**State of California**
**Business, Consumer Services and Housing Agency**

# MEDICAL BOARD OF CALIFORNIA

## Board and Committee Meetings

## July 30-31, 2015

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**MEDICAL BOARD OF CALIFORNIA**
**BOARD MEETING SCHEDULE**

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Hwy
Burlingame, CA 94010
Phone No. 650-692-9100 (Directions Only)

## July 30-31, 2015

## Thursday, July 30

- **8:30 a.m. – 12:00 p.m.** **Panel A (Room: Irvine)**
  (*Members: Yaroslavsky (Chair), Bishop, Hawkins, Lewis, Serrano Sewell, Wright, Yip)*

- **8:00 a.m. – 12:30 p.m.** **Panel B (Room: Bayside)**
  *(Members: GnanaDev (Chair), Bholat, Krauss, Levine, Pines, Schipske)*

- **12:00 p.m. – 1:00 p.m.** **Lunch Break**

- **1:00 p.m. – 1:45 p.m.** **Executive Committee (Room: Irvine)**
  (*Members: Serrano Sewell (Chair), Bishop, GnanaDev, Levine, Lewis, Pines, Yaroslavsky*)

- **1:45 p.m. – 2:30 p.m.** **Licensing Committee (Room: Irvine)**
  (*Members: Bishop (Chair), GnanaDev, Pines, Schipske, Wright)*

- **2:30 p.m. – 3:15 p.m.** **Education and Wellness Committee (Room: Irvine)**
  (*Members: Yaroslavsky (Chair), Krauss, Pines, Schipske*)

- **3:30 p.m. – 5:45 p.m.** **Full Board Meeting (Room: Irvine)**
  *(All Members)*

## Friday, July 31

- **8:30 a.m. – 9:00 a.m.** **Application Review and Special Programs Committee (Room: Irvine)**
  (*Members: Schipske (Chair), Lewis*)

- **9:00 a.m. – 3:00 p.m.** **Full Board Meeting (Room: Irvine)**
  *(All Members)*

# MEDICAL BOARD OF CALIFORNIA

## PANEL A MEETING AGENDA

**MEMBERS OF PANEL A**
***Jamie Wright, J.D., Chair***
***Michael Bishop, M.D.***
***Randy Hawkins, M.D.***
***Ronald Lewis, M.D., Vice Chair***
***David Serrano Sewell, J.D.***
***Barbara Yaroslavsky***
***Felix Yip, M.D.***

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Highway
Burlingame, CA 94010
(650) 692-9100 (directions only)

**Thursday, July 30, 2015**
Irvine Conference Room
8:30 a.m. to 12:00 p.m.
(or until completion of business)

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

***While the Panel intends to webcast this meeting, it may not be possible to webcast due to limitations on resources***

**ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

**8:30 a.m. OPEN SESSION**

1. Call to Order/Roll Call

2. **Oral Argument on Petition for Reconsideration**

   IRANI, Afraaz Rustom

**9:15 a.m. *CLOSED SESSION – Petition for Reconsideration**

IRANI, Afraaz Rustom

3. ***CLOSED SESSION**

   Deliberation on disciplinary matters, including proposed decisions and stipulations (Government Code §11126(c)(3))

4. **OPEN SESSION**

   Adjournment

| |
|---|
| ***The Panel of the Board will convene in Closed Session, as authorized by Government Code Section 11126(c)(3), to deliberate on disciplinary decisions and stipulations. For additional information, call Lisa Toof, at (916) 263-2389. Listed times are approximate and may be changed at the discretion of the President/Chair.*** |
| ***Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Board, but the President may apportion available time among those who wish to speak. For additional information call (916) 263-2389.*** |
| ***NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Lisa Toof at (916) 263-2389 or Lisa.Toof@mbc.ca.gov or send a written request to Ms. Toof. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*** |
| ***The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.*** |

# MEDICAL BOARD OF CALIFORNIA

## PANEL B MEETING AGENDA

**MEMBERS OF PANEL B**
***Dev GnanaDev, M.D., Chair***
***Michelle Bholat, M.D.***
***Howard Krauss, M.D., Vice Chair***
***Sharon Levine, M.D.***
***Denise Pines***
***Gerrie Schipske, R.N.P., J.D.***

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Highway
Burlingame, CA 94010
(650) 692-9100 (directions only)

