician and surgeon for ~~Schedule IV through~~ Schedule V controlled substances and for any drug approved

by the federal Food and Drug Administration and labeled "for prescription only," except chemotherapeutics, that is not classified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 3640 of the Business and Professions Code is amended to read:

3640. (a) A naturopathic doctor may order and perform physical and laboratory examinations for diagnostic purposes, including, but not limited to, phlebotomy, clinical laboratory tests, speculum examinations, orificial examinations, and physiological function tests.

(b) A naturopathic doctor may order diagnostic imaging studies, including X-ray, ultrasound, mammogram, bone densitometry, and others, consistent with the practice of naturopathic medicine, but shall refer the studies to an appropriately licensed health care professional to conduct the study and interpret the results.

(c) A naturopathic doctor may dispense, administer, order, prescribe, provide, furnish, or perform the following:

(1) Food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals and their extracts, botanical medicines, homeopathic medicines, all dietary supplements and nonprescription drugs as defined by the Federal Food, Drug, and Cosmetic Act, consistent with the routes of administration identified in subdivision (d).

(2) Hot or cold hydrotherapy; naturopathic physical medicine inclusive of the manual use of massage, stretching, resistance, or joint play examination but exclusive of small amplitude movement at or beyond the end range of normal joint motion; electromagnetic energy; colon hydrotherapy; and therapeutic exercise.

(3) Devices, including, but not limited to, therapeutic devices, barrier contraception, and durable medical equipment consistent with the naturopathic training as determined by the committee.

(4) Health education and health counseling.

~~(5) Parenteral therapy.~~

~~(6) Minor procedures.~~

(5) Repair and care incidental to superficial lacerations and abrasions, except suturing.

(6) Removal of foreign bodies located in the superficial tissues.

(d) A naturopathic doctor may utilize routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, and intramuscular. ~~A naturopathic doctor may utilize a cervical route of administration only for the purpose of administering barrier contraception.~~

(e) The committee may establish regulations regarding ocular or intravenous routes of administration that are consistent with the education and training of a naturopathic doctor.

(f) Nothing in this section shall exempt a naturopathic doctor from meeting applicable licensure requirements for the performance of clinical laboratory tests, including the requirements imposed under Chapter 3 (commencing with Section 1200).

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

~~(1) "Minor procedures" means care and operative procedures relative to superficial lacerations, superficial clinically benign lesions less than one centimeter and not located on the face, and superficial abrasions, and the removal of foreign bodies located in superficial structures and the topical and parenteral use of substances consistent with the practice of naturopathic medicine, in accordance with rules established by the Naturopathic Medicine Committee. A naturopathic doctor may obtain samples of superficial human tissue by means of shave, punch, or excisional biopsy consistent with the practice of naturopathic medicine. "Minor procedures" does not include general or spinal anesthesia, sclerotherapy, or procedures involving the eye.~~

~~(2) "Parenteral therapy" means the administration of substances by means other than through the gastrointestinal tract, including intravenous, subcutaneous, intramuscular, and other areas of the body, excluding the ventral and dorsal body cavities.~~

SEC. 2. Section 3640.5 of the Business and Professions Code is amended to read:

3640.5. (a) Except as set forth in this section, nothing in this chapter or any other provision of law shall be construed to prohibit a naturopathic doctor from administering, furnishing, ordering, or prescribing drugs when functioning pursuant to this section.

(b) Schedule III *and Schedule IV* controlled substances under the California Uniform Controlled Substances Act (Division 10

(commencing with Section 11000) of the Health and Safety Code) shall be administered, furnished, ordered, and prescribed by a naturopathic doctor in accordance with standardized procedures or protocols developed by the naturopathic doctor and his or her supervising physician and surgeon.

(c) The naturopathic doctor shall function pursuant to a standardized procedure, as defined by paragraphs (1) and (2) of subdivision (c) of Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the naturopathic doctor, and, where applicable, the facility administrator or his or her designee.

(d) The standardized procedure or protocol covering the administering, furnishing, ordering, or prescribing of Schedule III *and Schedule IV* drugs shall specify which naturopathic doctors may administer, furnish, order, or prescribe Schedule III *and Schedule IV* drugs, which Schedule III *through Schedule IV* drugs may be administered, furnished, ordered, or prescribed and under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the naturopathic doctor's competence, including peer review, which shall be subject to the reporting requirement in Section 805, and review of the provisions of the standardized procedure.

(e) The administering, furnishing, ordering, or prescribing of Schedule III *and Schedule IV* drugs by a naturopathic doctor shall occur under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include all of the following:

(1) Collaboration on the development of the standardized procedure.

(2) Approval of the standardized procedure.

(3) Availability by telephonic contact at the time of patient examination by the naturopathic doctor.

(f) When Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are administered, furnished, ordered, or prescribed by a naturopathic doctor, the controlled substances shall be administered, furnished, ordered, or prescribed in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the naturopathic doctor's standardized procedure or protocol relating to controlled substances shall be provided, upon

request, to a licensed pharmacist who dispenses drugs when there is uncertainty about the naturopathic doctor furnishing the order.

(g) For purposes of this section, a physician and surgeon shall not supervise more than four naturopathic doctors at one time.

(h) Notwithstanding subdivision (c), drugs administered, furnished, ordered, or prescribed by a naturopathic doctor without the supervision of a physician and surgeon shall include ~~Schedule IV through~~ Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and any drug approved by the federal Food and Drug Administration and labeled "for prescription only" or words of similar import, except chemotherapeutics, that is not classified.

(i) The committee shall certify that the naturopathic doctor has satisfactorily completed adequate coursework in pharmacology covering the drugs to be administered, furnished, ordered, or prescribed under this section. The committee shall establish the requirements for satisfactory completion of this subdivision.

(j) Use of the term "furnishing" in this section, in health facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of the Health and Safety Code, shall include both of the following for Schedule III *through Schedule IV* controlled substances.

(1) Ordering a drug in accordance with the standardized procedure.

(2) Transmitting an order of a supervising physician and surgeon.

(k) For purposes of this section, "drug order" or "order" means an order for medication which is dispensed to or for an ultimate user, issued by a naturopathic doctor as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations.

(*l*) Notwithstanding any other law, all of the following shall apply:

(1) A Schedule III *through Schedule IV* drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician.

(2) All references to prescription in this code and the Health and Safety Code shall include drug orders issued by naturopathic doctors.

(3) The signature of a naturopathic doctor on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

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AMENDED IN SENATE MAY 4, 2015

AMENDED IN SENATE APRIL 9, 2015

SENATE BILL No. 622

Introduced by Senator Hernandez

February 27, 2015

An act to amend ~~Section~~ *Sections* 3041 *and 3110* of, to add Sections 3041.4, 3041.5, 3041.6, 3041.7, and 3041.8 to, and to repeal and add Sections 3041.1, 3041.2, and 3041.3 of, the Business and Professions Code, relating to optometry, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 622, as amended, Hernandez. Optometry.

The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, and defines the practice of optometry to include, among other things, the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and doing certain things, including, but not limited to, the examination of the human eyes, the determination of the powers or range of human vision, and the prescribing of contact and spectacle lenses. Existing law authorizes an optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat specified conditions, use specified pharmaceutical agents, and order specified diagnostic tests. The act requires optometrists treating or diagnosing eye disease, as specified, to be held to the same standard of care to which physicians and surgeons and osteopathic physician and surgeons are held. *The act requires an optometrist, in certain circumstances, to refer a patient to an opthamologist or a physician and surgeon,*

including when a patient has been diagnosed with a central corneal ulcer and the central corneal ulcer has not improved within 48 hours of the diagnosis. The act makes a violation of any of its provisions a crime. All moneys collected pursuant to the act, except where otherwise provided, are deposited in the Optometry Fund and continuously appropriated to the board to carry out the act.

This bill would revise and recast those provisions. *The bill would delete certain requirements that an optometrist refer a patient to an opthamologist or a physician and surgeon, including when a patient has been diagnosed with a central corneal ulcer and the central corneal ulcer has not improved within 48 hours of the diagnosis.* The bill would additionally define the practice of optometry as the provision of habilitative optometric services, and would authorize the board to allow optometrists to use nonsurgical technology to treat any authorized condition under the act. The bill would *additionally* authorize an optometrist *certified* to use ~~diagnostic~~ *therapeutic* pharmaceutical ~~agents, as specified, including, but not limited to, oral and topical diagnostic pharmaceutical agents that are not controlled substances.~~ *agents to collect a blood specimen by finger prick method, to perform skin tests, as specified, to diagnose ocular allergies, and to use mechanical lipid extraction of meibomian glands and nonsurgical techniques.* The bill would ~~authorize an optometrist to independently initiate and administer vaccines, as specified, for a person 3 years of age and older, if the optometrist meets certain requirements, including, but not limited to,~~ *require the board to grant an optometrist certified to treat glaucoma a certificate for the use of specified immunizations if certain conditions are met, including, among others,* that ~~he or she~~ *the optometrist* is certified in basic life ~~support for health care professionals.~~ *support.* The bill would additionally authorize an optometrist certified to use therapeutic pharmaceutical agents to, among other things, be certified to use anterior segment lasers, as specified, and to be certified to perform specified minor procedures, as specified, if certain requirements are met.

The bill would require the board to charge a fee of not more than $150 to cover the reasonable regulatory cost of certifying an optometrist to use anterior segment ~~lasers.~~ *lasers, a fee of not more than $150 to cover the reasonable regulatory cost of certifying an optometrist to use minor procedures, and a fee of not more than $100 to cover the reasonable regulatory cost of certifying an optometrist to use*

immunizations. Because this bill would increase those moneys deposited in a continuously appropriated fund, it would make an appropriation.

Existing law establishes the Office of Statewide Health Planning and Development, which is vested with all the duties, powers, responsibilities, and jurisdiction of the State Department of Public Health relating to health planning and research development.

This bill would declare the intent of the Legislature that the Office of Statewide Health Planning designate a pilot project to test, demonstrate, and evaluate expanded roles for optometrists in the performance of management and treatment of diabetes mellitus, hypertension, and hypercholesterolemia.

Because a violation of the act is a crime, this bill would expand the scope of an existing crime and would, therefore, result in 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 3041 of the Business and Professions
2 Code is amended to read:
3 3041. (a) The practice of optometry includes the prevention
4 and diagnosis of disorders and dysfunctions of the visual system,
5 and the treatment and management of certain disorders and
6 dysfunctions of the visual system, as well as the provision of
7 habilitative or rehabilitative optometric services, and is the doing
8 of any or all of the following:
9 (1) The examination of the human eye or eyes, or its or their
10 appendages, and the analysis of the human vision system, either
11 subjectively or objectively.
12 (2) The determination of the powers or range of human vision
13 and the accommodative and refractive states of the human eye or
14 eyes, including the scope of its or their functions and general
15 condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye, including lenses that may be classified as drugs or devices by any law of the United States or of this state.

(5) The use of topical pharmaceutical agents for the purpose of the examination of the human eye or eyes for any disease or pathological condition.

(b) The State Board of Optometry shall, by regulation, establish educational and examination requirements for licensure to ensure the competence of optometrists to practice pursuant to this ~~chapter.~~ *chapter, except as specified in Section 3041.3 related to the use of anterior segment lasers and in Section 3041.4 related to minor procedures.* Satisfactory completion of the required educational and examination requirements shall be a condition for the issuance of an original optometrist license or required certifications pursuant to this chapter.

(c) The board may ~~authorize~~ *promulgate regulations authorizing* optometrists to use *noninvasive,* nonsurgical technology to treat a condition authorized by this chapter. *The board shall require a licensee to take a minimum of four hours of education courses on the new technology and perform an appropriate number of complete clinical procedures on live human patients to qualify to use each new technology authorized by the board pursuant to this subdivision.*

SEC. 2. Section 3041.1 of the Business and Professions Code is repealed.

SEC. 3. Section 3041.1 is added to the Business and Professions Code, to read:

3041.1. (a) (1) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to this section may also diagnose and treat the human eye or eyes, or any of its or their appendages, for all of the following conditions:

(A) Through medical treatment, infections of the anterior segment and adnexa.

(B) Ocular allergies of the anterior segment and adnexa.

~~(C) Ocular inflammation that is nonsurgical in cause, except when comanaged with the treating physician and surgeon.~~

(C) Ocular inflammation, nonsurgical in cause except when comanaged with the treating physician and surgeon, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over 18 years of age.

(D) Traumatic or recurrent conjunctival or corneal abrasions and erosions.

(E) Corneal and conjunctival surface disease and dry eyes disease.

(F) Ocular pain that is nonsurgical in cause, except when comanaged with the treating physician and surgeon.

(G) ~~Eyelid disorders, including, but not limited to, hypotrichosis and blepharitis.~~ *Hypotrichosis and blepharitis.*

(2) For purposes of this section, "treat" means the use of therapeutic pharmaceutical agents, as described in subdivision (b), and the procedures described in subdivision (c).

(3) For purposes of this chapter, "adnexa" means ocular adnexa.

(b) In diagnosing and treating the conditions listed in subdivision (a), an optometrist certified to use therapeutic pharmaceutical agents pursuant to this section may use all of the following ~~diagnostic and~~ therapeutic pharmaceutical agents:

~~(1) Oral and topical diagnostic and therapeutic pharmaceutical agents that are not controlled substances. The use of pharmaceutical agents shall be limited to the use for which the drug has been approved for marketing by the federal Food and Drug Administration (FDA).~~

~~(2) Notwithstanding paragraph (1), an optometrist certified to use therapeutic pharmaceutical agents may use a drug in a way for which the drug has not been approved for marketing by the FDA if all of the following requirements are met:~~

~~(A) The drug is approved by the FDA.~~

~~(B) The drug has been recognized for treatment of the condition by either of the following:~~

~~(i) The American Hospital Formulary Service's Drug Information.~~

~~(ii) Two articles from major peer reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective, unless there is clear and convincing~~

~~contradictory evidence presented in a major peer reviewed medical journal.~~

~~(3) Notwithstanding paragraph (1), codeine with compounds and hydrocodone with compounds as listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and the federal Controlled Substances Act (21 U.S.C. Sec. 801, et seq.) may be used. The use of these controlled substances shall be limited to five days.~~

(1) Topical pharmaceutical agents for the purpose of the examination of the human eye or eyes for any disease or pathological condition, including, but not limited to, topical miotics.

(2) Topical lubricants.

(3) Antiallergy agents. In using topical steroid medication for the treatment of ocular allergies, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 21 days after diagnosis.

(4) Topical and oral anti-inflammatories.

(5) Topical antibiotic agents.

(6) Topical hyperosmotics.

(7) Topical and oral antiglaucoma agents pursuant to the certification process defined in Section 3041.2.

(8) Nonprescription medications used for the rational treatment of an ocular disorder.

(9) Oral antihistamines.

(10) Prescription oral nonsteroidal anti-inflammatory agents.

(11) Oral antibiotics for medical treatment of ocular disease.

(12) Topical and oral antiviral medication for the medical treatment of herpes simplex viral keratitis, herpes simplex viral conjunctivitis, periocular herpes simplex viral dermatitis, varicella zoster viral keratitis, varicella zoster viral conjunctivitis, and periocular varicella zoster viral dermatitis.

(13) Oral analgesics that are not controlled substances.

(14) Codeine with compounds and hydrocodone with compounds as listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and the United States Uniform Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use of these agents shall be

limited to five days, with a referral to an ophthalmologist if the pain persists.

(c) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to this section may also perform all of the following:

(1) Corneal scraping with cultures.

(2) Debridement of corneal epithelia.

(3) Mechanical epilation.

(4) Collection of a blood specimen by finger prick method or venipuncture for testing patients suspected of having diabetes.

(5) Suture removal, with prior consultation with the treating health care provider.

(6) Treatment or removal of sebaceous cysts by expression.

(7) Administration of oral fluorescein to patients suspected as having diabetic retinopathy.

(8) Use of an auto-injector to counter anaphylaxis.

~~(9) Ordering of clinical laboratory and imaging tests related to the practice of optometry.~~

~~(10) A clinical laboratory test or examination classified as waived under CLIA and related to the practice of optometry.~~

(9) Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, urinalysis, tear fluid analysis, and X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa. An optometrist may order other types of images subject to prior consultation with the appropriate physician and surgeon.

(10) A clinical laboratory test or examination classified as waived under the Clinical Laboratory Improvement Amendments of 1988 (CLIA)(42 U.S.C. Sec. 263a; Public Law 100-578) or any regulations adopted pursuant to CLIA, and that are necessary for the diagnosis of conditions and diseases of the eye or adnexa, or if otherwise specifically authorized by this chapter.

(11) Skin test to diagnose ocular allergies. Skin tests shall be limited to the superficial lawyer of the skin.

(12) Punctal occlusion by plugs, excluding laser, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.

(13) The prescription of therapeutic contact lenses, diagnostic contact lenses, or biological or technological corneal ~~devices.~~

devices that diagnose or treat a condition authorized under this chapter.

(14) Removal of foreign bodies from the cornea, eyelid, and conjunctiva with any appropriate instrument other than a ~~scalpel or needle.~~ *scalpel.* Corneal foreign bodies shall be nonperforating, be no deeper than the midstroma, and require no surgical repair upon removal.

(15) For patients over 12 years of age, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The board shall certify any optometrist who graduated from an accredited school of optometry before May 1, 2000, to perform this procedure after submitting proof of satisfactory completion and confirmation of 10 procedures under the supervision of an ophthalmologist or optometrist who is certified in lacrimal irrigation and dilation. Any optometrist who graduated from an accredited school of optometry on or after May 1, 2000, shall be exempt from the certification requirement contained in this paragraph.

(16) Use of mechanical lipid extraction of meibomian glands and nonsurgical techniques.

~~(17) Notwithstanding subdivision (b), administration of injections for the diagnoses or treatment of conditions of the eye and adnexa, excluding intraorbital injections and injections administered for cosmetic effect, provided that the optometrist has satisfactorily received four hours of continuing education on performing all injections authorized by this paragraph.~~

(d) In order to be certified to use therapeutic pharmaceutical agents and authorized to diagnose and treat the conditions listed in this section, an optometrist shall apply for a certificate from the board and meet all requirements imposed by the board.

(e) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry prior to January 1, 1996, is licensed as an optometrist in California, and meets all of the following requirements:

(1) Satisfactorily completes a didactic course of no less than 80 classroom hours in the diagnosis, pharmacological, and other treatment and management of ocular disease provided by either an accredited school of optometry in California or a recognized residency review committee in ophthalmology in California.

(2) Completes a preceptorship of no less than 65 hours, during a period of not less than two months nor more than one year, in either an ophthalmologist's office or an optometric clinic. The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, systemic disease. The preceptor shall certify completion of the preceptorship. Authorization for the ophthalmologist to serve as a preceptor shall be provided by an accredited school of optometry in California, or by a recognized residency review committee in ophthalmology, and the preceptor shall be licensed as an ophthalmologist in California, board certified in ophthalmology, and in good standing with the Medical Board of California. The individual serving as the preceptor shall schedule no more than three optometrist applicants for each of the required 65 hours of the preceptorship program. This paragraph shall not be construed to limit the total number of optometrist applicants for whom an individual may serve as a preceptor, and is intended only to ensure the quality of the preceptorship by requiring that the ophthalmologist preceptor schedule the training so that each applicant optometrist completes each of the 65 hours of the preceptorship while scheduled with no more than two other optometrist applicants.

(3) Successfully completes a minimum of 20 hours of self-directed education.

(4) Passes the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" examination or, in the event this examination is no longer offered, its equivalent, as determined by the State Board of Optometry.

(5) Passes the examination issued upon completion of the 80-hour didactic course required under paragraph (1) and provided by the accredited school of optometry or residency program in ophthalmology.

(6) When any or all of the requirements contained in paragraph (1), (4), or (5) have been satisfied on or after July 1, 1992, and before January 1, 1996, an optometrist shall not be required to fulfill the satisfied requirements in order to obtain certification to use therapeutic pharmaceutical agents. In order for this paragraph to apply to the requirement contained in paragraph (5), the didactic examination that the applicant successfully completed shall meet equivalency standards, as determined by the board.

(7) Any optometrist who graduated from an accredited school of optometry on or after January 1, 1992, and before January 1, 1996, shall not be required to fulfill the requirements contained in paragraphs (1), (4), and (5).

(f) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry on or after January 1, 1996, who is licensed as an optometrist in California, and who meets all of the following requirements:

(1) Passes the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the State Board of Optometry.

(2) Of the total clinical training required by a school of optometry's curriculum, successfully completed at least 65 of those hours on the diagnosis, treatment, and management of ocular, systemic disease.

(3) Is certified by an accredited school of optometry as competent in the diagnosis, treatment, and management of ocular, systemic disease to the extent authorized by this section.

(4) Is certified by an accredited school of optometry as having completed at least 10 hours of experience with a board-certified ophthalmologist.

(g) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who is an optometrist who obtained his or her license outside of California if he or she meets all of the requirements for an optometrist licensed in California to be certified to use therapeutic pharmaceutical agents.

(1) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and graduated from an accredited school of optometry prior to January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (e). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received at the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry in California for persons who graduated before January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (e) be waived based on fulfillment of the requirement in another state, if the board

determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(2) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and who graduated from an accredited school of optometry on or after January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (f). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received by the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry for persons who graduated on or after January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (f) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(3) The State Board of Optometry shall decide all issues relating to the equivalency of an optometrist's education or training under this subdivision.

(h) Other than for prescription ophthalmic devices described in subdivision (b) of Section 2541, any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(i) Except as authorized by this chapter, the practice of optometry does not include performing surgery. "Surgery" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means. "Surgery" does not include those procedures specified in subdivision (c). This section does not limit an optometrist's authority to utilize diagnostic laser and ultrasound technology within his or her scope of practice.

(j) In an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

SEC. 4. Section 3041.2 of the Business and Professions Code is repealed.

SEC. 5. Section 3041.2 is added to the Business and Professions Code, to read:

3041.2. (a) For purposes of this chapter, "glaucoma" means any of the following:

(1) All primary open-angle glaucoma.

(2) Exfoliation and pigmentary glaucoma.

(3) Increase in intraocular pressure caused by steroid ~~medication.~~ *medication prescribed by the optometrist.*

(4) Increase in intraocular pressure caused by steroid medication not prescribed by the optometrist, after consultation and treatment approval by the prescribing physician.

(b) An optometrist certified pursuant to Section 3041.1 shall be certified for the treatment of glaucoma, as described in subdivision (a), in patients over 18 years of age after the optometrist meets the following applicable requirements:

(1) For licensees who graduated from an accredited school of optometry on or after May 1, 2008, submission of proof of graduation from that institution.

(2) For licensees who were certified to treat glaucoma under this section prior to January 1, 2009, submission of proof of completion of that certification program.

(3) For licensees who completed a didactic course of not less than 24 hours in the diagnosis, pharmacological, and other treatment and management of glaucoma, submission of proof of satisfactory completion of the case management requirements for certification established by the board.

(4) For licensees who graduated from an accredited school of optometry on or before May 1, 2008, and are not described in paragraph (2) or (3), submission of proof of satisfactory completion of the requirements for certification established by the board.

SEC. 6. Section 3041.3 of the Business and Professions Code is repealed.

SEC. 7. Section 3041.3 is added to the Business and Professions Code, to read:

3041.3. (a) For the purposes of this chapter, "anterior segment laser" means any of the following:

(1) Therapeutic lasers appropriate for treatment of glaucoma.

(2) Notwithstanding subdivision (a) of Section 3041.2, peripheral iridotomy for the prophylactic treatment of angle closure glaucoma.

(3) Therapeutic lasers used for posterior capsulotomy secondary to cataract surgery.

(b) An optometrist certified to treat glaucoma pursuant to Section 3041.2 shall be additionally certified for the use of anterior segment lasers after submitting proof of satisfactory completion

of a course that is approved by the board, provided by an accredited school of optometry, and developed in consultation with an ophthalmologist who has experience educating optometric students. *The board shall issue a certificate pursuant to this section only to an optometrist that has graduated from an approved school of optometry.*

(1) The board-approved course shall be ~~a minimum of 16~~ *at least 25* hours in length, and include a test for competency of the following:

(A) Laser physics, hazards, and safety.

(B) Biophysics of laser.

(C) Laser application in clinical optometry.

(D) Laser tissue interactions.

(E) Laser indications, contraindications, and potential complications.

(F) Gonioscopy.

(G) Laser therapy for open-angle glaucoma.

(H) Laser therapy for angle closure glaucoma.

(I) Posterior capsulotomy.

(J) Common complications of the lids, lashes, and lacrimal system.

(K) Medicolegal aspects of anterior segment procedures.

(L) Peripheral iridotomy.

(M) Laser trabeculoplasty.

(2) The school of optometry shall require each applicant for certification to perform a sufficient number of *complete* anterior segment laser procedures to verify that the applicant has demonstrated competency to practice independently. At a minimum, each applicant shall complete ~~14~~ *24* anterior segment laser procedures on live ~~humans.~~ *humans as follows:*

(A) Eight YAG capsulotomy procedures.

(B) Eight laser trabeculoplasty procedures.

(C) Eight peripheral iridotomy procedures.

(c) The board, by regulation, shall set the fee for issuance and renewal of a certificate authorizing the use of anterior segment lasers at an amount no higher than the reasonable cost of regulating anterior segment laser certified optometrists pursuant to this section. The fee shall not exceed one hundred fifty dollars ($150).

(d) An optometrist certified to use anterior segment lasers pursuant to this section shall complete four hours of continuing

education on anterior segment lasers as part of the required 50 hours of continuing education required to be completed every two years on the diagnosis, treatment, and management of glaucoma.

SEC. 8. Section 3041.4 is added to the Business and Professions Code, to read:

3041.4. (a) For the purposes of this chapter, "minor procedure" means either of the following:

(1) Removal, destruction, or drainage of lesions of the eyelid and adnexa clinically evaluated by the optometrist to be noncancerous, not involving the eyelid margin, lacrimal supply or drainage systems, no deeper than the orbicularis muscle, and smaller than five millimeters in diameter.

(2) Closure of a wound resulting from a procedure described in paragraph (1).

(3) Administration of injections for the diagnoses or treatment of conditions of the eye and adnexa authorized by this chapter, excluding intraorbital injections and injections administered for cosmetic effect.

(4) "Minor procedures" does not include blepharoplasty or other cosmetic surgery procedures that reshape normal structures of the body in order to improve appearance and self-esteem.

(b) An optometrist certified to treat glaucoma pursuant to Section 3041.2 shall be additionally certified to perform minor procedures after submitting proof of satisfactory completion of a course that is approved by the board, provided by an accredited school of optometry, and developed in consultation with an ophthalmologist who has experience teaching optometric students. *The board shall issue a certificate pursuant to this section only to an optometrist that has graduated from an approved school of optometry.*

(1) The board-approved course shall be ~~a minimum of 32 hours~~ *at least 25 hours* in length and include a test for competency of the following:

(A) Minor surgical procedures.

(B) Overview of surgical instruments, asepsis, and the state and federal Occupational Safety and Health Administrations.

(C) Surgical anatomy of the eyelids.

(D) Emergency surgical procedures.

(E) Chalazion management.

(F) Epiluminescence microscopy.

(G) Suture techniques.
(H) Local anesthesia techniques and complications.
(I) Anaphylaxsis and other office emergencies.
(J) Radiofrequency surgery.
(K) Postoperative wound care.
(L) Injection techniques.

(2) The school of optometry shall require each applicant for certification to perform a sufficient number of minor procedures to verify that the applicant has demonstrated competency to practice independently. At a minimum, each applicant shall *perform 32* complete ~~five~~ minor procedures on live humans.

(c) The board, by regulation, shall set the fee for issuance and renewal of a certificate authorizing the use of minor procedures at an amount no greater than the reasonable cost of regulating minor procedure certified optometrists pursuant to this section. The fee shall not exceed one hundred fifty dollars ($150).

(d) An optometrist certified to perform minor procedures pursuant to Section 3041.1 shall complete five hours of continuing education on the diagnosis, treatment, and management of lesions of the eyelid and adnexa as part of the 50 hours of continuing education required every two years in Section 3059.

~~SEC. 9. Section 3041.5 is added to the Business and Professions Code, to read:~~

~~3041.5. (a) An optometrist may independently initiate and administer vaccines listed on the routine immunization schedules recommended by the federal Advisory Committee on Immunization Practices (ACIP), in compliance with individual ACIP vaccine recommendations, and published by the federal Centers for Disease Control and Prevention (CDC) for persons three years of age and older.~~

~~(b) In order to initiate and administer an immunization described in subdivision (a), an optometrist shall do all of the following:~~

~~(1) Complete an immunization training program endorsed by the CDC or the Accreditation Council for Pharmacy Education that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and shall maintain that training.~~

~~(2) Be certified in basic life support for health care professionals.~~

~~(3) Comply with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient's primary care provider and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.~~

SEC. 9. Section 3041.5 is added to the Business and Professions Code, to read:

3041.5. (a) The board shall grant to an optometrist a certificate for the use of immunizations described in subdivision (b), if the optometrist is certified pursuant to Section 3041.2 and after the optometrist meets all of the following requirements:

(1) Completes an immunization training program endorsed by the federal Centers for Disease Control (CDC) that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and maintains that training.

(2) Is certified in basic life support.

(3) Complies with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient's primary care provider and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.

(b) For the purposes of this section, "immunization" means the administration of immunizations for influenza, herpes zoster virus, and pneumococcus in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the CDC for persons 18 years of age or older.

(c) The board, by regulation, shall set the fee for issuance and renewal of a certificate for the use of immunizations at the reasonable cost of regulating immunization certified optometrists pursuant to this section. The fee shall not exceed one hundred dollars ($100).

SEC. 10. Section 3041.6 is added to the Business and Professions Code, to read:

3041.6. An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telehealth.

SEC. 11. Section 3041.7 is added to the Business and Professions Code, to read:

3041.7. Optometrists diagnosing or treating eye disease shall be held to the same standard of care to which physicians and surgeons and osteopathic physicians and surgeons are held. An optometrist shall consult with and, if necessary, refer to a physician and surgeon or other appropriate health care provider when a situation or condition occurs that is beyond the optometrist's scope of practice.

SEC. 12. Section 3041.8 is added to the Business and Professions Code, to read:

3041.8. It is the intent of the Legislature that the Office of Statewide Health Planning and Development, under the Health Workforce Pilot Projects Program, designate a pilot project to test, demonstrate, and evaluate expanded roles for optometrists in the performance of management and treatment of diabetes mellitus, hypertension, and hypercholesterolemia.

SEC. 13. Section 3110 of the Business and Professions Code is amended to read:

3110. The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

(f) Any action or conduct that would have warranted the denial of a license.

(g) The use of advertising relating to optometry that violates Section 651 or 17500.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license by another state or territory of the United States, by any other governmental agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(i) Procuring his or her license by fraud, misrepresentation, or mistake.

(j) Making or giving any false statement or information in connection with the application for issuance of a license.

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(*l*) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof.

(m) (1) Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of and conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that licensee provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that requires the person to register as a sex offender pursuant to Chapter 5.5 (commencing with Section

290) of Title 9 of Part 1 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

(n) Repeated acts of excessive prescribing, furnishing, or administering of controlled substances or dangerous drugs specified in Section 4022, or repeated acts of excessive treatment.

(o) Repeated acts of excessive use of diagnostic or therapeutic procedures, or repeated acts of excessive use of diagnostic or treatment facilities.

(p) The prescribing, furnishing, or administering of controlled substances or drugs specified in Section 4022, or treatment without a good faith prior examination of the patient and optometric reason.

(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(r) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.

(s) The practice of optometry without a valid, unrevoked, unexpired license.

(t) The employing, directly or indirectly, of any suspended or unlicensed optometrist to perform any work for which an optometry license is required.

(u) Permitting another person to use the licensee's optometry license for any purpose.

(v) Altering with fraudulent intent a license issued by the board, or using a fraudulently altered license, permit certification or any registration issued by the board.

(w) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from optometrist to patient, from patient to patient, or from patient to optometrist. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the

transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board may consult with the Medical Board of California, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

(x) Failure or refusal to comply with a request for the clinical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, unless the licensee is unable to provide the documents within this time period for good cause.

(y) Failure to refer a patient to an appropriate ~~physician in either of the following circumstances:~~

~~(1) Where~~ *physician if* an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that physician.

~~(2) As required by subdivision (c) of Section 3041.~~

~~SEC. 13.~~

SEC. 14. 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.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 643
Author: McGuire
Bill Date: June 3, 2015, Amended
Subject: Medical Marijuana
Sponsor: Author
Position: Neutral

DESCRIPTION OF CURRENT LEGISLATION:

SB 643 would establish a comprehensive licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana to be administered by the Office of Medical Marijuana Regulation within the Business, Consumer Services, and Housing Agency.

This analysis will only cover the portions of the bills related to the requirements on physicians recommending marijuana and requirements of the Medical Board of California (Board).

BACKGROUND:

In 1996, California voters approved the Compassionate Use Act (Proposition 215), which allowed Californians access to marijuana for medical purposes, and prohibited punitive action against physicians for making medical marijuana recommendations. SB 420 (Vasconcellos, Chapter 875, Statutes of 2003), the Medical Marijuana Program Act, included issuance of identification cards for qualified patients, and allowed patients and their primary caregivers to collectively or cooperatively cultivate medical marijuana. According to the author's office, no feasible, broad regulatory structure has been established for marijuana for medical purposes, and the implementation of the Compassionate Use Act has resulted in conflicting authorities, regulatory chaos, intermittent federal action, and a series of lawsuits. According to the author's office, the purpose of this bill is to put a framework around marijuana regulation and address the many associated public safety concerns.

In May 2004, the Board issued a statement on the Compassionate Use Act and a physician's role in recommending marijuana for medical purposes, which is still the recognized policy. The statement clarifies that physicians who recommend marijuana will not be subject to investigation or disciplinary action by the Board if the decision to recommend marijuana is made in accordance with accepted standards of medical responsibility, which is not specifically defined. The statement also indicates that a mere complaint that a physician is recommending marijuana will not generate an investigation absent information that a physician is not adhering to accepted medical standards.

According to a Senate Health Committee analysis from 2014 on SB 1262 (Correa), the University of California's (UC) Center for Medicinal Cannabis Research (CMCR) was created pursuant to SB 847 (Vasconcellos, Chapter 750, statutes of 1999). The CMCR is tasked with developing and conducting studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, to develop medical guidelines for the appropriate administration and use of marijuana. According to CMCR's web site, CMCR coordinates and supports cannabis research throughout California, which focuses on the potential medical benefits of cannabis, the general medical safety and efficacy of cannabis, and on examining alternative forms of cannabis administration.

ANALYSIS:

The language in this bill that impacts the Board is almost the same as the language contained in SB 1262 from 2014. This bill would require the Board to include, in its investigative priorities, cases recommending marijuana to a patient for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

This bill would prohibit a physician from recommending marijuana to a patient unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code (HSC). The HSC defines an "attending physician" as an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Board or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient. The physician also must have conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

This bill would subject physicians recommending marijuana to the definition of "financial interest" in Business and Professions Code Section (BPC) 650.01 and would not allow a physician to accept, solicit, or offer any form of remuneration from or to a licensed dispenser, producer, or processor of cannabis products in which the licensee or his or her immediate family has a financial interest. This bill would also place anti-kick back and advertising restrictions on physicians who recommend marijuana.

This bill would also require the Board to consult with the CMCR when developing guidelines for the appropriate administration and use of marijuana. If this bill were to pass, the Board would need to update its current statement and at that time would consult and solicit input from the CMCR.

This bill does not require an appropriate prior examination before recommending marijuana for medical purposes in BPC 2242. This is a needed amendment because the prescribing requirements in existing law do not necessarily apply to marijuana recommendations. The Board currently has a neutral position on this bill.

FISCAL: Minor and absorbable costs

SUPPORT: None on file

OPPOSITION: None on file

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE MAY 6, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 643

Introduced by Senator McGuire

February 27, 2015

An act to amend Section 2220.05 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Part 5 (commencing with Section 18100) to Division 7 of, the Business and Professions Code, to add Section 23028 to the Government Code, and to amend Section 11362.775 of, and to add Article 8 (commencing with Section 111658) to Chapter 6 of Part 5 of Division 104 of, the Health and Safety Code, relating to medical ~~marijuana, and making an appropriation therefor.~~ *marijuana.*

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law,

provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would establish within the ~~Department of Consumer Affairs a Bureau~~ *Business, Consumer Services, and Housing Agency the Office* of Medical Marijuana Regulation, under the supervision and control of the Chief of the ~~Bureau~~ *Office* of Medical Marijuana Regulation, and, *beginning no later than July 1, 2018,* would require the ~~bureau~~ *office* to license and regulate dispensing facilities, cultivation sites, transporters, and manufacturers of medical marijuana and medical marijuana products, subject to local ordinances. The bill would require a background check of applicants for licensure, as defined, to be administered by the Department of Justice, and submission of a statement signed by an applicant, under penalty of perjury, that the information on his or her application is true, thereby creating a crime and imposing a state-mandated local program. Violation of the provisions related to applying for a conditional license would be punishable by a civil fine of up to $35,000 for each individual violation, or as otherwise specified.

The bill would make conditional licenses subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. The bill would authorize a facility or entity that is operating in conformance with local zoning ordinances and other state and local requirements on January 1, 2016, to continue its operations until its application for conditional licensure is approved or denied. The bill would set forth provisions related to the transportation, testing, and distribution of medical marijuana. The bill would prohibit the distribution of any form of advertising for physician recommendations for medical marijuana, unless the advertisement bears a specified notice and requires that the advertisement meet specified requirements and not be fraudulent, deceitful, or misleading.

The bill would establish the Medical Marijuana Regulation Fund and would require the deposit of specified fees collected pursuant to this act into the fund. The bill would ~~continuously appropriate~~ *make* moneys from the fund *available upon appropriation* to the ~~bureau~~ *office* for the purposes of administering this ~~act, thereby making an appropriation.~~ *act.* The bill would also establish the Special Account for Environmental Enforcement within the Medical Marijuana Fund. This account would contain money from fees assessed against licensed cultivation sites and would be ~~continuously appropriated~~ *available upon appropriation* for the enforcement of environmental regulations relating to licensed

cultivation sites. The bill would require the deposit of penalty moneys collected pursuant to this bill into the General Fund.