**Thursday, July 30, 2015**
Bayside Conference Room
8:00 a.m. to 12:30 p.m.
(or until completion of business)

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

***While the Panel intends to webcast this meeting, it may not be possible to webcast due to limitations on resources***

**ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

**8:00 a.m. OPEN SESSION**

1. Call to order/Roll Call

2. **Oral Argument on Nonadopted Proposed Decision**

   MARSEILLE, Robert Paul

**8:45 a.m. *CLOSED SESSION – Nonadopted Proposed Decision**

MARSEILLE, Robert Paul

**9:15 a.m. OPEN SESSION**

3. **Oral Argument on Nonadopted Proposed Decision**

   NASSI, Shilla

**10:00 a.m.*CLOSED SESSION – Nonadopted Proposed Decision**

NASSI, Shilla

**10:30 a.m. OPEN SESSION**

4. **Oral Argument on Nonadopted Proposed Decision**

   PETITT, John Charles, M.D.

**11:15 a.m. *CLOSED SESSION – Nonadopted Proposed Decision**

PETITT, John Charles, M.D.

5. ***CLOSED SESSION**

Deliberation on disciplinary matters, including proposed decisions and stipulations (Government Code §11126(c)(3))

6. **OPEN SESSION**

Adjournment

| |
|---|
| ***The Panel of the Board will convene in Closed Session, as authorized by Government Code Section 11126(c)(3), to deliberate on disciplinary decisions and stipulations. For additional information, call Lisa Toof, at (916) 263-2389. Listed times are approximate and may be changed at the discretion of the President/Chair.*** |
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# MEDICAL BOARD OF CALIFORNIA

## EXECUTIVE COMMITTEE
## MEETING AGENDA

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Hwy
Burlingame, CA 94010
650-692-9100 (Directions Only)
Irvine Room

**Thursday, July 30, 2015**
**1:00 pm – 1:45 pm**
(or until the completion of business)

Teleconference – See Attached Meeting Information

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

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

***Please see Meeting Information Section for additional information on public participation.***

***MEMBERS OF THE EXECUTIVE COMMITTEE***

***David Serrano Sewell, J.D., Chair***
***Dev GnanaDev, M.D.***
***Michael Bishop, M.D.***
***Sharon Levine, M.D.***
***Ronald Lewis, M.D.***
***Denise Pines***
***Barbara Yaroslavsky***

**ORDER OF ITEMS IS SUBJECT TO CHANGE**

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

1. Call to Order / Roll Call

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

3. Approval of Minutes from October 23, 2014 Meeting

4. Presentation and Update on Fiscal Year 15/16 Budget – Ms. Amaral and Ms. Kirchmeyer

5. Presentation on Satisfaction Survey – Ms. Robinson and Ms. Kirchmeyer

6. Discussion and Update on Strategic Plan – Ms. Robinson and Ms. Kirchmeyer

7. Future Agenda Items

8. Adjournment

## Meeting Information

This meeting will be available via teleconference. Individuals listening to the meeting will have an opportunity to provide public comment as outlined below.

**The call-in number for teleconference comments is: (877) 209-9920**

Please wait until the operator has introduced you before you make your comments.

To request to make a comment during the public comment period, press *1; you will hear a tone indicating you are in the queue for comment. If you change your mind and do not want to make a comment, press #. Assistance is available throughout the teleconference meeting. To request a specialist, press *0.

During Agenda Item 2 – Public Comments on Items Not on the Agenda, the Board has limited the total public comment period via teleconference to 20 minutes. Therefore, after 20 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

During public comment on any other agenda item, a total of 10 minutes will be allowed for comments via the teleconference line. After 10 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

Comments for those in attendance at the meeting will have the same time limitations as those identified above for individuals on the teleconference line.

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

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

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

# MEDICAL BOARD OF CALIFORNIA

## EXECUTIVE COMMITTEE MEETING

**Sheraton San Diego Hotel and Marina**
**1380 Harbor Island Drive / Bay Tower**
**San Diego, CA 92101**

**Thursday, October 23, 2014**

## MEETING MINUTES

***Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.***

**Members Present:**
David Serrano Sewell, J.D., Chair
Michael Bishop, M.D.
Dev GnanaDev, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Barbara Yaroslavsky