The bill would ~~ban cultivation sites in areas zoned residential and would~~ require, among other things, that all marijuana grown, produced, distributed, and sold in the state meet the certified organic standards by January 1, 2022, and that the bureau establish "appellations of origin" for marijuana grown in the state.

The bill would provide that it shall not supersede provisions of Measure D, as approved by the voters of the City of Los Angeles, or other similar measures, as specified.

The bill would *establish enforcement procedures and would* authorize a city, county, or city and county to administer and enforce these provisions. ~~The bill would require the bureau to establish quality assurance protocols by January 1, 2018, to ensure uniform testing standards of medical marijuana, and would require licensees to comply with these provisions.~~ *The bill, by July 1, 2017, would require the office to report to the Legislature on the feasability of developing a program to certify laboratories for the testing of medical marijuana and related products and the feasability of developing a labeling requirement for edible marijuana products, as specified.* The bill would further set forth provisions regulating edible medical marijuana products, as specified. By adding these provisions to the Sherman Food, Drug, and Cosmetic Law, a violation of which is a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her

immediate family has a financial interest. By creating a new crime, the bill would impose a state-mandated local program.

The bill would provide that specified acts of recommending marijuana for medical purposes without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a physician and surgeon from recommending medical marijuana to a patient unless that person is the patient's attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(3) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the legislative body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize a city, county, or city and county, by ordinance, to impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana by an entity issued a conditional license. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

(4) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill, *after July 1, 2017,* would also exempt from those crimes an employee, officer, or board member of a licensed cultivation site or a licensed dispensing facility, except as specified.

(5) Existing law imposes sales and use taxes, as specified, to be collected by the State Board of Equalization.

This bill would require the State Board of Equalization, on or before July 1, 2016, to compile a report that includes the actual tax collected on the sale of medical marijuana, using the most current data available, and the expected tax revenues, under the existing tax structure, for the years 2016 to 2021, inclusive, and to submit that report to the Legislature and Governor's Office.

(6) This bill would provide that its provisions are severable.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) 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: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. This act shall be known, and may be cited, as the Medical Marijuana Public Safety and Environmental Protection Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) In 1996, the people of the State of California enacted the Compassionate Use Act of 1996, codified in Section 11362.5 of the Health and Safety Code. The people of the State of California declared that their purpose in enacting the measure was, among other things, "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief."

(b) The Compassionate Use Act of 1996 called on state government to implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana, while ensuring that nothing in that act would be construed to condone the diversion of marijuana for nonmedical purposes.

(c) In 2003, the Legislature enacted the Medical Marijuana Program Act (MMPA), codified in Article 2.5 (commencing with

Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(d) Greater certainty and minimum statewide standards are urgently needed regarding the obligations of medical marijuana facilities, and for the imposition and enforcement of regulations to prevent unlawful cultivation and the diversion of marijuana to nonmedical use.

(e) Despite the passage of the Compassionate Use Act of 1996 and the MMPA, because of the lack of an effective statewide system for regulating and controlling medical marijuana, cities, counties, and local law enforcement officials have been confronted with uncertainty about the legality of some medical marijuana cultivation and distribution activities. The current state of affairs makes law enforcement difficult and endangers patient safety because of an inability to monitor the supply of medical marijuana in the state and the lack of quality control, testing, and labeling requirements.

(f) The California Constitution grants cities and counties the authority to make and enforce, within their borders, "all local police, sanitary, and other ordinances and regulations not in conflict with the general laws." This inherent local police power includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within the local jurisdiction's borders. The police power, therefore, allows each city and county to determine whether or not a medical marijuana dispensary or other facility that makes medical marijuana available may operate within its borders. This authority has been upheld by City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729 and County of Los Angeles v. Hill (2011) 192 Cal.App.4th 861. Nothing in this act shall diminish, erode, or modify that authority.

(g) If a city or county determines that a dispensary or other facility that makes medical marijuana available may operate within its borders, then there is a need for the state *and local governments* to license these dispensaries and other facilities for the purpose of adopting and enforcing protocols for security standards at dispensaries and in the transportation of medical marijuana, as well as health and safety standards to ensure patient safety. This licensing requirement is not intended in any way nor shall it be construed to preempt local ordinances, regulations, or enforcement

actions regarding the sale and use of medical marijuana, including, but not limited to, security, signage, lighting, and inspections.

(h) Greater oversight, uniformity, and enforcement are urgently needed regarding the obligations and rights of medical marijuana cultivators, transporters, and distribution facilities.

(i) Marijuana has widely accepted medical applications that make it inappropriate to be classified as a Schedule I controlled substance in the State of California.

(j) For the protection of Californians, the state must act to regulate and control *commercial* medical marijuana and not preempt local government ordinances. ~~Cities and counties~~ *Counties* should be allowed to impose local taxes and enact zoning regulations and other restrictions applicable to the cultivation, transportation, and distribution of medical marijuana based on local needs.

(k) For the protection of California's environment and its natural resources, all efforts must be made to prevent and mitigate the harmful environmental impacts that can be associated with some marijuana cultivation.

(l) Illegal trespass grows on private and public property pose a threat to public safety and the environment.

~~(l)~~

(m) The North Coast Regional Water Quality Control Board is currently in the process of promulgating regulations that would create a 3-tiered system for cultivator wastewater discharge permits. A similar permitting system would assist the state in controlling damaging wastewater runoff from cultivation sites, while minimizing the burden on smaller cultivators.

~~(m)~~

(n) Nothing in this act shall have a diminishing effect on the rights and protections granted to a patient or primary caregiver pursuant to the Compassionate Use Act of 1996.

~~(n)~~

(o) Nothing in this act shall be construed to promote or facilitate the nonmedical, recreational possession, sale, or use of marijuana.

SEC. 3. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to

ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, or recommending marijuana to patients for medical purposes, without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(5) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 4. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Marijuana

2525. (a) It is unlawful for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical marijuana.

2525.2. A physician and surgeon shall not recommend medical marijuana to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

SEC. 5. Part 5 (commencing with Section 18100) is added to Division 7 of the Business and Professions Code, to read:

PART 5. MEDICAL MARIJUANA

Chapter 1. General Provisions

18100. For purposes of this part, the following definitions shall apply:

~~(a) "Bureau" means the Bureau of Medical Marijuana Regulation in the Department of Consumer Affairs.~~

~~(b) "Certified testing laboratory" means a laboratory that is certified by the bureau to perform random sample testing of medical marijuana pursuant to the certification standards for these facilities promulgated by the bureau.~~

~~(c)~~

(a) "Chief" means the Chief of the ~~Bureau~~ *Office* of Medical Marijuana Regulation.

~~(d) "Department" means the Department of Consumer Affairs.~~

~~(e) "Director" means the Director of Consumer Affairs.~~

~~(f)~~

(b) "Dispensary" means a distribution operation that provides medical marijuana or medical marijuana derived products to patients and caregivers.

~~(g)~~

(c) "Fund" means the Medical Marijuana Regulation Fund established pursuant to Section 18118.

~~(h)~~

(d) "Licensed cultivation site" means a facility that plants, grows, cultivates, harvests, dries, or processes medical marijuana and that is issued a conditional license pursuant to this part.

~~(i)~~

(e) "Licensed dispensing facility" means a dispensary or other facility that provides medical marijuana, medical marijuana products, or devices for the use of medical marijuana or medical marijuana products that is issued a conditional license pursuant to this part.

~~(j)~~

(f) "Licensed manufacturer" means a person who extracts, prepares, derives, produces, compounds, or repackages medical marijuana or medical marijuana products into consumable and nonconsumable forms and that is issued a conditional license pursuant to this part.

~~(k)~~

(g) "Licensed transporter" means an individual or entity issued a conditional license by the ~~bureau~~ *office* to transport medical marijuana to and from facilities that have been issued conditional licenses pursuant to this part *or medical marijuana products above a quantity limit established by the office*.

~~(l)~~

(h) "Marijuana" means all parts of the plant Cannabis sativa, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" also means marijuana, as defined by Section 11018 of the Health and Safety Code.

~~(m) "Trespass grows" means illicit marijuana cultivation on public or private land without the explicit permission of the landowner.~~

(i) "Office" means the Office of Medical Marijuana Regulation in the Business, Consumer Affairs, and Housing Agency.

18101. (a) There is hereby created in the ~~Department of Consumer Affairs the Bureau~~ *Business, Consumer Affairs, and Housing Agency the Office* of Medical Marijuana Regulation, under the supervision and control of the Chief of the ~~Bureau~~ *Office* of Medical Marijuana Regulation.

(b) Protection of the public shall be the highest priority for the ~~bureau~~ *office* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(c) The ~~bureau~~ *office* shall have the authority to issue, suspend, or revoke conditional licenses for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana within the state and to collect fees in connection with these actions. The ~~bureau~~ *office* shall have the authority to create, issue, suspend, or revoke other licenses in order to protect patient health and the public and to facilitate the regulation of medical marijuana.

(d) *(1)* The Governor shall appoint the chief at a salary to be fixed and determined by the ~~director~~ *secretary* with the approval of the Director of Finance. The chief shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(2) Appointment of the chief shall be subject to confirmation by the Senate Committee on Rules.

(e) The duty of enforcing and administering this part shall be vested in the ~~chief, who is responsible to the director.~~ *chief.* The chief may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this part and declaring the policy of the ~~bureau,~~ *office,* including a system for the issuance of citations for violations of this part, as specified in Section 18127.

(f) The chief, as necessary to carry out the provisions of this part, and in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), may appoint and fix the compensation of personnel, including, but not limited to, clerical, inspection, investigation, and auditing personnel, as well as an assistant chief. These personnel shall perform their respective duties under the supervision and the direction of the chief.

(g) Every power granted to, or duty imposed upon, the chief under this part may be exercised or performed in the name of the chief by a deputy or assistant chief, subject to conditions and limitations that the chief prescribes.

(h) The ~~bureau~~ *office* shall exercise its authority pursuant to this part consistent with Section 1 of the act that added this section and consistent with the provisions of this part.

18102. Funds for the establishment and support of the ~~bureau~~ *office* shall be advanced as a loan ~~by the department~~ *from the General Fund* and shall be repaid by the initial proceeds from fees collected pursuant to this part or any rule or regulation adopted pursuant to this part.

18103. The ~~bureau~~ *office* shall have the authority necessary for the implementation of this part, including, but not limited to, all of the following:

(a) Establishing rules or regulations necessary to carry out the purposes and intent of this part and to enable the ~~bureau~~ *office* to exercise the powers and perform the duties conferred upon it by this part and in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. *These rules and regulations shall not limit any authority of a city, county, or city and county provided by law.* For the performance of its duties, the ~~bureau~~ *office* has the powers as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Issuing conditional licenses to persons for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana within the state.

(c) Setting application, licensing, and renewal fees for conditional licenses issued pursuant to Section 18117.

(d) Establishing standards for the cultivation, manufacturing, transportation, storage, distribution, provision, donation, and sale of medical marijuana and medical marijuana products.

(e) Establishing procedures for the issuance, renewal, suspension, denial, and revocation of conditional licenses.

(f) Enforcing the licensing and regulatory requirement of this part, subject to the requirements of Section 18126.

~~(f)~~

(g) Imposing a penalty authorized by this part or any rule or regulation adopted pursuant to this part.

~~(g)~~

(h) Taking action with respect to an application for a conditional license in accordance with procedures established pursuant to this part.

~~(h)~~

(i) Overseeing the operation of the Medical Marijuana Regulation Fund and the Special Account for Environmental Enforcement, established pursuant to Section 18118.

~~(i)~~

(j) Consulting with other state or local agencies, departments, representatives of the medical marijuana community, or public or private entities for the purposes of establishing statewide standards and regulations.

~~(j) Certifying laboratories to perform testing of medical marijuana.~~

18104. (a) On or before January 1, 2018, the ~~bureau~~ *office* shall promulgate regulations for implementation and enforcement of this part, including, but not limited to, all of the following:

(1) Procedures for the issuance, renewal, suspension, denial, and revocation of conditional licenses.

(2) Procedures for appeal of fines and the appeal of denial, suspension, or revocation of conditional licenses.

(3) Application, licensing, and renewal forms and fees.

(4) A time period in which the ~~bureau~~ *office* shall approve or deny an application for a conditional license pursuant to this part.

(5) Qualifications for licensees.

~~(6) Standards for certification of testing laboratories to perform random sample testing of all medical marijuana products, including standards for onsite testing.~~

~~(A) Certification of testing laboratories shall be consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17025.~~

~~(B) These requirements shall apply to all entities, including third-party laboratories, engaged in the testing of medical marijuana pursuant to this part.~~

~~(7) Requirements to ensure conformance with standards analogous to state statutory environmental, agricultural, consumer protection, and food and product safety requirements. At a minimum, these standards shall do all of the following:~~

~~(A) Prescribe sanitation standards analogous to the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code) for food preparation, storage, handling, and sale of edible medical marijuana products.~~

~~(B) Require that edible medical marijuana products produced, distributed, provided, donated, or sold by licensees shall be limited to nonpotentially hazardous food, as established by the State Department of Public Health pursuant to Section 114365.5.~~

~~(C) Require that facilities in which edible medical marijuana products are prepared shall be constructed in accordance with applicable building standards, health and safety standards, and other state laws.~~

~~(D) Provide that weighing or measuring devices used in connection with the sale or distribution of medical marijuana are required to meet standards analogous to Division 5 (commencing with Section 12001).~~

~~(E) Require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical marijuana shall meet standards analogous to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.~~

~~(b) On or before July 1, 2017, the bureau shall also promulgate regulations for minimum statewide health and safety standards and quality assurance standards associated with the cultivation, transport, storage, manufacture, and sale of all medical marijuana produced in this state. Consistent with Section 18126, local agencies shall have primary responsibility for enforcement of these standards in accordance with bureau regulations.~~

~~(c)~~

(b) The ~~bureau,~~ *office,* in consultation with the Division of Labor Standards Enforcement, shall adopt regulations establishing worker safety standards for entities licensed pursuant to this part.

~~(d) The bureau, in consultation with the State Water Resources Control Board, shall adopt regulations to ensure that commercial medical marijuana activity licensed pursuant to this part does not threaten the state's environment and watersheds and is otherwise in conformance with the California Environmental Quality Act.~~

~~(e)~~

(c) The ~~bureau~~ *office* shall not issue a conditional license unless the applicant has met all of the requirements of this part, including the requirements of subdivision (d) of Section 18110*, and has demonstrated compliance with all applicable agricultural requirements, consumer protection requirements, food and product safety requirements, and environmental requirements, including, but not limited to, applicable water quality standards*.

18105. *(a)* The chief shall keep a complete record of all facilities issued a conditional license. ~~This~~

(b) This record shall be made available on the ~~bureau's~~ *office's* Internet Web site.

(c) The office shall not disclose information that the office determines is sensitive and should not be publicly disclosed, including, but not limited to, the address or location of cultivation sites.

(d) Upon request, the office shall provide summary information on all licensed, including, but not limited to, the name of the licensee, the date the license was issued, the status of the license, and the licensee's mailing address.

18106. The ~~bureau~~ *office* shall establish procedures to provide state and local law enforcement, upon their request, with 24-hour access to information to verify a conditional license, track transportation manifests, and track the inventories of facilities issued a conditional license.

18107. This part shall in no way supersede the provisions of Measure D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or any similar measure in other jurisdictions, which grants medical marijuana businesses and dispensaries qualified immunity consistent with the terms of the measure and local ordinances. Notwithstanding the provisions of

this part, marijuana businesses and dispensaries subject to the provisions of Measure D or other similar qualified immunity shall continue to be subject to the ordinances and regulations of the relevant local jurisdiction.

Chapter 2. Conditional Licenses

18108. The following persons are exempt from the requirement of licensure under this part:

(a) A patient who cultivates, possesses, stores, manufactures, or transports marijuana exclusively for his or her personal medical use and who does not sell, distribute, donate, or provide marijuana to any other person or entity.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, or provides marijuana exclusively for the personal medical purposes to no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code and who does not receive remuneration for these activities, except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code. Nothing in this section shall permit primary caregivers to organize themselves as cooperatives or collectives of caregivers.

18109. (a) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not sell or provide medical marijuana to a patient or caregiver other than at a licensed dispensing facility or through delivery from a licensed dispensing facility.

(b) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not grow medical marijuana other than at a licensed cultivation site.

(c) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not manufacture medical marijuana or medical marijuana products other than a licensed manufacturer.

(d) A person *other than a licensed transporter* shall not transport medical marijuana from one facility issued a conditional license to ~~another, other than a licensed transporter.~~ *another.*

(e) A licensed manufacturer may obtain medical marijuana from a licensed cultivator and may furnish medical marijuana products to a licensed dispensary.

~~(f) To meet the requirements of Article 8 (commencing with Section 111658) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, medical marijuana and medical marijuana products shall be tested by a certified testing laboratory.~~

18110. (a) Beginning no later than July 1, 2018, the ~~bureau~~ *office* shall provide for and shall issue conditional licenses. Conditional licenses shall be ~~issued~~ *required* for all activity authorized under this chapter, including, but not limited to, cultivation, processing, storage, transport, and dispensing of medical marijuana.

(b) The issuance of a conditional license shall not, in and of itself, authorize the recipient to begin business operations. The conditional license shall certify, at a minimum, that the applicant has paid the state conditional licensing fee, successfully passed a criminal background check, and met the state residency requirements.

~~(c) In order to begin business operations pursuant to this chapter, an applicant shall, in addition to the conditional license, obtain a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinances.~~

(c) A conditionally licensed facility shall not commence activity under the authority of a conditional license until the applicant has also obtained a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of local ordinances.

(d) An applicant for a conditional license shall do all following:

(1) Pay the fee or fees required by this part for each license being applied for.

(2) Register with the ~~bureau~~ *office* on forms prescribed by the chief. The forms shall contain sufficient information to identify the licensee, including all of the following:

(A) Name of the owner or owners of a proposed facility, including all persons or entities having an ownership interest other

than a security interest, lien, or encumbrance on property that will be used by the applicant.

(B) The name, address, and date of birth of each principal officer and board member.

(C) The address and telephone number of the proposed facility.

(D) In the case of a cultivation site, the GPS coordinates of the site.

(3) Describe, in writing, the scope of business of the proposed facility.

(4) Provide evidence that the applicant and owner have been legal full-time residents of the state for not less than 12 months.

(5) Provide detailed operating procedures, in writing, for the proposed facility, which shall include, but not be limited to, procedures for facility and operational security, prevention of diversion, employee screening, storage of medical marijuana, personnel policies, and recordkeeping procedures.

(6) Provide evidence that the applicant has received all required environmental permits, including compliance with the California Environmental Quality Act, and wastewater discharge permits.

(7) Provide the applicant's fingerprint images. For purposes of this paragraph, "applicant" means the owner or owners of a proposed facility, including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(A) The applicant shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance, pending trial or appeal.