**Members Absent:**
Denise Pines

**Staff Present:**
Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Laura Freedman, Legal Counsel, Department of Consumer Affairs
Lou Galiano, Audio/Video Specialist, Department of Consumer Affairs
Cassandra Hockenson, Public Affairs Manager
Troy Holmes, Investigator, Department of Consumer Affairs
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Officer
Jose Partida, Investigator, Department of Consumer Affair's
Regina Rao, Associate Governmental Program Analyst
Eric Ryan, Supervising Investigator I, Department of Consumer Affairs
Jennifer Simoes, Chief of Legislation
Lisa Toof, Administrative Assistant II
See Vang, Business Services Officer
Curt Worden, Chief of Licensing

**Members of the Audience:**
Gloria Castro, Senior Assistant Attorney General, Attorney General's Office
Yvonne Choong, California Medical Association (CMA)
Genevieve Clavreul
Zennie Coughlin, Kaiser Permanente'

Julie D'Angelo Fellmeth, Center for Public Law
Karen Ehrlich, Licensed Midwife
Bridget Fogarty Gramme, Center for Public Interest Law
Jack French, Consumer's Union
Michael Gomez, Department of Consumer Affairs
Terry Jones, Supervising Deputy Attorney General, Attorney General's Office
Howard Krauss, M.D.
Carol Moss, Consumers Union
Ty Moss, Consumers Union

**Agenda Item 1 Call to Order/Roll Call**

Mr. Serrano Sewell called the meeting of the Executive Committee of the Medical Board of California (Board) to order on October 23, 2014, at 1:45 p.m. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 2 Public Comments on Items not on the Agenda**

No public comment was heard on this agenda item.

**Agenda Item 3 Approval of Minutes from the May 1, 2014 Meeting**

***Dr. Lewis made a motion to approve the May 1, 2014 meeting minutes as submitted; s/Ms. Yaroslavsky. Motion carried.***

**Agenda Item 4 Discussion on a Compendium of Medical Board of California Polices**

Mr. Serrano Sewell noted at the last meeting it was recommended the Board put together a compendium of policies to be used by staff as they review initial legislation and to assist as legislation is amended during the legislative process. In some instances, these amendments may be made prior to a Board Meeting and staff will have to testify on a bill prior to the next meeting. In discussing this issue with Ms. Kirchmeyer and Ms. Simoes, it had been determined, in addition to this compendium, when bills that have a significant impact on the Board's business, Mr. Serrano Sewell will be speaking with Ms. Kirchmeyer to determine if there needs to be an interim Executive Committee Meeting to take a position on a bill prior to a legislative hearing. If an interim Executive Committee Meeting has to take place, a 10-day notice will be provided and a teleconference meeting will be held. However, on some bills, a compendium of policies would be of assistance in providing feedback on bills that come up prior to a Board meeting. This compendium has been established based upon Members' input, meetings, and internal discussions. He stated Ms. Simoes would walk through the three specific policies listed in the document included in the Board packet. Discussion today will be to provide any input into the document and if the language is agreed upon at today's meeting, the items can be taken to the full Board. Mr. Serrano Sewell added that further discussion can be had on any amendments that need to happen and can be continued at the next Executive Committee meeting, if necessary.

Mr. Serrano Sewell stated he views this compendium as a work in progress and asked his colleagues not to feel the need to take action right now. He stated these policies are important and will provide guidance to legislators and staff.

Ms. Simoes stated there are three policy areas staff is recommending the Board adopt. She stated the first policy is related to scope of practice. The Board has taken positions in the past on bills that affect scope of practice for health care practioners. These bills can be difficult to weigh the scope expansion versus the need to ensure consumer protection. In the past, the Board has both supported and opposed bills that would expand the scope of practice for other health care providers.

Ms. Simoes referred the members to page EXEC 4-2 in their packets, which is where the policies and principals begin. She stated these policies will depend on the particular language in each bill, though staff believes the policy statement could be adopted by the Board, due to the broadness of the policy, for bills that propose scope of practice expansions. She went through the statements in the policy. The first was the Department of Consumer Affairs (DCA), the Board and other health care boards at DCA are duty bound to foremost protect and serve California consumers. The second was protecting and serving health care consumers requires that DCA and other health care boards assure that California consumers are: a) evaluated and managed by California licensees practicing within their scope of practice, as defined by law and regulation; b) evaluated and managed by licensees who are in compliance with all applicable federal, state and local laws and regulations; c) evaluated and managed by competent licensees, practicing within community standards of care; d) entitled to be evaluated and managed in accordance with the highest standard of care applicable to any of the licensed or certified practioners. The third was that the Board hold that all California consumers should know the background, training, education, certification and history of disciplinary actions of any health care provider they may consider seeing. The fourth was the Board recommends that any legislatively-proposed expansion of scope of practice include criteria to be met regarding education, training, certification, and continuing oversight of any practioners who obtain expanded scope. Primarily, consumers must be protected, and any proposed scope expansion must assure adequate mechanisms and oversight to reduce patient risk of harm. She stated that care provided to patients in California should be of the same quality, regardless of who is providing the care.

Dr. Levine recommended adding the word “proctor” in the first sentence of the fourth statement between the words, “training,” and “certification.”

Mr. Serrano Sewell thanked Dr. Krauss for his contributions in this process, as he was extremely helpful in guiding the internal discussions that were had while putting this document together.

***Ms. Yaroslavky made a motion to present this policy to the full Board as written with Dr. Levine’s suggested addition/s: Dr. GnanaDev.***

Yvonne Choong, CMA, stated they have no problem with any of the policy statements themselves, and CMA does a policy compendium as well as does the American Medical Association. She recommended that the compendium be put on calendar for an annual review as laws change and it should be kept as current as possible.

***Motion carried.***

Ms. Simoes continued with the next policy, continuing medical education (CME). She stated there are many bills that initially propose requiring mandatory CME in a specific area. Due to the Board's history in opposing these types of bills, she always advises the legislative offices that the Board will likely oppose mandatory CME. Many times the author's office decides to include language instead that would encourage physicians take a certain type of CME or encourage the Board to set specific standards.

The policy statement recommendation is for the Board to oppose the concept of mandating specific CME topics. She added the Board believes that each licensed physician should decide which type of CME is most appropriate for their particular practice.

***Dr. Lewis made a motion to accept the policy statement recommendation/s: Dr. GnanaDev.***

Karen Ehrlich, Licensed Midwife, stated based on what was heard this morning from the African American representatives; it seems that something about cultural competency, which would span all specialties, should be included.

***Motion carried.***

Ms. Simoes continued with the next policy, funding for physician education. The Board has routinely supported bills that provided additional funding for the practice of medicine. This includes bills that improve or provide more funding for loan programs, provide more funding for medical schools, and provide funding for additional residency positions. When these types of bills are introduced, she advises the author's office that the Board will likely be in support of additional funding. The policy statement recommendation is the Board supports additional funding for physician education, including funding for additional residency positions, funding for medical schools in California, and funding for loan programs, including the Steven M. Thompson Loan Repayment Program.

***Dr. GnanaDev made a motion to accept the policy recommendation as written/s: Dr. Lewis.***

Dr. Levine stated Federal funding for residency slots comes from Medi-Care funding. The number of slots was frozen in 1997 with the Balanced Budget Act. Subsequent to that, many new residency positions have been created from different sources of funding and she feels this is an appropriate policy statement for the Board.

Dr. Bishop expressed his concern based on the recent legislation where the physicians bore the burden of funding the improvement to the Controlled Substance Utilization Review and Evaluation System (CURES), which he feels is inequitable. He feels that adopting a policy such as this may result in the physicians being the ones being taxed.

Dr. GnanaDev stated he understands Dr. Bishop's concerns and California is in bad shape when it comes to access to care. New York, which has half of the population of California has 13 medical

schools, yet California, which has twice the population, only has 9 medical schools, so funding needs to be found other places and not just on the physician side.

***Motion carried (5-1, Bishop).***

**Agenda Item 5 Review of Current Committees, Task Forces, and Sub Committees**

Mr. Serrano Sewell stated in the Board's strategic plan, every other October the Board should review the listing of committees to determine the necessity of the committee, its roles, and whether the committee needs to continue or can be eliminated. In August, Mr. Serrano Sewell met with Ms. Kirchmeyer to discuss the Board's committees. The recommendations from the meeting are listed on pages EXEC 5-1 to EXEC 5-5. On pages, EXEC 5-6 to EXEC 5-16 there is a document that identifies the current committees with their roles, membership, and issues. The main goal of reviewing the Board's committees is to find efficiencies, assist with time commitments for Members, and to increase output from the committees.

Mr. Serrano Sewell noted, it is recommended that the Board keep Enforcement, Licensing, Education and Wellness, and Executive Committees as standing committees and continue them for the next two years. For the Executive Committee Members, it is recommended that it be made up of the Board Officers – President, Vice President, and Secretary; the immediate Past President; and the Chairs of Enforcement, Licensing, and Education and Wellness Committees.