(B) The Department of Justice shall provide a response to the ~~bureau~~ *office* pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(C) The ~~bureau~~ *office* shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subparagraph (A).

(D) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(8) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is true.

(9) Provide any other information required by the ~~bureau.~~ *office.*

(e) Each location and each discrete use of a single location shall require a conditional license. Each application for a conditional license is separate and distinct, and the ~~bureau~~ *office* may charge a separate fee for each.

(f) A conditional license issued pursuant to this section shall be valid for 12 months after the date of issuance. After the initial 12-month period, a conditional license may be renewed for a period of 36 months. The ~~bureau~~ *office* shall establish procedures for the renewal of a conditional license.

(g) Notwithstanding any other law, the ~~bureau~~ *office* shall not issue a conditional license to an individual or entity, or for a premise, against whom there is a pending state or local administrative or judicial proceeding, against whom there is an action initiated by a city, county, or city and county under a local ordinance, or who has been determined to have violated an applicable local ordinance.

(h) A facility or entity that is operating in conformance with local zoning ordinances and other state and local requirements on January 1, 2016, may continue its operations until its application for conditional licensure is approved or denied pursuant to this part.

18111. (a) Upon receipt of the application materials and fee required in Section 18110, the ~~bureau,~~ *office,* provided the applicant has not committed an act or crime constituting grounds for the denial of licensure under Section 18112, may issue the conditional license and send a proof of issuance to the applicant.

(b) The chief shall, by regulation, prescribe conditions upon which a person whose conditional license has previously been denied, suspended, or revoked, may be issued a conditional license.

18112. (a) An application for a conditional license shall be denied and a conditional license shall be suspended or revoked for a past felony conviction for the possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, a felony criminal conviction for drug trafficking, a

felony conviction for embezzlement, a felony conviction involving fraud or deceit, or any violent or serious felony conviction pursuant to subdivision (c) of Section 667.5 of, or subdivision (c) of Section 1192.7 of, the Penal Code. *A conditional license shall not be denied solely on the basis of a prior conviction for a felony that was committed after the enactment of the Compassionate Use Act, but which would not be a felony after the enactment of the measure that added this part.* The ~~bureau,~~ *office,* at its discretion, may issue a license to an applicant that would be otherwise denied pursuant to this subdivision if the applicant has obtained a certificate of rehabilitation, pursuant to Section 4852.13 of the Penal Code.

(b) The chief, upon his or her determination, may deny, suspend, or revoke a conditional license when a conditional licensee, applicant, or employee, partner, officer, or member of an entity conditionally licensed does any of the following:

(1) Making or authorizing in any manner or by any means a written or oral statement that is untrue or misleading and that is known, or that by exercise of reasonable care should be known, to be untrue or misleading.

(2) Any other conduct that constitutes fraud.

(3) Conduct constituting gross negligence.

(4) Failure to comply with the provisions of this part, Article 8 (commencing with Section 111658) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, or any rule or regulation adopted pursuant to this part.

(5) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

18113. (a) Upon denying, suspending, or revoking a conditional license, the chief shall notify the applicant or licensee, in writing, by personal service or mail addressed to the address of the applicant or licensee set forth in the application. The applicant or licensee shall be given a hearing within 30 days thereafter if he or she files with the ~~bureau~~ *office* a written request for hearing. Otherwise, the denial, suspension, or revocation is deemed affirmed.

(b) All proceedings to deny, suspend, or revoke a conditional license shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

18114. An application for or renewal of a conditional license shall not be approved if the ~~bureau~~ *office* determines any of the following:

(a) The applicant fails to meet the requirements of this part or ~~any regulation adopted pursuant to this part or any~~ *has had an applicable permit or license revoked or denied by an* applicable city, county, or city and county ~~ordinance or regulation.~~ *agency.* If a local government adopts an ordinance or resolution authorizing medical marijuana to be cultivated, manufactured, stored, distributed, or sold within its jurisdiction, it shall submit to the ~~bureau~~ *office* documentation detailing their renewal requirements.

(b) The applicant, or any of its officers, directors, owners, members, or shareholders, is a minor.

(c) The applicant has knowingly answered a question or request for information falsely on the application form or failed to provide information requested.

(d) The applicant, or any of its officers, directors, owners, members, or shareholders has been sanctioned by the ~~bureau,~~ *office,* a city, county, or city and county, for medical marijuana activities conducted in violation of this part or any applicable local ordinance or has had a license revoked in the previous five years.

(e) The proposed cultivation, processing, possession, storage, manufacturing, testing, transporting, distribution, provision, or sale of medical marijuana will violate any applicable local law or ordinance.

(f) The applicant or the owner is unable to establish that he or she has been a resident of the state for not less than 12 months.

18115. (a) In addition to the provisions of this part, a conditional license shall be subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. Even if a conditional license has been granted pursuant to this part, a facility shall not operate in a local jurisdiction that prohibits the establishment of that type of business.

(b) In addition to the provisions of this part, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are conditionally licensed pursuant to this part and the business activities of those licensees.

18116. The ~~bureau~~ *office* may adopt regulations to limit the number of conditional licenses issued pursuant to this part upon a

finding that the otherwise unrestricted issuance of conditional licenses is dangerous to the public health and safety.

Chapter 3. Fees

18117. (a) The conditional licensing fee shall be established by the ~~bureau~~ *office* at a level sufficient to fund the reasonable costs of all of the following:

(1) Administrative costs incurred by the ~~bureau~~ *office* in overseeing the conditional licensing program, establishing health and safety standards, and certifying the required testing laboratories.

(2) Costs incurred by the ~~bureau~~ *office* or the Department of Justice for enforcement of the provisions of this part.

(3) Costs incurred by law enforcement and other public safety entities for enforcing the provisions of this part in their jurisdiction.

(b) In addition to the conditional licensing fee required pursuant to subdivision (a), a cultivation facility shall be assessed a fee in a sufficient amount to cover the reasonable regulatory costs of enforcing the environmental impact provisions relating to those cultivation facilities. This fee shall be distributed, as necessary and in proportion to its regulatory function, between the following agencies responsible for enforcing the regulations relating to the environmental impact of licensed cultivation sites:

(1) The State Water Resources Control Board.

(2) The Department of Fish and Wildlife.

(3) The Department of Forestry and Fire Protection.

(4) The Department of Pesticide Regulation.

(5) The Department of Food and Agriculture.

(6) Local law enforcement.

18118. (a) The Medical Marijuana Regulation Fund is hereby established within the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the money in the fund.

(b) Except as provided in subdivision (c), all fees collected pursuant to this part shall be deposited into the Medical Marijuana Regulation Fund. ~~Notwithstanding Section 13340 of the Government Code, all~~ *All* moneys within the fund are ~~hereby continuously appropriated, without regard to fiscal year,~~ *available, upon appropriation by the Legislature,* to the ~~bureau~~ *office* solely

for the purposes of fully funding and administering this part, including, but not limited to, the costs incurred by the ~~bureau~~ *office* for its administrative expenses.

(c) The Special Account for Environmental Enforcement is hereby established as an account within the Medical Marijuana Regulation Fund. Notwithstanding Section 16305.7 of the Government Code, the account shall include any interest and dividends earned on the money in the account. All fees collected pursuant to subdivision (b) of Section 18117 shall be deposited in this account. ~~Notwithstanding Section 13340 of the Government Code, all~~ *All* moneys within the fund are ~~hereby continuously appropriated, without regard to fiscal year,~~ *available, upon appropriation by the Legislature,* to the ~~bureau~~ *office* for distribution to the entities listed in subdivision (b) of Section 18117 to be used to enforce the environmental regulation of licensed cultivation sites.

(d) All moneys collected as a result of penalties imposed under this part shall be deposited directly into the General Fund, to be available upon appropriation.

(e) The ~~bureau~~ *office* may establish and administer a grant program to allocate moneys from the Medical Marijuana Regulation Fund to state and local entities for the purpose of assisting with medical marijuana regulation and the enforcement of this ~~part and other state and local laws applicable to licensees.~~ *part.*

18119. (a) A facility issued a conditional license shall not acquire, cultivate, process, possess, store, manufacture, distribute, sell, deliver, transfer, transport, or dispense medical marijuana for any purpose other than those authorized by Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(b) A licensed dispensing facility shall not acquire, cultivate, process, possess, store, manufacture, distribute, sell, deliver, transfer, transport, or dispense medical marijuana plants or medical marijuana products except through a licensed cultivation site or a licensed manufacturer.

Chapter 4. Transportation of Medical Marijuana

18120. (a) A licensed transporter shall ship only to facilities issued a conditional license and only in response to a request for a specific quantity and variety from those facilities.

(b) Prior to transporting medical marijuana products, a licensed transporter shall do both of the following:

(1) Complete a shipping manifest using a form prescribed by the ~~bureau.~~ *office.*

(2) Securely transmit a copy of the manifest to the licensee that will receive the medical marijuana product, and to the ~~bureau,~~ *office*, prior to transport.

(c) The licensed transporter making the shipment and the licensee receiving the shipment shall maintain each shipping manifest and make it available to local code enforcement officers, any other locally designated enforcement entity, and the ~~bureau~~ *office* upon request.

18121. (a) Transported medical marijuana products shall:

(1) Be transported only in a locked, safe, and secure storage compartment that is securely affixed to the interior of the transporting vehicle.

(2) Not be visible from outside the vehicle.

(b) A vehicle transporting medical marijuana shall not have external markings or other indications that it is transporting medical marijuana.

~~(b)~~

(c) A vehicle transporting medical marijuana products shall travel directly from one licensed facility to another licensed facility authorized to receive the shipment.

(d) The provisions of this section only apply to a licensed transporter.

18122. (a) All transport vehicles *carrying medical marijuana with a retail value greater than ten thousand dollars ($10,000)* shall be staffed with a minimum of two employees. At least one transport team member shall remain with the vehicle at all times when the vehicle contains medical marijuana.

(b) Each transport team member shall have access to a secure form of communication by which each member can communicate with personnel at the licensed facility at all times when the vehicle contains medical marijuana.

(c) Each transport team member shall possess documentation of licensing and a government-issued identification card at all times when transporting or delivering medical marijuana and shall produce it to any representative of the ~~bureau~~ *office* or law enforcement upon request.

(d) This part shall not be construed to authorize or permit a licensee to transport, or cause to be transported, medical marijuana or medical marijuana products outside the state.

(e) The requirements of this section shall only apply to a licensed transporter.

18123. A local jurisdiction shall not prevent transportation through or to a facility issued a conditional license, by a conditionally licensed transporter who acts in compliance with this part.

Chapter 5. Enforcement

18124. A state agency is not required by this section to enforce a city, county, city and county, or local law, ordinance, rule, or regulation regarding the site or operation of a facility issued a conditional license.

18125. The ~~bureau~~ *office* may assist state taxation authorities in the development of uniform policies for the state taxation of licensees.

~~18126. (a) For facilities issued a conditional license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this part and Article 8 (commencing with Section 111658) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code and the rules, regulations, and standards promulgated by the bureau. The city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, without liability, cost, or expense to the county.~~

~~(b) For licensed facilities located within the unincorporated area of a county, the county shall have full power and authority to enforce this part and Article 8 (commencing with Section 111658) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code and the rules, regulations, and standards promulgated by the bureau.~~

18126. (a) The office may enforce all of the requirements of this part, including any regulations adopted pursuant to this part.

(b) The office shall delegate the authority to enforce the requirements of this part, including any regulations, to a city, county, or city and county, upon request of that entity.

(c) Nothing in this part shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements, or enforcement of local licensing requirements.

(d) Nothing in this part shall be interpreted to require the office to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

18127. (a) A willful violation of Section 18110, including an attempt to falsify information on an application or to otherwise defraud or mislead a state or local agency in the course of the application process, shall be punishable by a civil fine of up to thirty-five thousand dollars ($35,000) for each individual violation.

(b) A technical violation of Section 18110 shall, at the ~~bureau's~~ *office's* discretion, be punishable by a civil fine of up to ten thousand dollars ($10,000) for each individual violation.

18128. A district attorney, county counsel, city attorney, or city prosecutor may bring an action to enjoin a violation or the threatened violation of any provision of this part, including, but not limited to, a licensee's failure to correct objectionable conditions following notice or as a result of a rule promulgated pursuant to this part. The action shall be brought in the county in which the violation occurred or is threatened to occur. A proceeding brought pursuant to this part shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. Nothing in this section shall diminish the authority of a local government to take requisite enforcement actions pertaining to its own ordinances or regulations.

18129. Nothing in this part shall prevent a city or other local governing body from taking action as specified in Section 11362.83 of the Health and Safety Code.

18130. This part shall not be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a facility issued a conditional license.

Chapter 6. Cultivation Sites

18132. (a) The ~~bureau~~ *office* shall notify local law enforcement of all conditional licenses issues for cultivation sites in that jurisdiction.

(b) A licensed cultivation site shall display the state license in a manner so as to be available and easily read at the location.

~~(c) The bureau shall work with and assist state and local law enforcement to eliminate trespass grows in the state.~~

18133. (a) No later than January 1, 2022, all medical marijuana grown, produced, distributed, and sold in the state shall meet the certified organic standards.

(b) The ~~bureau~~ *office* shall establish appellations of origin for marijuana grown in California.

18134. The ~~bureau~~ *office* shall work with county agricultural commissioners, offices to provide all the information and forms required for conditional licensure as a cultivation site in a single location, including state licensure, local requirements in that jurisdiction, and environmental requirements.

Chapter 7. Regulation of Medical Marijuana

18136. (a) A person shall not distribute any form of advertising for physician recommendations for medical marijuana in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use marijuana for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical marijuana. Physicians are licensed and regulated by the Medical Board of California and arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility.

(b) Advertising for physician recommendations for medical marijuana shall meet all requirements of Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

18137. (a) A facility issued a conditional license shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at those facilities. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the facility if they are not engaging in activity expressly related to the operations of the facility.

(2) Establishing limited access areas accessible only to authorized facility personnel.

(3) Storing all finished marijuana in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, *except for limited amounts of marijuana used for display purposes, samples, or immediate sale*.

(b) A facility issued a conditional license shall notify appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) ~~Discrepancies~~ *Significant discrepancies* identified during inventory. *The level of significance shall be determined by the office.*

(2) Diversion, theft, loss, or any criminal activity involving the facility or a facility agent.

(3) The loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or facility agents.

(4) Any other breach of security.

(c) A licensed cultivation site shall weigh, inventory, and account for on video, all medical marijuana to be transported prior to its leaving its origination location. Within eight hours after arrival at the destination, the licensed dispensing facility shall reweigh, reinventory, and account for on video, all transported marijuana.

~~18138. (a) The bureau shall require an annual audit of all facilities issued a conditional license to cultivate, manufacture, process, transport, store, or sell medical marijuana. The reasonable costs of the audit shall be paid for by the licensee.~~

~~(b) Completed audit reports shall also be submitted by the licensee to local code enforcement offices, or the appropriate locally designated enforcement entity, within 30 days of the completion of the audit.~~

~~(c) It is the responsibility of each facility issued a conditional license to develop a robust quality assurance protocol that includes all of the provisions of this part.~~

~~18139. (a) A laboratory certified by the bureau to perform random sample testing of medical marijuana products shall not acquire, process, possess, store, transfer, transport, or dispense medical marijuana for any purpose other than those authorized by Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.~~

~~(b) A laboratory certified by the bureau to perform random sample testing of medical marijuana products shall not acquire, process, possess, store, transfer, transport, or dispense medical marijuana plants or medical marijuana products except through a patient, primary caregiver, or a facility issued a conditional license. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.~~

18140. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the ~~bureau~~ *office* for the purposes of administering this part are confidential and exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and are not subject to disclosure to an individual or private entity, except as necessary for authorized employees of the state to perform official duties pursuant to this part.

(b) (1) Nothing in this section shall preclude any of the following:

(A) ~~Bureau~~ *Office* employees notifying state or local agencies about information submitted to the ~~bureau~~ *office* that the employee suspects is falsified or fraudulent.

(B) Notifications from the ~~bureau~~ *office* to state or local agencies of apparent violations of this part or an applicable local ordinance.

(C) Verification of requests by state or local agencies to confirm licenses and certificates issued by the ~~bureau~~ *office* or other state agency.

(D) Providing information requested pursuant to a court order or subpoena issued by a court, an administrative agency, or local governing body authorized by law to issue subpoenas.

(2) Information shall not be disclosed beyond what is necessary to achieve the goals of a specific investigation or notification or the parameters of a specific court order or subpoena.

18141. (a) The actions of a licensee, its employees, and its agents, that are permitted pursuant to a conditional license and that are conducted in accordance with the requirements of this part and regulations adopted pursuant to this part, are not unlawful under state law and shall not be an offense subject to arrest or prosecution.

(b) The actions of a person who, in good faith and upon investigation, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a conditional license, are not unlawful under state law and shall not be an offense subject to arrest or prosecution.

(c) This section shall not be deemed to limit the authority or remedies of a city, county, or city and county under any ~~provision of~~ law, including, without limitation, Section 7 of Article XI of the California Constitution.

18142. (a) A licensee shall not cultivate, process, store, manufacture, transport, or sell medical marijuana in the state unless accurate records are kept at the licensed premises of the growing, processing, storing, manufacturing, transporting, or selling by the licensee in the state. These records shall include the name and address of the supplier of marijuana received or possessed by the licensee, the location at which the marijuana was cultivated, the amount of marijuana received, the form in which it is received, the name of the employee receiving it, and the date of receipt. These records shall also include receipts for all expenditures incurred by the licensee and banking records, if any, for all funds obtained or expended in the performance of any activity under the authority of the conditional license. A licensee who has a conditional license for more than one premises may keep all records at one of the conditionally licensed premises. Required records shall be kept for a period of seven years from the date of the transaction.

(b) The ~~bureau and an appropriate state or local agency~~ *office or a local agency delegated the authority to enforce the licensing requirements of this part* may examine the books and records of a conditional licensee and may visit and inspect the premises of a

conditional licensee, as the ~~bureau or state~~ *office* or local agency deems necessary to perform its duties under this part.

(c) Books or records requested by the ~~bureau or an appropriate state or local agency~~ *office or a local agency delegated the authority to enforce licensing requirements of this part* shall be provided by the conditional licensee no later than five business days after the request is made.

(d) The ~~bureau or a state or local agency~~ *office or a local agency delegated the authority to enforce the licensing requirements of this part* may enter and inspect the premises of a facility issued a conditional license between the hours of 8 a.m. and 8 p.m. on any day that the facility is open, or at any reasonable time, to ensure compliance and enforcement of the provisions of this part or a local ordinance.

(e) If a licensee or an employee of a licensee refuses, impedes, obstructs, or interferes with an inspection pursuant to subdivision (d), the conditional license may be summarily suspended and the ~~bureau~~ *office* shall directly commence proceedings for the revocation of the conditional license.

(f) If a licensee ~~or an employee of a licensee~~ fails to maintain or provide the books and records required pursuant to this section, the licensee shall be subject to a civil fine of fifteen thousand dollars ($15,000) per individual violation.

(g) The office or a local agency delegated the authority to enforce the licensing requirement of this part may, at its discretion, require a licensee to contract for an independent audit of the records required under this section. The licensee shall be liable for all costs associated with such an audit.

SEC. 6. Section 23028 is added to the Government Code, to read:

23028. (a) (1) A city, county, or city and county, may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana by a licensee operating pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.

(2) The board of supervisors or city council shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed

for general governmental purposes or for purposes specified in the ordinance by the board of supervisors or city council.

(3) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1) specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitously, as determined by the board of supervisors or city council.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) For purposes of this section, "marijuana" has the same meaning as the term "marijuana product" set forth in Section 111658 of the Health and Safety Code.

(d) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law, including Section 37100.5. This section shall not be construed as a limitation upon the taxing authority of a city, county, or city and county as provided by law.

SEC. 7. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) An individual employee, officer, or board member of a facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code shall not be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570 and any successor statutes, based solely on holding a conditional license, for the possession, cultivation, processing, packaging, storage, transportation, sale, or distribution of medical marijuana to a facility holding a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code or directly to a qualified patient, a person with a valid identification card, or the designated primary caregiver of a qualified patient or person with a valid identification card,

within the state, unless the information contained on the licensing paperwork is false or falsified, the license has been obtained by means of fraud, or the person is otherwise in violation of Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.

(c) This section shall not diminish the protections of Section 18141 of the Business and Professions Code.

SEC. 8. Article 8 (commencing with Section 111658) is added to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 8. Medical Marijuana

111658. For purpose of this article, the following definitions shall apply:

~~(a) "Bureau" means the Bureau of Medical Marijuana Regulations in the Department of Consumer Affairs.~~

~~(b) "Certified testing laboratory" means a laboratory that is certified by the bureau to perform random sample testing of medical marijuana for patients, primary caregivers, and facilities issued conditional licenses pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code, pursuant to the certification standards for those facilities promulgated by the bureau.~~

~~(c)~~

(a) "Edible medical marijuana product" means medical marijuana or a medical marijuana-derived product that is ingested or meant to be ingested through the mouth and into the digestive system.

(b) "Labor peace agreement" means an agreement between an entity and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees.

~~(d)~~

(c) "Marijuana" means all parts of the plant Cannabis sativa L. sativa, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" also means marijuana, as defined by Section 11018.

~~(e) "Labor peace agreement" means an agreement between an entity and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees.~~

(d) "Office" means the Office of Medical Marijuana Regulation in the Business, Consumer Affairs, and Housing Agency.

~~(f)~~

(e) "Representative samples" means samples taken from each batch or shipment of medical marijuana received from a licensed cultivation site or any other source if intended for sale.

~~111659. The bureau, by July 1, 2017, shall accomplish both of the following:~~

~~(a) Establish quality assurance protocols to ensure uniform testing standards for all medical marijuana sold via dispensaries or other facilities, or cultivated or manufactured by facilities, that are issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.~~

~~(b) In consultation with outside entities at its discretion, develop a list of certified testing laboratories that can perform uniform testing in compliance with this article, and post that list on its Internet Web site.~~

111659. On or before July 1, 2017, the office shall report to the Legislature on the feasability of developing a program to certify laboratories for the testing of medical marijuana and related products and the feasability of developing a labeling requirement for edible marijuana products that incorporates information on the cannabinoid content.

111660. (a) A facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code shall bear the responsibility for ~~contracting with certified testing laboratories for regular, systematic testing of representative samples of all medical marijuana cultivated or intended for sale or distribution, and shall bear the cost of that testing.~~ *both of the following:*

~~(b) A facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code shall maintain records of testing reports for seven years, either on site in a digital format or at a secure offsite location in either digital or paper format. These facilities shall provide results of test reports to local code enforcement officers, any other locally designated enforcement entity, and the bureau upon request.~~

(1) Maintaining supplier information in order for recall procedures to be implemented, if and when necessary.

(2) Labeling of all medical marijuana and medical marijuana products that shall, at a minimum, include the following:

(A) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD) content, clear recommended dosage, and the size or volume of the recommended dose.

(B) Clear indication, in bold font, that the product contains medical marijuana.

(C) The statement "FOR MEDICAL USE ONLY. KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

(D) Identification of the source and date of cultivation and manufacture.

(E) The name and location of the dispensary providing the product.

(F) The date of sale.

(G) Any other requirements set by the office.

~~111661. Quality assurance protocols shall be required between all licensed cultivation sites, licensed manufacturers, and licensed dispensing facilities to guarantee safe and reliable medicinal marijuana delivery to all patients. These quality assurance protocols shall include:~~

~~(a) Providing supplier information to dispensaries in order for recall procedures to be implemented, if and when necessary.~~

~~(b) Safety testing of all medical marijuana prior to packaging for sale and patient exposure to identify and eliminate microbiological contaminants and chemical residue.~~

~~(c) Labeling of all medical marijuana and medical marijuana products that shall, at a minimum, include the following:~~

~~(1) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD) content, clear recommended dosage, and the size or volume of the recommended dose.~~

~~(2) Clear indication, in bold font, that the product contains medical marijuana.~~

~~(3) The statement "FOR MEDICAL USE ONLY. KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.~~

~~(4) Identification of the source and date of cultivation and manufacture.~~

~~(5) The name and location of the dispensary providing the product.~~

~~(6) The date of sale.~~

~~(7) Any other requirements set by the bureau.~~

111662. For purposes of this article, edible medical marijuana products are deemed to be unadulterated food products. In addition to the quality assurance standards provided in Section 111661, all edible medical marijuana products shall comply with the following requirements:

(a) Baked edible medical marijuana products, including, but not limited to, brownies, bars, cookies, and cakes, tinctures, and other edible medical marijuana products that do not require refrigeration or hot holding may be manufactured, sold, or otherwise distributed at facilities issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.

(b) A facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business

and Professions Code shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.1, 113947.2, and 113947.3 prior to selling, manufacturing, or distributing edible medical marijuana products requiring refrigeration or hot holding.

(c) Individuals manufacturing or selling edible medical marijuana products shall thoroughly wash their hands before commencing production and before handling finished edible medical marijuana products.

(d) All edible medical marijuana products sold for direct consumption and infused with marijuana concentrate shall be individually wrapped at the original point of preparation. ~~The products shall be packaged in a fashion that does not exceed a single dosage for one individual.~~

(e) Products containing tetrahydrocannabinol (THC) shall be prepared in compliance with maximum potency standards for THC and THC concentrates set forth in the bureau's regulations.

(f) Prior to sale or distribution at a licensed dispensing facility, edible medical marijuana products shall be labeled and in an opaque and tamper evident package. Labels and packages of edible medical marijuana products shall meet the following requirements:

(1) Edible medical marijuana packages and labels shall not be made to be attractive to children.

(2) All edible medical marijuana product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

(C) The statement "FOR MEDICAL USE ONLY."

(D) Net weight of medical marijuana in package.

(E) A warning if nuts or other known allergens are used and shall include the total weight, in ounces or grams, of medical marijuana in the package.

(F) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD) content, clear recommended dosage, and the size or volume of recommended dose.

(G) Any other requirement set by the ~~bureau.~~ *office.*

(g) Photos or images of food are not allowed on edible medical marijuana product packages or labels.

(h) Only generic food names may be used to describe edible medical marijuana products.

SEC. 9. On or before July 1, 2016, the State Board of Equalization shall compile a report on the estimated tax collected on the sale of medical marijuana, using the most current data available. The report should also include expected tax revenues, under the existing tax structure, for the years 2016 to 2021, inclusive. This report shall be submitted to the Legislature and the Governor's office pursuant to Section 9795 of the Government Code.

SEC. 10. 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.

SEC. 11. The Legislature finds and declares that Section 5 of this act imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 12. 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.

SEC. 13. The amendments made to Section 11362.775 of the Health and Safety Code by this act shall become operative on July 1, 2017.

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SENATE BILL No. 715

Introduced by Senator Anderson

February 27, 2015

An act to add Article 4.3 (commencing with Section 111547) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, relating to drugs and devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as introduced, Anderson. Investigational drugs, biological products, or devices: right to try.

Existing law, the federal Food, Drug, and Cosmetic Act, prohibits a person from introducing into interstate commerce any new drug unless the drug has been approved by the federal Food and Drug Administration (FDA). Existing law requires the sponsor of a new drug to submit to the FDA an investigational new drug application and to then conduct a series of clinical trials to establish the safety and efficacy of the drug in human populations and submit the results to the FDA in a new drug application.

Existing law, the Sherman Food, Drug, and Cosmetic Law, regulates the packaging, labeling, and advertising of drugs and devices and is administered by the State Department of Public Health. A violation of that law is a crime. The Sherman Food, Drug, and Cosmetic Law prohibits, among other things, the sale, delivery, or giving away of a new drug or new device unless either the department has approved a new drug or device application for that new drug or new device and that approval has not been withdrawn, terminated, or suspended or the drug or device has been approved pursuant to specified provisions of federal law, including the federal Food, Drug, and Cosmetic Act.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and

requires the board to take action against a licensee who is charged with unprofessional conduct. The Osteopathic Act provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California and requires the board to enforce the Medical Practice Act with respect to its licensees.

This bill, among other things, would permit a manufacturer of an investigational drug, biological product, or device to make the product available to eligible patients with terminal illnesses, as specified. The bill would authorize, but not require, a health benefit plan, as defined, or governmental agency to provide coverage for any investigational drug, biological product, or device made available pursuant to these provisions or the associated costs. The bill would prohibit the Medical Board of California and the Osteopathic Medical Board of California from taking any disciplinary action against the license of a physician based solely on the physician's recommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device, provided that the recommendation or prescription is consistent with medical standards of care. The bill would prohibit a state agency from altering any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care provider's certification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health care provider that an eligible patient have access to an investigational drug, biological product, or device. The bill would prohibit an official, employee, or agent of the state from blocking an eligible patient's access to the investigational drug, biological product, or device pursuant to the bill's provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Article 4.3 (commencing with Section 111547) is added to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 4.3. Right to Try Act

111547. This article shall be known and may be cited as the Right to Try Act.

111547.1. In this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Eligible patient" means a person who meets all of the following conditions:

(1) Has a terminal illness, attested to by the eligible patient's treating physician.

(2) Has considered all other treatment options currently approved by the United States Food and Drug Administration.

(3) Has received a recommendation from his or her physician for an investigational drug, biological product, or device.

(4) Has given written, informed consent for the use of the investigational drug, biological product, or device, or if he or she lacks the capacity to consent, his or her legally authorized representative has given written informed consent on his or her behalf.

(5) Has documentation from his or her treating physician attesting that the eligible patient has met the requirements of this subdivision.

(b) "Health benefit plan" means any plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. "Health benefit plan" includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in Section 1345 of this code, and a policy of health insurance, as defined in Section 106 of the Insurance Code, issued by a health insurer.

(c) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the United States Food and Drug Administration, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration.

(d) "Physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act.

(e) "State regulatory board" means the California Medical Board or the Osteopathic Medical Board of California.

(f) "Terminal illness" means progressive disease or medical or surgical condition that entails significant functional impairment, that is not considered by a treating physician to be reversible even

with theadministration of current United States Food and Drug Administration approved and available treatments, and that, without life-sustaining procedures, will soon result in death.

(g) "Written, informed consent" means a written document that is signed by an eligible patient, parent or legal guardian if the eligible patient is a minor, or his or her legally authorized representative if the eligible patient lacks the capacity to consent, and attested to by the eligible patient's physician and a witness that, at a minimum, does all of the following:

(1) Explains the currently approved products and treatments for the terminal illness from which the eligible patient suffers.

(2) Attests to the fact that the eligible patient, or if the eligible patient lacks the capacity to consent, his or her legally authorized representative, concurs with the eligible patient's physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the eligible patient's life.

(3) Clearly identifies the specific proposed investigational drug, biological product, or device that the eligible patient is seeking to use.

(4) Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and provides a realistic description of the most likely outcome. This description shall include the possibility that new, unanticipated, different, or worse symptoms may result and that death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the eligible patient's condition.

(5) States that the eligible patient's health benefit plan or third-party administrator, if any, and health care provider are not obligated to pay for the investigational drug, biological product, or device or any care or treatments consequent to use of the investigational drug, biological product, or device, unless otherwise specifically required to do so by law or contract.

(6) States that the eligible patient's eligibility for hospice care may be withdrawn if the eligible patient begins curative treatment with the investigational drug, biological product, or device and that care may be reinstated if the curative treatment ends and the eligible patient meets hospice eligibility requirements.

(7) States that the eligible patient understands that he or she is liable for all expenses consequent to the use of the investigational

drug, biological product, or device, and that this liability extends to the eligible patient's estate, except as otherwise provided in the eligible patient's health benefit plan or a contract between the eligible patient and the manufacturer of the drug, biological product, or device.

111547.2. (a) Notwithstanding Section 110280, 111520, or 111550, a manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to an eligible patient pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient.

(b) A manufacturer may do both of the following:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2) Require an eligible patient to pay the costs of, or associated with, the manufacture of the investigational drug, biological product, or device.

(c) (1) This article does not expand or otherwise affect the health care coverage required to be provided by a health benefit plan or governmental agency pursuant to the laws of this state.

(2) This article does not expand or otherwise affect the coverage provided under Sections 1370.4 and 1370.6 of this code, Sections 10145.3 and 10145.4 of the Insurance Code, or Sections 14087.11 and 14132.98 of the Welfare and Institutions Code.

(3) A health benefit plan, third-party administrator, if any, or governmental agency may, but is not required to, provide coverage for the cost of an investigational drug, biological product, or device, or the cost of services related to the use of an investigational drug, biological product, or device under this article.

(4) This article does not require any governmental agency to pay costs associated with the use, care, or treatment of an eligible patient with an investigational drug, biological product, or device.

(5) This article does not require a health facility, as described in Section 1250, to provide new or additional services, unless approved by the health facility.

(d) If an eligible patient dies while being treated by an investigational drug, biological product, or device made available pursuant to this article, the eligible patient's heirs are not liable

for any outstanding debt related to the treatment or lack of insurance for the treatment.

111547.3. (a) Notwithstanding any other law, a state regulatory board shall not revoke, fail to renew, suspend, or take any other disciplinary action against a physician's license based solely on the physician's recommendation to an eligible patient regarding, prescription for, or treatment with, an investigational drug, biological product, or device, provided that the recommendation or prescription is consistent with medical standards of care.

(b) A state agency shall not alter any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care provider's certification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health care provider that an eligible patient have access to an investigational drug, biological product, or device.

(c) An official, employee, or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product, or device pursuant to this article. Counseling, advice, or a recommendation consistent with medical standards of care from an individual licensed under Division 2 (commencing with Section 500) of the Business and Professions Code shall not be considered a violation of this section.

(d) A violation of this article shall not be subject to Chapter 8 (commencing with Section 111825).

111547.4. This article does not create a private cause of action against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, so long as the manufacturer or other person or entity is complying in good faith with the terms of this article, unless there was a failure to exercise reasonable care.

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MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: **S**B 738
Author: Huff
Bill Date: May 13, 2015, Amended
Subject: Pupil Health: Epinephrine Auto-Injectors: Liability Limitation
Sponsor: California Society for Allergy, Asthma and Immunology (CSAAI)
Position: Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill would provide liability protection for physicians writing standing order prescriptions for epinephrine auto-injectors for school districts, county offices of education, and charter schools.

BACKGROUND

SB 1266 (Huff, Chapter 321, Statutes of 2014) was signed into law last year. This bill requires school districts, county offices of education (COE), and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered, as specified. This bill authorizes school nurses or trained personnel to use the epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. Epinephrine is the first line of treatment for someone who is experiencing anaphylaxis, a potential lethal allergic reaction. Epinephrine is easily administered and has very little side effect.

According to the author's office, once SB 1266 took effect, many physicians began raising questions about issuing the prescription due to liability concerns. Physicians have concerns with issuing standing orders to the school, and have requested liability coverage in law, similar to what is in place for Automated External Defibrillators (AEDs) and opioid antagonists (Naloxone). In addition, recent data from the California School Nurse Organization shows that many schools cannot implement SB 1266 because they cannot obtain the necessary prescription.

ANALYSIS

This bill would state that an authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to existing law related to epinephrine auto injectors, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

The Board has supported bills in the past that provide this type of liability protection for physicians, including AB 635 (Ammiano) in 2013. The Board took a support position on this bill because it will help school districts obtain standing order prescriptions, so they can benefit from SB 1266 from last year.

FISCAL: None to the Board

SUPPORT: CSAAI (Sponsor); Advocacy Council – American College of Allergy, Asthma and Immunology; American Academy of Allergy, Asthma and Immunology; American College of Allergy, Asthma and Immunology; Association of Regional Centers Agencies; California Chapter of the American College of Emergency Physicians; California School Nurses Organization; Civil Justice Association of California; Los Angeles Unified School District; Medical Board of California; Rady Children's Specialists of San Diego; Sanofi; Santa Clara Office of Education; Sutter Medical Foundation; and three individuals

OPPOSITION: None on file

Senate Bill No. 738

Passed the Senate May 18, 2015

_____

Secretary of the Senate

Passed the Assembly July 6, 2015

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2015, at _____ o'clock ____M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 738, Huff. Pupil health: epinephrine auto-injectors: liability limitation.

Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. Existing law requires a qualified supervisor of health or administrator at a school district, county office of education, or charter school to obtain the prescription for epinephrine auto-injectors from an authorizing physician and surgeon, as defined, and authorizes the prescription to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers.

This bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for the issuance of a prescription or order, pursuant to these provisions, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct. The bill would also update an entity reference.

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

SECTION 1. Section 49414 of the Education Code is amended to read:

49414. (a) School districts, county offices of education, and charter schools shall provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use epinephrine auto-injectors to provide emergency medical

aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

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

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, an insect sting, food allergy, drug reaction, and exercise.

(2) "Authorizing physician and surgeon" may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

(3) "Epinephrine auto-injector" means a disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal reaction to anaphylaxis.

(4) "Qualified supervisor of health" may include, but is not limited to, a school nurse.

(5) "Volunteer" or "trained personnel" means an employee who has volunteered to administer epinephrine auto-injectors to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed

pursuant to subdivision (e), regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by an authorizing physician and surgeon.

(e) (1) Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering epinephrine auto-injectors and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the American Academy of Allergy, Asthma and Immunology, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, Food Allergy Research and Education, the California Society of Allergy, Asthma and Immunology, the American College of Allergy, Asthma and Immunology, the Sean N. Parker Center for Allergy Research, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of anaphylaxis.

(B) Standards and procedures for the storage, restocking, and emergency use of epinephrine auto-injectors.

(C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent and physician.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Instruction on how to determine whether to use an adult epinephrine auto-injector or a junior epinephrine auto-injector, which shall include consideration of a pupil's grade level or age as a guideline of equivalency for the appropriate pupil weight determination.

(F) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs

published by the federal Centers for Disease Control and Prevention and the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (F) of paragraph (2).

(f) A school district, county office of education, or charter school shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer an epinephrine auto-injector to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, as specified in subdivision (b).