There are several committees that are required by law, and the recommendation is to keep those committees – the Specialty Faculty Permit Review Committee, the Midwifery Advisory Council, the Application Review Committee, and the Special Programs Committee. Mr. Serrano Sewell stated it is recommended that the Application Review and Special Programs Committees be combined. The duties and functions of these committees are very similar and there is no requirement to keep them separate, just that the Board have a committee to discuss applications and special program applications, when needed.

Mr. Serrano Sewell noted in the documents in this section, the recommendation is to eliminate the Access to Care/Cultural and Linguistic Competency Committee and its Subcommittee. The Committee has not met in several years and there has been no need to have the Committee. The role of this Committee, which was to find ways to improve access to care and to hear an update on the cultural and linguistic competency in CME, can be put into the Licensing Committee and the Education and Wellness Committee.

The Committee on Physician Supervisory Responsibilities is another Committee that has completed its main purposes. However, this Committee has brought up other issues that can be placed in either the Enforcement or the Licensing Committees, as appropriate. If additional discussions need to be had on an issue, it is better done at an interested parties meeting rather that within this Committee. The issue can then be brought back to the appropriate standing committee, Licensing or Enforcement, for appropriate action before going to the full Board.

Lastly, Mr. Serrano Sewell recommended that the Board eliminate the subcommittees and task forces with the exception of the Prescribing Task Force, which has continued responsibilities

pertaining to prescribing practices. This two-Member task force allows staff to work with the Members and hold interested parties meetings. The information is then brought to the full board for discussion and possible action.

Mr. Serrano Sewell stated the purpose of this change is to increase the output of the committees, realizing that time is valuable, and to expand the scope of authority with each of the remaining committees that would be in place for the next two years.

***Ms. Yaroslavsky made a motion to approve the committee changes as indicated in the Board packet/s: Dr. Lewis. Motion carried.***

**Agenda Item 6 Update on Strategic Plan**

Ms. Kirchmeyer referred the Members to pages EXEC 6-1 through EXEC 6-21. She stated, these pages include an update on the Board's new strategic plan. The document has been color coded for easier reference, and there is a section where the status of the objective is listed. With the new strategic plan, several items identify something that has to happen each quarter or monthly. Board staff will identify that an objective has been completed by highlighting the date column in green. If something was unable to be completed, the date column will be red. If an objective is still being worked on, the date column will be yellow.

Ms. Kirchmeyer noted, the majority of the items in red in the packet are due to the Board's inability to run enforcement reports from the BreEZe system. The ISB staff continues to work on some reports and with DCA on others to get the reports finalized. Other items are red due to a lack of resources. Several key positions have been vacant, including the Deputy Director and a Chief of Enforcement, which will assist with some of the special projects. Board staff is assisting with those special projects that would normally be done by those positions. These objectives will be worked on in the next quarter to be sure goals are met.

Ms. Kirchmeyer stated she would appreciate feedback from the Members on the new layout of the strategic plan.

Dr. Levine suggested on EXEC 6-15; Goal 4.1c, adding the Senate and Assembly Health Committees. She noted many of the issues that come before the Board as legislation often come from or to the Health Committees, so she feels that it is important for those committees to understand the Board's function. She also noted in Goal 4.2b, she feels there may be a better way to reach a larger audience of stakeholders. It seems going hospital by hospital is a bit tedious for both the Board's public information staff as well as the Board Members. All stakeholder communities have associations that meet in informational sessions. The associations could carry the Board's message to those sessions, which would reach a much larger audience.

**Agenda Item 7 Future Agenda Items**

Ms. Yaroslavsky suggested a budget update at the next meeting.

**Agenda Item 8 Annual Evaluation of the Executive Director**

Adjourned to Closed Session at 2:35 p.m.

Returned from Closed Session at 3:13 p.m. for adjournment.

**Agenda Item 9 Adjournment**

With no further questions or comments from the Members or the public, the meeting was adjourned at 3:15 p.m.