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school shall obtain from an authorizing physician and surgeon a prescription for each school for epinephrine auto-injectors that, at a minimum, includes, for elementary schools, one regular epinephrine auto-injector and one junior epinephrine auto-injector, and for junior high schools, middle schools, and high schools, if there are no pupils who require a junior epinephrine auto-injector, one regular epinephrine auto-injector. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the epinephrine auto-injector and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers.

(4) An authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to this section, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

(h) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis at school or a school activity when a physician is not immediately available. If the epinephrine auto-injector is used it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Epinephrine auto-injectors shall be restocked before their expiration date.

(i) A volunteer shall initiate emergency medical services or other appropriate medical followup in accordance with the training materials retained pursuant to paragraph (4) of subdivision (e).

(j) A school district, county office of education, or charter school shall ensure that each employee who volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of epinephrine auto-injectors from a manufacturer or wholesaler.

Approved _____, 2015

_____

Governor

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 800
Author: Committee on Business, Professions, and Economic Development
Bill Date: July 13, 2015, Amended
Subject: Omnibus
Sponsor: Committee, Medical Board of California and other affected regulatory health boards
Position: Support provisions related to the Board

DESCRIPTION OF CURRENT LEGISLATION:

This bill is the vehicle by which omnibus legislation has been carried by the Senate Business, Professions and Economic Development Committee. This analysis will only include the relevant sections of the bill in the Business and Professions Code (BPC) that are sponsored by and impact the Medical Board of California (Board). The omnibus language would clarify that registration is required to practice as a polysomnographic technologist, technician, or trainee in California. This bill would also make other technical, clarifying changes to fix an incorrect code section reference in existing law, delete an outdated section of statute related to a pilot project that no longer exists, and clarify that a licensee cannot call themselves "doctor", "physician", "Dr.", or "M.D.", if their license to practice medicine has been suspended or revoked.

ANALYSIS:

BPC Section 146 – Polysomnography

Existing statute does not specifically state that registration is required to practice as a polysomnographic technologist, technician, or trainee in California. Due to this ambiguity, the Board has encountered issues with pursuing action against individuals with unlicensed practice who are practicing polysomnography without being registered with the Board. This bill would add the code section related to polysomnographic technologists, technicians, and trainees to Business and Professions Code Section 146, which requires registration to engage in businesses and professions that are regulated by the code sections listed.

This bill would ensure that individuals practicing as polysomnographic technologists in California are registered and subject to appropriate regulation by the Board. This will further the Board's mission of consumer protection.

BPC Section 2054 – Jurisdiction Language

This bill would make a technical, clarifying change in the section of law that regulates when individuals can use the words "doctor", "physician", "Dr", or the initials "M.D." Current law does not allow use if an individual has been issued a license to practice medicine in another jurisdiction and has had that license suspended or revoked.

The word “another jurisdiction” in existing law leads to the interpretation that this provision may not apply to California licensees, although it should. It does not protect consumers to allow licensees in California that have had their license suspended or revoked to be able to use “doctor”, “physician”, “Dr.”, or “M.D.”, when licensees in other states are not allowed to do so.

This bill would clarify that any licensee (including those licensed in California), cannot call themselves “doctor”, “physician”, “Dr.”, or use the initials “M.D.”, if their license to practice medicine has been suspended or revoked. This will help to further the Board’s mission of consumer protection.

BPC 2401 – Sunsetted Pilot Program

BPC Section 2401 specifies exemptions to the ban on the corporate practice of medicine. One of these exemptions included a pilot program in 2401.1, that has since been sunsetted and repealed. This change would simply clean-up the code section.

BPC 2529 – Incorrect Code Section Reference

A registered Research Psychoanalyst is an individual who has graduated from an approved psychoanalytic institution and is registered with the Board. Research Psychoanalysts may engage in psychoanalysis as an adjunct to teaching, training or research. Additionally, students who are currently enrolled in an approved psychoanalytic institution and are registered with the Board as a Student Research Psychoanalyst, may engage in psychoanalysis under supervision. B&P Code Section 2529 references code sections that define unprofessional conduct for Research Psychoanalysts. One of the code sections referenced is 725, which is the wrong code section, as Research Psychoanalysts cannot prescribe.

This bill would correct an incorrect code reference, as excessive prescribing does not apply to Research Psychoanalysts, however sexual misconduct could apply and is the correct code section that should be referred to in this section, BPC Section 726, not 725.

These statute changes have already been approved by the Board to be included in the omnibus bill.

FISCAL: None to the Board

SUPPORT: Medical Board of California

OPPOSITION: None on file

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN ASSEMBLY JUNE 8, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL No. 800

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)

March 18, 2015

An act to amend Sections 28, 146, 500, 650.2, 800, 1603a, 1618.5, 1640.1, 1648.10, 1650, 1695, 1695.1, 1905.1, 1944, 2054, 2401, 2428, 2529, 2650, 2770, 2770.1, 2770.2, 2770.7, 2770.8, 2770.10, 2770.11, 2770.12, 2770.13, 2835.5, 2914, 3057, 3509.5, 4836.2, 4887, 4938, 4939, 4980.399, 4980.43, 4980.54, 4984.01, 4989.34, 4992.09, 4996.2, 4996.22, 4996.28, 4999.1, 4999.2, 4999.3, 4999.4, 4999.5, 4999.7, 4999.45, 4999.46, 4999.55, 4999.76, and 4999.100 of, to amend the heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of, and to repeal Section 1917.2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 800, as amended, Committee on Business, Professions and Economic Development. Healing arts.

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations, including those relating to the healing arts:

(1) Existing law requires persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker,

professional clinical counselor, or marriage and family therapist to have completed prescribed coursework or training in child abuse assessment and reporting. Existing law requires the training to have been obtained from an accredited or approved educational institution, a continuing education provider approved by the responsible board, or a course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

This bill would require the responsible board to specify a continuing education provider for child abuse assessment and reporting coursework by regulation, and would permit the responsible board to approve or accept a sponsored or offered course.

(2) Existing law relating to unlicensed activity enforcement lists specified provisions that require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by the department and, notwithstanding any other law, makes a violation of a listed provision punishable as an infraction under specified circumstances.

This bill would include in those listed provisions an existing requirement for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees.

The bill would also include in those listed provisions a provision of the Educational Psychologist Practice Act that makes it unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so doing, he or she holds a valid, unexpired, and unrevoked license under that act, the violation of which is a misdemeanor. The bill would further include in those listed provisions existing requirements of the Licensed Professional Clinical Counselor Act that a person not practice or advertise the performance of professional clinical counseling services without a license issued by the board, and pay the license fee, as required by that act, the violation of which is a misdemeanor.

By creating new infractions, this bill would impose a state-mandated local program.

(3) The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. For purposes of the act, any reference to the Board of Dental Examiners is deemed a reference to the Dental Board of California.

This bill would delete certain existing references to the Board of Dental Examiners and, instead, refer to the Dental Board of California.

(4) Existing law provides for the regulation of dental hygienists by the Dental Hygiene Committee of California, within the jurisdiction of the Dental Board of California. Existing law authorizes the committee, until January 1, 2010, to contract with the dental board to carry out any of specified provisions relating to the regulation of dental hygienists, and, on and after January 1, 2010, to contract with the dental board to perform investigations of applicants and licensees under those provisions. Existing law requires the committee to establish fees that relate to the licensing of a registered dental hygienist, subject to specified limitations, including fees for curriculum review and site evaluation for accreditation of educational programs.

This bill would require the Dental Hygiene Committee of California to create and maintain a central file of the names of licensees, to provide an individual historical record with information on acts of licensee misconduct and discipline. The bill would remove the limiting dates from the contracting provisions, thereby authorizing the committee to contract with the dental board to carry out any of specified provisions relating to the regulation of dental hygienists, including performing investigations of applicants and licensees. This bill, with regard to fees for accreditation of educational programs, would add a maximum fee for feasibility study review.

(5) The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician surgeon. The act prohibits a person who fails to renew his or her license within 5 years after its expiration from renewing it, and prohibits the license from being reissued, reinstated, or restored thereafter, although the act authorizes a person to apply for and obtain a new license under specified circumstances.

This bill would recast that renewal provision to prohibit renewal by a person who voluntarily cancels his or her license or who fails to renew it as described, and would authorize that person to apply for and obtain a license under those specified circumstances, without regard to reissuance, reinstatement, or restoration.

(6) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status.

Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct for, among other things, repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities.

This bill would substitute, for those described bases for suspension or revocation of the exemption, the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer.

(7) The Physical Therapy Practice Act provides for the licensure, approval, and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California. The act establishes education requirements for a physical therapist assistant, including subject matter instruction through a combination of didactic and clinical experiences, and requires the clinical experience to include at least 18 weeks of full-time experience with a variety of patients.

This bill would delete that 18-week full-time experience requirement for physical therapist assistant education.

(8) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. The act, on and after January 1, 2008, requires an applicant for initial qualification or certification as a nurse practitioner under the act who has not been qualified or certified as a nurse practitioner to meet specified requirements. Certain provisions allow the board to find other persons in practice qualified to use the title of "nurse practitioner."

This bill would delete those title provisions.

(9) The Nursing Practice Act provides for a diversion program to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness.

This bill would instead refer to the program as an intervention program.

(10) The Optometry Practice Act provides for the licensure and regulation of optometrists by the State Board of Optometry. The act prescribes license eligibility requirements, including, but not limited to, submitting proof that the person is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements, submitting proof that the person has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in 5 of the 7 consecutive years immediately preceding the date of his or her

application, and has never had his or her license to practice optometry revoked or suspended. For purposes of those provisions, "in good standing" includes the requirement that the person ~~have~~ *has* not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

This bill would delete that active practice requirement and would require that the license *have* never ~~have~~ been revoked or suspended in any state where the person holds a license. The bill, with regard to making such a finding of mental incompetence, would replace a finding by a physician with a finding by a licensed psychologist or licensed psychiatrist.

(11) The Physician Assistant Practice Act requires the Physician Assistant Board to annually elect a chairperson and vice chairperson from among its members.

This bill would require the annual election of a president and vice president.

(12) Existing law relating to veterinary medicine requires a veterinary assistant to obtain a controlled substance permit from the Veterinary Medical Board in order to administer a controlled substance, and authorizes the board to deny, revoke, or suspend the permit, after notice and hearing, for any of specified causes. Existing law authorizes the board to revoke or suspend a permit for the same.

This bill would, instead, authorize the board to suspend or revoke the controlled substance permit of a veterinary assistant, after notice and hearing, for any of specified causes, and to deny, revoke, or suspend a permit for the same.

(13) The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. The act requires the board to issue a license to practice acupuncture to a person who meets prescribed requirements. The act requires, in the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience that meets certain standards established by the board. Existing law, commencing January 1, 2017, specifically requires the board to establish standards for the approval of educational training and clinical experience received outside the United States and Canada.

This bill would remove Canada from those provisions, thereby applying the same standards to all training and clinical experience completed outside the United States.

(14) The Licensed Marriage and Family Therapist Act provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. The act sets forth the educational and training requirements for licensure as a marriage and family therapist, including certain supervised-experience requirements whereby a prospective licensee is required to work a specified number of hours in a clinical setting under the supervision of experienced professionals. The act requires all persons to register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure. The act, with regard to interns, requires all postdegree hours of experience to be credited toward licensure, except when employed in a private practice setting, if certain conditions are met.

This bill would require postdegree hours of experience to be credited toward licensure if certain conditions are met. The bill would prohibit an applicant for licensure as a marriage and family therapist from being employed or volunteering in a private practice until registered as an intern by the board. ~~This~~ *The* bill would similarly prohibit an applicant for professional clinical counselor under the Licensed Professional Clinical Counselor Act from being employed or volunteering in a private practice until registered as an intern by the board.

(15) The Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act require the Board of Behavioral Sciences to approve continuing education providers for specified educational courses relating to licensure for marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors.

~~The~~

This bill would modify those acts to require the Board of Behavioral Sciences to identify, by regulation, acceptable continuing education providers.

(16) The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide for the registration of interns and allow a maximum of possible renewals after initial registration, after which a new registration number is required to be obtained. The Clinical Social Worker Practice Act provides similarly for the registration and renewal of registration of associate clinical social workers. An applicant who is issued a subsequent number is barred from employment or volunteering in a private practice.

This bill would revise those provisions to refer throughout to subsequent registration numbers.

(17) Existing law provides for the registration of telephone medical advice services. Existing law imposes requirements for obtaining and maintaining registration, including a requirement that medical advice services be provided by specified licensed, registered, or certified health care professionals.

This bill would expand the specified health care professionals to include naturopathic doctors and licensed professional clinical counselors. The bill would require a service to notify the department of certain business changes, and to submit quarterly reports.

(18) This bill would additionally delete or update obsolete provisions and make conforming or nonsubstantive changes.

(19) 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. State-mandated local program: yes.

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

1 SECTION 1. Section 28 of the Business and Professions Code
2 is amended to read:
3 28. (a) The Legislature finds that there is a need to ensure that
4 professionals of the healing arts who have demonstrable contact
5 with victims and potential victims of child, elder, and dependent
6 adult abuse, and abusers and potential abusers of children, elders,
7 and dependent adults are provided with adequate and appropriate
8 training regarding the assessment and reporting of child, elder,
9 and dependent adult abuse that will ameliorate, reduce, and
10 eliminate the trauma of abuse and neglect and ensure the reporting
11 of abuse in a timely manner to prevent additional occurrences.
12 (b) The Board of Psychology and the Board of Behavioral
13 Sciences shall establish required training in the area of child abuse
14 assessment and reporting for all persons applying for initial
15 licensure and renewal of a license as a psychologist, clinical social
16 worker, professional clinical counselor, or marriage and family

therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:

(A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.

(B) A continuing education provider as specified by the responsible board by regulation.

(C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in his or her practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.

(2) Section 2630.

(3) Section 2903.

(4) Section 3575.

(5) Section 3660.
(6) Sections 3760 and 3761.
(7) Section 4080.
(8) Section 4825.
(9) Section 4935.
(10) Section 4980.
(11) Section 4989.50.
(12) Section 4996.
(13) Section 4999.30.
(14) Section 5536.
(15) Section 6704.
(16) Section 6980.10.
(17) Section 7317.
(18) Section 7502 or 7592.
(19) Section 7520.
(20) Section 7617 or 7641.
(21) Subdivision (a) of Section 7872.
(22) Section 8016.
(23) Section 8505.
(24) Section 8725.
(25) Section 9681.
(26) Section 9840.
(27) Subdivision (c) of Section 9891.24.
(28) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 3. Section 500 of the Business and Professions Code is amended to read:

500. If the register or book of registration of the Medical Board of California, the Dental Board of California, or the California State Board of Pharmacy is destroyed by fire or other public calamity, the board, whose duty it is to keep the register or book, may reproduce it so that there may be shown as nearly as possible the record existing in the original at the time of destruction.

SEC. 4. Section 650.2 of the Business and Professions Code is amended to read:

650.2. *(a)* Notwithstanding Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 or any other person, to participate in or operate a group advertising and referral service for dentists if all of the following conditions are met:

~~(a)~~

(1) The patient referrals by the service result from patient-initiated responses to service advertising.

~~(b)~~

(2) The service advertises, if at all, in conformity with Section 651 and subdivisions (i) and (*l*) of Section 1680.

~~(c)~~

(3) The service does not employ a solicitor within the meaning of subdivision (j) of Section 1680.

~~(d)~~

(4) The service does not impose a fee on the member dentists dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.

~~(e)~~

(5) Participating dentists charge no more than their usual and customary fees to any patient referred.

~~(f)~~

(6) The service registers with the Dental Board of California, providing its name and address.

~~(g)~~

(7) The service files with the Dental Board of California a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.

~~(h)~~

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more dentists, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

~~(i)~~

(9) When member dentists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating dentists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible for at least five seconds to the television audience. This subdivision shall be operative on and after July 1, 1994.

~~The~~

(b) The Dental Board of California may adopt regulations necessary to enforce and administer this section.

~~The~~

(c) The Dental Board of California may suspend or revoke the registration of any service that fails to comply with *paragraph (9) of* subdivision ~~(i).~~ *(a).* No service may reregister with the board if it has a registration that is currently under suspension for a violation of *paragraph (9) of* subdivision ~~(i),~~ *(a),* nor may a service reregister with the board if it had a registration revoked by the board for a violation of *paragraph (9) of* subdivision ~~(i)~~ *(a)* less than one year after that revocation.

~~The~~

(d) The Dental Board of California may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

~~It~~

(e) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for dentists without providing its name and address to the Dental Board of California.

~~It~~

(f) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by dentists for the purposes of advertising.

~~This~~

(g) This section shall not be construed to authorize a referral service to engage in the practice of dentistry.

SEC. 5. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Committee of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars ($3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licentiate pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For

purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

SEC. 6. Section 1603a of the Business and Professions Code is amended to read:

1603a. A member of the Dental Board of California who has served two terms shall not be eligible for reappointment to the board. In computing two terms hereunder, that portion of an unexpired term that a member fills as a result of a vacancy shall be excluded.

SEC. 7. Section 1618.5 of the Business and Professions Code is amended to read:

1618.5. (a) The board shall provide to the Director of the Department of Managed Health Care a copy of any accusation filed with the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when the accusation is filed, for a violation of this chapter relating to the quality of care of any dental provider of a health care service plan, as defined in Section 1345 of the Health and Safety Code. There shall be no liability on the part of, and no cause of action shall arise against, the State of California, the Dental Board of California, the Department of Managed Health Care, the director of that department, or any officer, agent, employee, consultant, or contractor of the state or the board or the department for the release of any false or unauthorized information pursuant to this section, unless the release is made with knowledge and malice.

(b) The board and its executive officer and staff shall maintain the confidentiality of any nonpublic reports provided by the Director of the Department of Managed Health Care pursuant to subdivision (i) of Section 1380 of the Health and Safety Code.

SEC. 8. Section 1640.1 of the Business and Professions Code is amended to read:

1640.1. As used in this article, the following definitions shall apply:

(a) "Specialty" means an area of dental practice approved by the American Dental Association and recognized by the board.

(b) "Discipline" means an advanced dental educational program in an area of dental practice not approved as a specialty by the American Dental Association; but offered from a dental college approved by the board.

(c) "Dental college approved by the board" means a dental school or college that is approved by the Commission on Dental Accreditation of the American Dental Association, that is accredited by a body that has a reciprocal accreditation agreement with that commission, or that has been approved by the Dental Board of California through its own approval process.

SEC. 9. Section 1648.10 of the Business and Professions Code is amended to read:

1648.10. (a) The Dental Board of California shall develop and distribute a fact sheet describing and comparing the risks and efficacy of the various types of dental restorative materials that may be used to repair a dental patient's oral condition or defect. The fact sheet shall include:

(1) A description of the groups of materials that are available to the profession for restoration of an oral condition or defect.

(2) A comparison of the relative benefits and detriments of each group of materials.

(3) A comparison of the cost considerations associated with each group of materials.

(4) A reference to encourage discussion between patient and dentist regarding materials and to inform the patient of his or her options.