# 0758 - Medical Board
## Analysis of Fund Condition

(Dollars in Thousands)
Fund Condition with General Fund Loan Repayments

| | | ACTUAL 2013-14 | CURRENT YEAR 2014-15 | BY 2015-16 | BY+1 2016-17 | BY+2 2017-18 |
|---|---|---|---|---|---|---|
| **BEGINNING BALANCE** | | $ 26,498 | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 |
| Prior Year Adjustment | | $ 234 | $ - | $ - | $ - | $ - |
| Adjusted Beginning Balance | | $ 26,732 | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 |
| **REVENUES AND TRANSFERS** | | | | | | |
| Revenues: | | | | | | |
| 125600 | Other regulatory fees | $ 157 | $ 278 | $ 258 | $ 258 | $ 258 |
| 125700 | Other regulatory licenses and permits | $ 6,994 | $ 6,122 | $ 6,249 | $ 6,249 | $ 6,249 |
| 125800 | Renewal fees | $ 48,914 | $ 45,730 | $ 45,710 | $ 45,710 | $ 45,710 |
| 125900 | Delinquent fees | $ 238 | $ 90 | $ 89 | $ 89 | $ 89 |
| 141200 | Sales of documents | $ 12 | $ - | $ - | $ - | $ - |
| 142500 | Miscellaneous services to the public | $ 1 | $ 30 | $ 30 | $ 30 | $ 30 |
| 150300 | Income from surplus money investments | $ 75 | $ 76 | $ 69 | $ 52 | $ 22 |
| 160400 | Sale of fixed assets | $ - | $ 3 | $ 3 | $ 3 | $ 3 |
| 161000 | Escheat of unclaimed checks and warrants | $ 11 | $ - | $ - | $ - | $ - |
| 161400 | Miscellaneous revenues | $ 2 | $ 15 | $ 15 | $ 15 | $ 15 |
| Totals, Revenues | | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| Transfers: | | | | | | |
| Proposed GF Loan Repayment (Budget Act of 2008) | | $ - | $ - | $ 3,000 | $ 3,000 | $ - |
| Proposed GF Loan Repayment (Budget Act of 2011) | | $ - | $ - | $ 7,000 | $ - | $ 2,000 |
| **TOTALS, REVENUES AND TRANSFERS** | | $ 56,404 | $ 52,344 | $ 62,423 | $ 55,406 | $ 54,376 |
| **TOTAL RESOURCES** | | $ 83,136 | $ 80,497 | $ 82,481 | $ 76,906 | $ 67,557 |
| **EXPENDITURES** | | | | | | |
| Disbursements: | | | | | | |
| 0840 State Controller (State Operations) | | $ 3 | $ - | $ - | $ - | $ - |
| 8880 FSCU (State Operations) | | $ - | $ - | $ - | $ - | $ - |
| FISCAL | | $ 259 | $ 48 | $ 107 | $ - | $ - |
| 1110 Program Expenditures (State Operations) | | $ 54,721 | $ 58,271 | $ 57,951 | $ 59,121 | $ 60,314 |
| | 2014-15 and ongoing Approved Costs | | | | | |
| | BreEZe Costs | $ - | $ 1,531 | $ - | $ - | $ - |
| | Enforcement Enhancements | $ - | $ 471 | $ 415 | $ 415 | $ 415 |
| | SB 304 | $ - | $ 118 | $ 118 | $ 118 | $ 118 |
| | Anticipated Future Costs | | | | | |
| | Change in Business Process | $ - | $ - | $ - | $ 715 | $ 715 |
| | Expert Reviewer | $ - | $ - | $ - | $ 735 | $ 735 |
| | Adverse Events Report | $ - | $ - | $ - | $ 140 | $ 140 |
| | BreEZe Costs | $ - | $ 125 | $ 2,403 | $ 2,494 | $ 2,400 |
| | Establish Spending Authority for Midwifery | $ - | $ - | $ (13) | $ (13) | $ (13) |
| Total Disbursements | | $ 54,983 | $ 60,439 | $ 60,981 | $ 63,725 | $ 64,824 |
| 1110 Reimbursement/Cost Recovery | | | $ 1,740 | $ 900 | $ 900 | $ 900 |
| **FUND BALANCE** | | | | | | |
| Reserve for economic uncertainties | | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 | $ 2,733 |
| **Months in Reserve** | | 5.6 | 3.9 | 4.0 | 2.4 | 0.5 |

NOTES:

A. Assumes workload and revenue projections are realized for FY 15/16 and beyond.
B. Interest on fund estimated at .361%.
C. $9 million was loaned to the General Fund by the Board in FY 11/12 and $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.
D. BreEZe revenue collections for FY 13/14 included revenue in advance, thereby overstating the Board's revenue in FY 13/14. This should be realized in FY 14/15.
E. FY 14/15 Total Disbursements excludes $125,000 anticipated BreEZe Spring Finance Letter costs.
F. FY 14/15 Year-to-Date reimbursement/cost recovery is a net reduction in expenditures and is reflected for display purposes only.

6/30/2015

# 0758 - Medical Board
## Analysis of Fund Condition
(Dollars in Thousands)

| | ACTUAL 2013-14 | CURRENT YEAR 2014-15 | BY 2015-16 | BY+1 2016-17 | BY+2 2017-18 |
|---|---|---|---|---|---|
| **BEGINNING BALANCE** | $ 26,498 | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 |
| Prior Year Adjustment | $ 234 | $ - | $ - | $ - | $ - |
| Adjusted Beginning Balance | $ 26,732 | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 |
| **REVENUES AND TRANSFERS** | | | | | |
| Revenues: | | | | | |
| 125600 Other regulatory fees | $ 157 | $ 278 | $ 258 | $ 258 | $ 258 |
| 125700 Other regulatory licenses and permits | $ 6,994 | $ 6,122 | $ 6,249 | $ 6,249 | $ 6,249 |
| 125800 Renewal fees | $ 48,914 | $ 45,730 | $ 45,710 | $ 45,710 | $ 45,710 |
| 125900 Delinquent fees | $ 238 | $ 90 | $ 89 | $ 89 | $ 89 |
| 141200 Sales of documents | $ 12 | $ - | $ - | $ - | $ - |
| 142500 Miscellaneous services to the public | $ 1 | $ 30 | $ 30 | $ 30 | $ 30 |
| 150300 Income from surplus money investments | $ 75 | $ 76 | $ 69 | $ 52 | $ 22 |
| 160400 Sale of fixed assets | $ - | $ 3 | $ 3 | $ 3 | $ 3 |
| 161000 Escheat of unclaimed checks and warrants | $ 11 | $ - | $ - | $ - | $ - |
| 161400 Miscellaneous revenues | $ 2 | $ 15 | $ 15 | $ 15 | $ 15 |
| Totals, Revenues | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| Transfers: | | | | | |
| **TOTALS, REVENUES AND TRANSFERS** | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| **TOTAL RESOURCES** | $ 83,136 | $ 80,497 | $ 72,481 | $ 63,906 | $ 52,557 |
| **EXPENDITURES** | | | | | |
| Disbursements: | | | | | |
| 0840 State Controller (State Operations) | $ 3 | $ - | $ - | $ - | $ - |
| 8880 FSCU (State Operations) | $ - | $ - | $ - | $ - | $ - |
| FISCAL | $ 259 | $ 48 | $ 107 | $ - | $ - |
| 1110 Program Expenditures (State Operations) | $ 54,721 | $ 58,271 | $ 57,951 | $ 59,121 | $ 60,314 |
| 2014-15 and ongoing Approved Costs | | | | | |
| BreEZe Costs | | $ 1,531 | $ - | $ - | $ - |
| Enforcement Enhancements | | $ 471 | $ 415 | $ 415 | $ 415 |
| SB 304 | | $ 118 | $ 118 | $ 118 | $ 118 |
| Anticipated Future Costs | | | | | |
| Change in Business Process | $ - | $ - | $ - | $ 715 | $ 715 |
| Expert Reviewer | $ - | $ - | $ - | $ 735 | $ 735 |
| Adverse Events Report | $ - | $ - | $ - | $ 140 | $ 140 |
| BreEZe Costs | | $ 125 | $ 2,403 | $ 2,494 | $ 2,400 |
| Establish Spending Authority for Midwifery | | | $ (13) | $ (13) | $ (13) |
| Total Disbursements | $ 54,983 | $ 60,439 | $ 60,981 | $ 63,725 | $ 64,824 |
| 1110 Reimbursement/Cost Recovery | | $ 1,740 | $ 900 | $ 900 | $ 900 |
| **FUND BALANCE** | | | | | |
| Reserve for economic uncertainties | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 | $ (12,267) |
| **Months in Reserve** | 5.6 | 3.9 | 2.2 | 0.0 | -2.4 |

NOTES:

A. Assumes workload and revenue projections are realized for FY 15/16 and beyond.
B. Interest on fund estimated at .361%.
C. $9 million was loaned to the General Fund by the Board in FY 11/12 and $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.
D. BreEZe revenue collections for FY 13/14 included revenue in advance, thereby overstating the Board's revenue in FY 13/14. This should be realized in FY 14/15.
E. FY 14/15 Total Disbursements exclude $125,000 anticipated BreEZE Spring Finance Letter costs.
F. FY 14/15 Year-to-Date reimbursement/cost recovery is a net reduction in expenditures and is reflected for display purposes only.