(b) The fact sheet shall be made available by the Dental Board of California to all licensed dentists.

(c) The Dental Board of California shall update the fact sheet described in subdivision (a) as determined necessary by the board.

SEC. 10. Section 1650 of the Business and Professions Code is amended to read:

1650. Every person who is now or hereafter licensed to practice dentistry in this state shall register on forms prescribed by the board, his or her place of practice with the executive officer of the Dental Board of California, or, if he or she has more than one place of practice, all of the places of practice, or, if he or she has no place of practice, to so notify the executive officer of the board. A person

licensed by the board shall register with the executive officer within 30 days after the date of his or her license.

SEC. 11. Section 1695 of the Business and Professions Code is amended to read:

1695. It is the intent of the Legislature that the Dental Board of California seek ways and means to identify and rehabilitate licentiates whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licentiates so afflicted may be treated and returned to the practice of dentistry in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Dental Board of California shall implement this legislation in part by establishing a diversion program as a voluntary alternative approach to traditional disciplinary actions.

SEC. 12. Section 1695.1 of the Business and Professions Code is amended to read:

1695.1. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 13. Section 1905.1 of the Business and Professions Code is amended to read:

1905.1. The committee may contract with the dental board to carry out this article. The committee may contract with the dental board to perform investigations of applicants and licensees under this article.

SEC. 14. Section 1917.2 of the Business and Professions Code is repealed.

SEC. 15. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered

dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars ($250).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars ($160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars ($2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars ($750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars ($500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on

the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars ($5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars ($250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars ($150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars ($250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars ($250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars ($250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(*l*) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 16. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases "doctor of podiatric medicine," "doctor of podiatry," and "podiatric doctor," or the initials "D.P.M.," and shall not be in violation of subdivision (a).

(c) Notwithstanding subdivision (a), any of the following persons may use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.":

(1) A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

(2) A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

(A) If issued a license to practice medicine in any jurisdiction, has not had that license revoked or suspended by that jurisdiction.

(B) Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

(C) Does not engage in any of the acts prohibited by Section 2060.

(3) A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

SEC. 17. Section 2401 of the Business and Professions Code is amended to read:

2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by

the board or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Health Care Services, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital that is owned and operated by a licensed charitable organization, that offers only pediatric subspecialty care, that, prior to January 1, 2013, employed licensees on a salary basis, and that has not charged for professional services rendered to patients may, commencing January 1, 2013, charge for professional services rendered to patients, provided the following conditions are met:

(1) The hospital does not increase the number of salaried licensees by more than five licensees each year.

(2) The hospital does not expand its scope of services beyond pediatric subspecialty care.

(3) The hospital accepts each patient needing its scope of services regardless of his or her ability to pay, including whether the patient has any form of health care coverage.

(4) The medical staff concur by an affirmative vote that the licensee's employment is in the best interest of the communities served by the hospital.

(5) The hospital does not interfere with, control, or otherwise direct a physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

SEC. 18. Section 2428 of the Business and Professions Code is amended to read:

2428. (a) A person who voluntarily cancels his or her license or who fails to renew his or her license within five years after its expiration shall not renew it, but that person may apply for and obtain a new license if he or she:

(1) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(2) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the licensing authority that passes on the qualifications of applicants for the license that, with due regard for the public interest, he or she is qualified to practice the profession or activity for which the applicant was originally licensed.

(3) Pays all of the fees that would be required if application for licensure was being made for the first time.

The licensing authority may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without an examination pursuant to this section.

Nothing in this section shall be construed to authorize the issuance of a license for a professional activity or system or mode of healing for which licenses are no longer required.

(b) In addition to the requirements set forth in subdivision (a), an applicant shall establish that he or she meets one of the following requirements: (1) satisfactory completion of at least two years of approved postgraduate training; (2) certification by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651; or (3) passing of the clinical competency written examination.

(c) Subdivision (a) shall apply to persons who held licenses to practice podiatric medicine except that those persons who failed to renew their licenses within three years after its expiration may not renew it, and it may not be reissued, reinstated, or restored, except in accordance with subdivision (a).

SEC. 19. Section 2529 of the Business and Professions Code is amended to read:

2529. (a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the Medical Board of California who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Medical Board of California, presenting evidence of their student or graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2234, and 2235.

SEC. 20. Section 2650 of the Business and Professions Code is amended to read:

2650. (a) The physical therapist education requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board and shall have completed a professional education program including academic course work and clinical internship in physical therapy.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

(b) The physical therapist assistant educational requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist assistant shall be a graduate of a physical therapist assistant program of an accredited postsecondary institution or institutions approved by the board, and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded an associate degree.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the CAPTE of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada or another body as may be approved by the board by regulation and shall include a combination of didactic and clinical experiences.

SEC. 21. The heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of the Business and Professions Code is amended to read:

Article 3.1. Intervention Program

SEC. 22. Section 2770 of the Business and Professions Code is amended to read:

2770. It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing an intervention program as a voluntary alternative to traditional disciplinary actions.

SEC. 23. Section 2770.1 of the Business and Professions Code is amended to read:

2770.1. As used in this article:

(a) “Board” means the Board of Registered Nursing.

(b) “Committee” means an intervention evaluation committee created by this article.

(c) “Program manager” means the staff manager of the intervention program, as designated by the executive officer of the

board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 24. Section 2770.2 of the Business and Professions Code is amended to read:

2770.2. *(a)* One or more intervention evaluation committees is hereby created in the state to be established by the board. Each committee shall be composed of five persons appointed by the board. No board member shall serve on any committee.

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(b) Each committee shall have the following composition:

~~(a)~~

(1) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.

~~(b)~~

(2) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.

~~(c)~~

(3) One public member who is knowledgeable in the field of chemical dependency or mental illness.

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(c) It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

SEC. 25. Section 2770.7 of the Business and Professions Code is amended to read:

2770.7. (a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the intervention program. Only those registered nurses who have voluntarily requested to participate in the intervention program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the intervention program by contacting the board. Prior to authorizing a registered nurse to enter into the intervention program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that

his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action.

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's intervention program and successfully completes the program. If the registered nurse withdraws or is terminated from the program by an intervention evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(d) Neither acceptance nor participation in the intervention program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the intervention program.

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the intervention program at a time when the program manager or intervention evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of intervention program treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the intervention program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the intervention program. A registered nurse who has been under investigation by the board and has been terminated from the intervention program by an intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

SEC. 26. Section 2770.8 of the Business and Professions Code is amended to read:

2770.8. A committee created under this article operates under the direction of the intervention program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board, and to make recommendations.

(b) To review and designate those treatment services to which registered nurses in an intervention program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in an intervention program, and to consider reports regarding registered nurses participating in a program.

(f) To make recommendations to the program manager regarding the terms and conditions of the intervention agreement for each registered nurse participating in the program, including treatment, supervision, and monitoring requirements.

SEC. 27. Section 2770.10 of the Business and Professions Code is amended to read:

2770.10. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any registered nurse requesting or participating in an intervention program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licentiate.

SEC. 28. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in an intervention program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number

of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all intervention program records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

SEC. 29. Section 2770.12 of the Business and Professions Code is amended to read:

2770.12. (a) After the committee and the program manager in their discretion have determined that a registered nurse has successfully completed the intervention program, all records pertaining to the registered nurse's participation in the intervention program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the intervention program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).

(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the intervention program, if he or she does any of the following:

(1) Presents information relating to any aspect of the intervention program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the intervention program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the intervention program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary

to document the length of time the registered nurse participated in the intervention program.

SEC. 30. Section 2770.13 of the Business and Professions Code is amended to read:

2770.13. The board shall provide for the legal representation of any person making reports under this article to a committee or the board in any action for defamation directly resulting from those reports regarding a registered nurse's participation in an intervention program.

SEC. 31. Section 2835.5 of the Business and Professions Code is amended to read:

2835.5. On and after January 1, 2008, an applicant for initial qualification or certification as a nurse practitioner under this article who has not been qualified or certified as a nurse practitioner in California or any other state shall meet the following requirements:

(a) Hold a valid and active registered nursing license issued under this chapter.

(b) Possess a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing.

(c) Satisfactorily complete a nurse practitioner program approved by the board.

SEC. 32. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5 (commencing with Section 475).

(b) *(1)* Possess an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section.

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(2) No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall

require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

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(3) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

(c) *(1)* Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

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(2) If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

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(3) Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied.

The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board.

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(4) The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

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(5) The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) Show by evidence satisfactory to the board that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

(f) (1) Show by evidence satisfactory to the board that he or she has completed coursework in spousal or partner abuse assessment, detection, and intervention. This requirement applies to applicants who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003.

(2) An applicant who began graduate training on or after January 1, 2004, shall show by evidence satisfactory to the board that he or she has completed a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the direct provision of mental health services.

(3) Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the

applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) An applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if both of the following are true:

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the former Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

(2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.

SEC. 33. Section 3057 of the Business and Professions Code is amended to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(5) Has furnished a signed release allowing the disclosure of information from the National Practitioner Database and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has never had his or her license to practice optometry revoked or suspended in any state where the person holds a license.

(7) (A) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(8) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(9) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(10) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(11) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(12) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(13) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical examination or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board may reduce or waive the fees required by paragraph (12) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a licensed psychologist or licensed psychiatrist so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 34. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The board shall elect annually a president and a vice president from among its members.

SEC. 35. Section 4836.2 of the Business and Professions Code is amended to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars ($100).

(c) The board may suspend or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may deny, revoke, or suspend a veterinary assistant controlled substance permit for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) The veterinary assistant to whom the permit is issued has been convicted of a state or federal felony controlled substance violation.

(4) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information, as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

(f) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (e).

(g) This section shall become operative on July 1, 2015.

SEC. 36. Section 4887 of the Business and Professions Code is amended to read:

4887. (a) A person whose license or registration has been revoked or who has been placed on probation may petition the board for reinstatement or modification of penalty including modification or termination of probation after a period of not less than one year has elapsed from the effective date of the decision ordering the disciplinary action. The petition shall state such facts as may be required by the board.

(b) The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the board. The board may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

(c) The board reinstating the license or registration or modifying a penalty may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or modify probation shall require a vote of five of the members of the board.

(d) The petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 37. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) (A) An approved educational and training program.

(B) If an applicant began his or her educational and training program at a school or college that submitted a letter of intent to pursue accreditation to, or attained candidacy status from, the Accreditation Commission for Acupuncture and Oriental Medicine, but the commission subsequently denied the school or college candidacy status or accreditation, respectively, the board may review and evaluate the educational training and clinical experience to determine whether to waive the requirements set forth in this subdivision with respect to that applicant.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist that is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States, documented educational training and clinical experience that meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state that is an approved educational and training program. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 38. Section 4939 of the Business and Professions Code, as added by Section 9 of Chapter 397 of the Statutes of 2014, is amended to read:

4939. (a) The board shall establish standards for the approval of educational training and clinical experience received outside the United States.

(b) This section shall become operative on January 1, 2017.

SEC. 39. Section 4980.399 of the Business and Professions Code is amended to read:

4980.399. (a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 40. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctoral degree.

(4) Not more than 1,300 hours of supervised experience obtained prior to completing a master's or doctoral degree.

The applicant shall not be credited with more than 750 hours of counseling and direct supervisor contact prior to completing the master's or doctoral degree.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(7) Not more than a combined total of 1,000 hours of experience in the following:

(A) Direct supervisor contact.

(B) Professional enrichment activities. For purposes of this chapter, "professional enrichment activities" include the following:

(i) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor. An applicant shall have no more than 250 hours of verified attendance at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) For all hours gained on or after January 1, 2012, not more than 500 hours of experience in the following:

(A) Experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.

(B) Client centered advocacy.

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For up to 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided.

(11) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(12) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being

supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees only as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(c) Except for experience gained pursuant to subparagraph (B) of paragraph (7) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the

required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(8) The six hours of supervision that may be credited during any single week pursuant to paragraphs (1) and (2) shall apply to supervision hours gained on or after January 1, 2009.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has

satisfied subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of their employers.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars ($500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

SEC. 41. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to ensure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(g) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 42. Section 4984.01 of the Business and Professions Code, as amended by Section 31 of Chapter 473 of the Statutes of 2013, is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 43. Section 4989.34 of the Business and Professions Code is amended to read:

4989.34. (a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.

(b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider as specified by the board by regulation.

(2) The board shall establish, by regulation, a procedure identifying acceptable providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

(f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 44. Section 4992.09 of the Business and Professions Code is amended to read:

4992.09. (a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score

on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider, as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination

during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 45. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant for a license shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.23.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or

coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 46. Section 4996.22 of the Business and Professions Code is amended to read:

4996.22. (a) (1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

(2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4991.2, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(i) The board may adopt regulations as necessary to implement this section.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be

deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

SEC. 47. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) On and after January 1, 2016, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number. An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

SEC. 48. Section 4999.1 of the Business and Professions Code is amended to read:

4999.1. Application for registration as a telephone medical advice service shall be made on a form prescribed by the department, accompanied by the fee prescribed pursuant to Section 4999.5. The department shall make application forms available. Applications shall contain all of the following:

(a) The signature of the individual owner of the telephone medical advice service, or of all of the partners if the service is a

partnership, or of the president or secretary if the service is a corporation. The signature shall be accompanied by a resolution or other written communication identifying the individual whose signature is on the form as owner, partner, president, or secretary.

(b) The name under which the person applying for the ~~in-state or out-of-state~~ telephone medical advice service proposes to do business.

(c) The physical address, mailing address, and telephone number of the business entity.

(d) The designation, including the name and physical address, of an agent for service of process in California.

(e) A list of all health care professionals providing medical advice services that are required to be licensed, registered, or certified pursuant to this chapter. This list shall be submitted to the department on a form to be prescribed by the department and shall include, but not be limited to, the name, state of licensure, type of license, and license number.

(f) The department shall be notified within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

SEC. 49. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, a telephone medical advice service shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as an occupational therapist pursuant to Chapter 5.6 (commencing with Section 2570), as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant

to Chapter 8.2 (commencing with Section 3610), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all health care professionals who provide telephone medical advice services from an out-of-state location, as identified in subparagraph (A), are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(3) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(4) Ensuring that no staff member uses a title or designation when speaking to an enrollee, subscriber, or consumer that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered health care professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(5) Complying with all directions and requests for information made by the department.

(6) Notifying the department within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

(7) Submitting quarterly reports, on a form prescribed by the department, to the department within 30 days of the end of each calendar quarter.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit

accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 50. Section 4999.3 of the Business and Professions Code is amended to read:

4999.3. (a) The department may suspend, revoke, or otherwise discipline a registrant or deny an application for registration as a telephone medical advice service based on any of the following:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.

(2) An act of dishonesty or fraud by the registrant or any employee of the registrant.

(3) The commission of any act, or being convicted of a crime, that constitutes grounds for denial or revocation of licensure pursuant to any provision of this division.

(b) The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted therein.

(c) Copies of any complaint against a telephone medical advice service shall be forwarded to the Department of Managed Health Care.

(d) The department shall forward a copy of any complaint submitted to the department pursuant to this chapter to the entity that issued the license to the licensee involved in the advice provided to the patient.

SEC. 51. Section 4999.4 of the Business and Professions Code is amended to read:

4999.4. (a) Every registration issued to a telephone medical advice service shall expire 24 months after the initial date of issuance.

(b) To renew an unexpired registration, the registrant shall, before the time at which the registration would otherwise expire, pay the renewal fee authorized by Section 4999.5.

(c) An expired registration may be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the bureau and the payment of all fees authorized by Section 4999.5. A registration that is not renewed within three years following its expiration shall not be

renewed, restored, or reinstated thereafter, and the delinquent registration shall be canceled immediately upon expiration of the three-year period.

SEC. 52. Section 4999.5 of the Business and Professions Code is amended to read:

4999.5. The department may set fees for registration and renewal as a telephone medical advice service sufficient to pay the costs of administration of this chapter.

SEC. 53. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) This section does not limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For purposes of this chapter, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(c) For purposes of this chapter, "health care professional" is an employee or independent contractor described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section

4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 54. Section 4999.45 of the Business and Professions Code, as amended by Section 54 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.45. (a) An intern employed under this chapter shall:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(2) Not be employed or volunteer in a private practice until registered as an intern.

(3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4) Renew annually for a maximum of five years after initial registration with the board.

(b) When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(c) This section shall become operative on January 1, 2016.

SEC. 55. Section 4999.46 of the Business and Professions Code, as amended by Section 3 of Chapter 435 of the Statutes of 2014, is amended to read:

4999.46. (a) To qualify for the licensure examination specified by paragraph (2) of subdivision (a) of Section 4999.53, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

(b) The experience shall include a minimum of 3,000 postdegree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks), which shall include:

(1) Not more than 40 hours in any seven consecutive days.

(2) Not less than 1,750 hours of direct counseling with individuals, groups, couples, or families in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(3) Not more than 500 hours of experience providing group therapy or group counseling.

(4) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(6) Not more than a combined total of 1,250 hours of experience in the following related activities:

(A) Direct supervisor contact.

(B) Client centered advocacy.

(C) Not more than 250 hours of experience administering tests and evaluating psychological tests of clients, writing clinical reports, writing progress notes, or writing process notes.

(D) Not more than 250 hours of verified attendance at workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration within 90 days of the granting of the qualifying degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being

supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) Except for experience gained pursuant to subparagraph (D) of paragraph (6) of subdivision (b), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1) No more than six hours of supervision, whether individual or group, shall be credited during any single week. This paragraph shall apply to supervision hours gained on or after January 1, 2009.

(2) An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h) This section shall become operative on January 1, 2016.

SEC. 56. Section 4999.55 of the Business and Professions Code is amended to read:

4999.55. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state, or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative January 1, 2016.

SEC. 57. Section 4999.76 of the Business and Professions Code is amended to read:

4999.76. (a) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.

(2) Significant recent developments in the discipline of professional clinical counseling.

(3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.

(g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

(i) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 58. Section 4999.100 of the Business and Professions Code, as amended by Section 66 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The intern registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued,

regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 59. 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.

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Senate Joint Resolution No. 7

RESOLUTION CHAPTER 90

Senate Joint Resolution No. 7—Relative to physicians.

[Filed with Secretary of State July 1, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SJR 7, Pan. Medical residency programs.

This measure would urge the Congress and the President of the United States to renew funding for the Health Resources and Services Administration's Teaching Health Center and Primary Care Residency Expansion Graduate Medical Education Programs, and to lift the freeze on residency positions funded by Medicare to expand physician supply and improve access to health care.

WHEREAS, According to a 2014 report by the California Healthcare Foundation, although California has more than 105,000 licensed physicians, only 71,000 are actively involved in providing patient care; and

WHEREAS, Certain regions of the state, such as the San Joaquin Valley and the Inland Empire, lack the recommended supply of primary care and specialty physicians and, as a result, those areas have higher populations in poor health; and

WHEREAS, California's shortage and poor distribution of physicians is likely to be exacerbated by increased levels of insured patients and projected increases in the number of physicians planning to retire; and

WHEREAS, Federal funding levels for residency training programs have been frozen since 1997, while California's population has increased by more than 10 percent since that time; and

WHEREAS, Medicare's rigid payment formulas for graduate medical education do not allow for the innovation needed to improve medical education to produce physicians with the appropriate training needed to meet the nation's current and future health care needs; and

WHEREAS, California has been able to address only a minimal portion of primary care residency programs' funding shortfall with state funds; and

WHEREAS, Many primary care physicians, including those who have graduated from California medical schools, want to train in California, but are forced to leave the state because of the shortage in training slots at residency programs; and

WHEREAS, California has the highest retention rate of physicians who complete their residency training in-state; and

WHEREAS, Increasing funding for primary care medical residency training programs is a critical step in addressing the physician shortage problem and improving access to medical care; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature calls upon Congress and the President of the United States to renew funding for the Health Resources and Services Administration's Teaching Health Center and Primary Care Residency Expansion Graduate Medical Education Programs that are set to expire this year; and be it further

Resolved, That the Legislature calls upon Congress and the President to lift the freeze on residency positions funded by Medicare to expand physician supply and improve access to care; and be it further

Resolved, That the Legislature calls upon Congress and the President to encourage the development of primary care physician training programs in ambulatory, community, and medically underserved sites through new funding methodologies and incentives; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

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MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 11	Gonzalez	Employment: Paid Sick Days: In-Home Supportive Services	2-year Bill	03/11/15
AB 12	Cooley	State Government: Administrative Regulations: Review	Sen. Approps	04/22/15
AB 19	Chang	GO BIZ: Small Business: Regulations	2-year Bill	05/06/15
AB 41	Chau	Health Care Coverage: Discrimination	2-year Bill	
AB 50	Mullin	Medi-Cal: Evidence-Based Home Visiting Programs	Sen. Approps	05/21/15
AB 59	Waldron	Mental Health Services: Assisted Outpatient Treatment	2-year Bill	04/20/15
AB 68	Waldron	Medi-Cal	Sen. Health	06/01/15
AB 70	Waldron	Emergency Medical Services: Reporting	2-year Bill	03/26/15
AB 72	Bonta	Medi-Cal: Demonstration Project	Sen. Health	
AB 73	Waldron	Prescriber Prevails Act	2-year Bill	05/04/15
AB 83	Gatto	Information Practices Act of 1977	Sen. 3rd Reading	06/25/15
AB 85	Wilk	Open Meetings	Sen. Approps	04/15/15
AB 170	Gatto	Newborn Screening: Genetic Diseases: Blood Samples	Sen. Health	07/08/15
AB 174	Gray	UC: Medical Education	Sen. Approps	06/01/15
AB 193	Maienschein	Mental Health: Conservatorship Hearings	Sen. Approps	07/06/15
AB 243	Wood	Medical Marijuana Cultivation	Sen. Env. Quality	07/02/15
AB 258	Levine	Organ Transplants: Medical Marijuana: Qualified Patients	Chaptered, #51	03/25/15
AB 259	Dababneh	Personal Information: Privacy	Sen. Approps	
AB 304	Gonzalez	Sick Leave: Accrual Limitations	Chaptered, #67	04/27/15
AB 322	Waldron	Privacy: Social Security Numbers	Asm. Privacy	03/26/15
AB 330	Chang	State Government	2-year Bill	
AB 333	Melendez	Healing Arts: Continuing Education	Sen. 3rd Reading	06/24/15
AB 339	Gordon	Health Care Coverage: Outpatient Prescription Drugs	Sen. Health	07/07/15
AB 344	Chavez	Medi-Cal	2-year Bill	
AB 351	Jones-Sawyer	Public Contracts: Small Business Participation	2-year Bill	

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 366	Bonta	Medi-Cal: Annual Access Monitoring Report	Sen. Health	07/07/15
AB 374	Nazarian	Health Care Coverage: Prescription Drugs	Sen. Health	06/19/15
AB 383	Gipson	Public Health: Hepatitis C	2-year Bill	04/30/15
AB 389	Chau	Hospitals: Language Assistance Services	Sen. Approps	06/19/15
AB 403	Stone, M	Public Social Services: Foster Care Placement	Sen. Approps	07/07/15
AB 410	Obernolte	Reports Submitted to Legislative Committees	Senate	04/27/15
AB 411	Lackey	Public Contracts	2-year Bill	
AB 413	Chavez	California Disabled Veteran Business Enterprise Program	Sen. Approps	06/30/15
AB 419	Kim	Go BIZ: Regulations	Sen. B&P	05/04/15
AB 444	Gipson	Health Facilities: Epidural Connecters	Enrollment	06/01/15
AB 463	Chiu	Pharmaceutical Cost Transparency Act of 2015	2-year Bill	
AB 466	McCarty	State Civil Service: Employment Procedures	Sen. Approps	07/06/15
AB 486	Bonilla	Centralized Hospital Packaging Pharmacies: Medication Labels	Sen. 3rd Reading	
AB 503	Rodriguez	Emergency Medical Service	Sen. Approps	07/07/15
AB 507	Olsen	DCA: BreEZe System: Annual Report	Sen. B&P	07/09/15
AB 508	Garcia, C.	Public Health: Prenatal Care	2-year Bill	
AB 513	Jones-Sawyer	Professions and Vocations	2-year Bill	
AB 521	Nazarian	HIV Testing	Sen. Approps	06/29/15
AB 532	McCarty	State Agencies: Collection of Data: Race or Ethnic Origin	Sen. Approps	05/20/15
AB 533	Bonta	Health Care Coverage: Out-of-Network Coverage	Sen. Health	07/07/15
AB 537	Allen, T.	Public Employees' Benefits	2-year Bill	
AB 546	Gonzalez	Peace Officers: Basic Training Requirements	Assembly	06/29/15
AB 570	Allen, T.	Cardiovascular Disease: High Blood Pressure	2-year Bill	
AB 572	Gaines	California Diabetes Program	Sen. Health	07/02/15
AB 574	Patterson	General Acute Care Hospitals: Cardiovascular Surgical Teams	2-year Bill	03/26/15

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 584	Cooley	Public Employee Retirement Systems	2-year Bill	04/06/15
AB 614	Brown	Health Care Standards of Practice	Sen. 3rd Reading	06/02/15
AB 618	Maienschein	Parole: Primary Mental Health Clinicians	2-year Bill	
AB 623	Wood	Abuse-Deterrent Opioid Analgesic Drug Products	2-year Bill	05/04/15
AB 635	Atkins	Medical Interpretation Services	Sen. Approps	
AB 649	Patterson	Medical Waste: Law Enforcement Drug Take back Programs	Sen. Approps	06/24/15
AB 664	Dodd	Medi-Cal: Universal Assessment Tool Report	Sen. Approps	06/25/15
AB 676	Calderon	Employment: Discrimination	Sen. Approps	
AB 714	Melendez	State Employees: Health Benefits	2-year Bill	
AB 728	Hadley	State Government: Financial Reporting	Enrollment	07/02/15
AB 741	Williams	Mental Health: Community Care Facilities	Sen. Human Svcs.	05/04/15
AB 750	Low	Business and Professions: Retired License Category	2-year Bill	04/16/15
AB 757	Gomez	Healing Arts: Clinical Laboratories	Sen. Approps	06/22/15
AB 766	Ridley-Thomas	Public School Health Center Support Program	Sen. Approps	04/27/15
AB 769	Jones-Sawyer	State Employees: Disciplinary Action	Sen. P.E.& R	
AB 775	Chiu	Reproductive FACT Act	Sen. 3rd Reading	05/04/15
AB 788	Chu	Prescriptions	2-year Bill	03/26/15
AB 789	Calderon	Contact Lens Sellers: Prohibited Practices: Fines	2-year Bill	04/22/15
AB 791	Cooley	Electronic Health Records	2-year Bill	
AB 796	Nazarian	Health Care Coverage: Autism and Pervasive Dev. Disorders	2-year Bill	
AB 797	Steinorth	Regulations: Effective Dates and Legislative Review	Sen. Gov. Org.	04/06/15
AB 840	Ridley-Thomas	Nurses and Certified Nurse Assistants	Sen. P.E. &R	
AB 843	Hadley	Controller: Internet Web Site	2-year Bill	03/26/15
AB 845	Cooley	Health Care Coverage: Vision Care	2-year Bill	04/21/15
AB 848	Stone, M	Alcoholism and Drug Abuse Treatment Facilities	Sen. Health	07/02/15

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 859	Medina	Medi-Cal: Obesity Treatment Plans	2-year Bill	04/30/15
AB 918	Stone, M	Health and Care Facilities: Seclusion and Behavior Restraints	Sen. Approps	06/25/15
AB 972	Jones	Ken Maddy California Cancer Registry	2-year Bill	
AB 981	Mayes	Eyeglasses	2-year Bill	
AB 993	Comm. P.E.R.S	State Employees: MOU	2-year Bill	
AB 1001	Gatto	Child Abuse: Reporting	2-year Bill	
AB 1027	Gatto	Health Care Coverage: Contracted Rates	2-year Bill	03/26/15
AB 1046	Dababneh	Hospitals: Community Benefits	2-year Bill	04/07/15
AB 1060	Bonilla	Cancer Clinical Trials	Sen. Health	06/17/15
AB 1067	Gipson	Foster Children: Psychotropic Medication	2-year Bill	03/26/15
AB 1069	Gordon	Prescription Drugs: Collection and Distribution Program	Sen. Approps	07/01/15
AB 1073	Ting	Pharmacy: Prescription Drug Labels	Sen. Approps	07/08/15
AB 1092	Mullin	Magnetic Resonance Imaging Technologists	2-year Bill	05/04/15
AB 1102	Santiago	Health Care Coverage: Medi-Cal Access Program	Sen. Health	07/09/15
AB 1104	Rodriguez	Search Warrants	Enrolled	06/23/15
AB 1117	Garcia, C.	Medi-Cal: Vaccination Rates	Sen. Approps	06/01/15
AB 1124	Perea	Workers Compensation: Medication Formulary	Sen. Approps	07/14/15
AB 1125	Weber	State Agency Contracts: Small Business	2-year Bill	05/04/15
AB 1129	Burke	Emergency Medical Services: Data and Information System	Sen. 3rd Reading	06/23/15
AB 1133	Achadjian	School-Based Early Mental Health Intervention and Prevention	2-year Bill	04/15/15
AB 1174	Bonilla	Health Research: Women's Health	2-year Bill	04/20/15
AB 1215	Ting	California Open Data Standard	2-year Bill	03/26/15
AB 1219	Baker	California Cancer Task Force	2-year Bill	
AB 1223	O'Donnell	Emergency Medical Services: Noncritical Cases	Sen. Approps	06/30/15
AB 1231	Wood	Medi-Cal: Non-Medical Transport	Sen. Approps	06/19/15

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 1254	Grove	Health Care Service Plans: Abortion Coverage	2-year Bill	04/06/15
AB 1281	Wilk	Regulations: Legislative Review	2-year Bill	03/26/15
AB 1293	Holden	State Public Employment: Labor Negotiations	Sen. Approps	03/26/15
AB 1294	Holden	State Government: Prompt Payment of Claims	2-year Bill	03/26/15
AB 1299	Ridley-Thomas	Medi-Cal: Specialty Mental Health Services: Foster Children	Sen. Approps	04/21/15
AB 1302	Brown	Public Contracts: Disabled Veterans	2-year Bill	
AB 1337	Linder	Medical Records: Electronic Delivery	Senate	06/22/15
AB 1351	Eggman	Deferred Entry of Judgment: Pretrial Diversion	Sen. Approps	06/01/15
AB 1352	Eggman	Deferred Entry of Judgment: Withdrawal of Plea	Sen. Approps	05/19/15
AB 1357	Bloom	Children and Family Health Promotion Program	2-year Bill	04/29/15
AB 1359	Nazarian	Optometry: Therapeutic Pharmaceutical Agents Certification	Sen. 3rd Reading	06/16/15
AB 1386	Low	Emergency Medical Care: Epinephrine Auto-Injectors	2-year Bill	04/16/15
AB 1396	Bonta	Public Health Finance	2-year Bill	06/03/15
AB 1423	Stone, M	Prisoners: Medical Treatment	Sen. Approps	04/20/15
AB 1434	McCarty	Health Insurance: Prohibition on Health Insurance Sales	2-year Bill	04/20/15
AB 1445	Brown	Public Contracts: Small Business Contracts	2-year Bill	
AB 1460	Thurmond	Hospitals: Community Benefit Plans	2-year Bill	
AB 1485	Patterson	Medi-Cal: Radiology	2-year Bill	05/05/15
ACA 3	Gallagher	Public Employees' Retirement	Asm. Pub. Emp.	
ACR 38	Brown	California Task Force on Family Caregiving	Sen. Approps	06/15/15
SB 3	Leno	Minimum Wage: Adjustment	Asm. Approps	03/11/15
SB 4	Lara	Health Care Coverage: Immigration Status	Asm. Health	07/07/15
SB 10	Lara	Immigration: Governor's Office of New Americans	Assembly	07/07/15
SB 11	Beall	Peace Officer Training: Mental Health	Asm. Approps	07/08/15
SB 24	Hill	Electronic Cigarettes: Licensing and Restrictions	Sen. Inactive	06/01/15

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 26	Hernandez	California Health Care Cost and Quality Database	2-year Bill	05/05/15
SB 29	Beall	Peace Officer Training: Mental Health	Asm. Approps	07/08/15
SB 36	Hernandez	Medi-Cal: Demonstration Project	Asm. Health	
SB 43	Hernandez	Health Care Coverage: Essential Health Benefits	Asm. Approps	04/20/15
SB 52	Walters	Regulatory Boards: Healing Arts	2-year Bill	
SB 58	Knight	Public Employees' Retirement System	2-year Bill	
SB 131	Cannella	UC: Medical Education	2-year Bill	05/12/15
SB 137	Hernandez	Health Care Coverage: Provider Directories	Asm. Approps	07/02/15
SB 139	Galgiani	Controlled Substances	Sen. Approps	
SB 145	Pan	Health Facilities: Patient Transporting	Asm. Approps	05/05/15
SB 190	Beall	Health Care Coverage: Acquired Brain Injury	2-year Bill	04/06/15
SB 201	Wieckowski	California Public Records Act	2-year Bill	
SB 202	Hernandez	Controlled Substances: Unfair or Deceptive Practice	2-year Bill	03/16/15
SB 214	Berryhill	Foster Care Services	2-year Bill	
SB 216	Pan	Public Employees' Retirement System	Assembly	06/03/15
SB 221	Jackson	State Public Employees: Sick Leave: Veterans	Asm. Approps	07/09/15
SB 238	Mitchell	Foster Care: Psychotropic Medication	Asm. Approps	07/01/15
SB 243	Hernandez	Medi-Cal: Reimbursement: Provider Rates	2-year Bill	05/12/15
SB 253	Monning	Dependent Children: Psychotropic Medication	Asm. Approps	07/08/15
SB 275	Hernandez	Health Facility Data	Asm. Health	
SB 280	Stone, J	Public Employees: Compensation	2-year Bill	04/15/15
SB 282	Hernandez	Health Care Coverage: Prescription Drugs	Asm. Approps	07/08/15
SB 289	Mitchell	Telephonic and Electronic Patient Management Services	2-year Bill	05/04/15
SB 291	Lara	Mental Health: Vulnerable Communities	Asm. Health	04/28/15
SB 293	Pan	Public Employees: Retirement	2-year Bill	

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 296	Cannella	Medi-Cal: Specialty Mental Health Services: Documentation	Asm. Approps	07/02/15
SB 299	Monning	Medi-Cal: Provider Enrollment	Assembly	05/18/15
SB 315	Monning	Health Care Access Demonstration Project Grants	Asm. Approps	06/22/15
SB 319	Beall	Child Welfare Services: Public Health Nursing	Asm. Approps	07/07/15
SB 346	Wieckowski	Health Facilities: Community Benefits	2-year Bill	04/23/15
SB 349	Bates	Optometry: Mobile Optometric Facilities	2-year Bill	04/06/15
SB 354	Huff	California Public Employees Pension Reform Act	Assembly	04/06/15
SB 370	Wolk	Immunizations: Disclosure of Information: TB Screening	2-year Bill	
SB 375	Berryhill	Public Employees' Retirement	2-year Bill	
SB 376	Lara	Public Contracts: UC	Asm. A. & A.R.	06/29/15
SB 402	Mitchell	Pupil Health: Vision Examinations	2-year Bill	05/04/15
SB 407	Morrell	Comprehensive Perinatal Services Program: Licensed Midwives	Asm. Approps	07/07/15
SB 435	Pan	Medical Home: Health Care Delivery Model	Asm. Approps	07/07/15
SB 447	Allen	Medi-Cal: Clinics: Drugs and Supplies	Asm. Approps	06/01/15
SB 453	Pan	Prisons: Involuntary Medication	Asm. Approps	07/08/15
SB 459	Liu	State Government: Data	2-year Bill	
SB 484	Beall	Juveniles	Asm. Approps	07/08/15
SB 492	Liu	Coordinate Care Initiative: Consumer Ed. & Info. Guide	Asm. Approps	06/25/15
SB 525	Nielsen	Respiratory Care Practice	Assembly	06/16/15
SB 547	Liu	Long-Term Care	2-year Bill	
SB 560	Monning	Licensing Boards	Asm. Approps	07/09/15
SB 563	Pan	Workers' Compensation: Utilization Review	2-year Bill	04/30/15
SB 570	Jackson	Personal Information: Privacy: Breach	Asm. Approps	07/02/15
SB 571	Liu	Long-Term Care: CalCareNet	2-year Bill	04/21/15
SB 573	Pan	Statewide Open Data Portal	Asm. Approps	07/09/15

MBC TRACKER II BILLS
7/16/2015

BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 579	Jackson	Employees: Time Off	Asm. Approps	06/02/15
SB 587	Stone, J	Pharmacy: Drug Regimens: Hypertension and Hyperlipidemia	2-year Bill	04/09/15
SB 609	Stone, J	Controlled Substances: Narcotic Replacement Treatment	2-year Bill	04/21/15
SB 613	Allen	Public Health: Dementia Guidelines: Workgroup	Asm. Aging & LTC	07/06/15
SB 614	Leno	Medi-Cal: Mental Health Services	Asm. Approps	07/06/15
SB 644	Hancock	LEAP: Persons with Developmental Disabilities	Asm. Approps	06/30/15
SB 658	Hill	Automated External Defibrillators	Asm. 3rd Reading	06/15/15
SB 671	Hill	Pharmacy: Biological Product	Asm. Approps	06/23/15
SB 729	Wieckowski	Consumer Complaints	2-year Bill	
SB 744	Huff	Pupil Health: Epinephrine Auto-Injectors	2-year Bill	
SB 779	Hall	Skilled Nursing Facilities: Certified Nurse Assistants	2-year Bill	05/04/15
SB 780	Mendoza	Psychiatric Technicians and Assistants	Asm. Pub. Emp.	
SB 792	Mendoza	Day Care Facilities: Immunizations: Exemptions	Asm. Approps	07/02/15
SR 17	Jackson	California Health Care Decisions Day	Adopted	03/16/15