6/30/2015

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 9,272,626 | 7,445,879 | 80.3 | 1,826,747 |
| Board Members | 31,500 | 76,356 | 242.4 | (44,856) |
| Temp Help | 755,888 | 161,152 | 21.3 | 594,736 |
| Overtime | 44,433 | 21,235 | 47.8 | 23,198 |
| Staff Benefits | 5,084,579 | 4,062,442 | 79.9 | 1,022,138 |
| BL 12-03 Blanket | 0 | 484,807 | | 0 |
| **TOTALS, PERS SERVICES** | 15,189,026 | 12,251,871 | 80.7 | 3,421,963 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 72,874 | 284,557 | 390.5 | (211,683) |
| Fingerprint Reports | 333,448 | 287,537 | 86.2 | 45,911 |
| Printing | 194,755 | 163,738 | 84.1 | 31,017 |
| Communications | 106,190 | 120,151 | 113.1 | (13,961) |
| Postage | 149,511 | 108,213 | 72.4 | 41,298 |
| Insurance | 2,053 | 5,390 | 262.5 | (3,337) |
| Travel In-State | 130,298 | 107,636 | 82.6 | 22,662 |
| Travel Out-of-State | 0 | 2,641 | 0.0 | (2,641) |
| Training | 54,894 | 8,542 | 15.6 | 46,352 |
| Facilities Operation (Rent) | 928,140 | 1,105,073 | 119.1 | (176,933) |
| Consult/Prof Services | 2,301,088 | 2,002,902 | 87.0 | 298,186 |
| Departmental Prorata | 5,059,555 | 5,155,986 | 101.9 | (96,432) |
| HQIU | 16,320,487 | 15,014,644 | 92.0 | 1,305,843 |
| Consolidated Data Center | 650,230 | 120,838 | 18.6 | 529,392 |
| Data Processing | 117,492 | 328,267 | 279.4 | (210,775) |
| Central Admin Svcs (Statewide Prorata) | 2,883,789 | 2,866,649 | 99.4 | 17,140 |
| Major Equipment | 57,180 | 48,893 | 85.5 | 8,287 |
| Other Items of Expense | 0 | 7,109 | 0.0 | (7,109) |
| Vehicle Operations | 31,925 | 28,379 | 88.9 | 3,546 |
| Attorney General Services | 13,347,280 | 11,790,338 | 88.3 | 1,556,942 |
| Office of Administrative Hearings | 1,525,080 | 953,408 | 62.5 | 571,672 |
| Evidence/Witness | 1,893,439 | 1,513,887 | 80.0 | 379,552 |
| Court Reporter Services | 225,000 | 215,046 | 95.6 | 9,954 |
| Minor Equipment | 28,949 | 90,904 | 314.0 | (61,955) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 46,413,657 | 42,330,728 | 91.2 | 4,082,929 |
| **TOTALS, EXPENDITURES** | 61,602,683 | 54,582,599 | 88.6 | 7,020,084 |
| **Scheduled Reimbursements** | (384,000) | (318,613) | 83.0 | (65,387) |
| **Distributed Costs** | (780,000) | (555,282) | 71.2 | (224,718) |
| **NET TOTAL, EXPENDITURES** | 60,438,683 | 53,708,705 | 88.9 | 6,729,979 |
| **Unscheduled Reimbursements*** | | (1,740,078) | | |
| | | **51,968,627** | | |

** no authority to spend*

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Licensing**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 2,656,772 | 2,215,266 | 83.4 | 441,506 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 214,000 | 30,152 | 14.1 | 183,848 |
| Overtime | 17,825 | 7,852 | 44.1 | 9,973 |
| Staff Benefits | 855,480 | 1,239,213 | 144.9 | (383,733) |
| BL 12-03 Blanket | 0 | 22,969 | | 0 |
| **TOTALS, PERS SERVICES** | 3,744,078 | 3,515,452 | 93.9 | 251,594 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,345 | 23,941 | 156.0 | (8,596) |
| Fingerprint Reports | 333,448 | 286,675 | 86.0 | 46,773 |
| Printing | 99,876 | 106,635 | 106.8 | (6,759) |
| Communications | 25,000 | 21,715 | 86.9 | 3,285 |
| Postage | 78,111 | 51,789 | 66.3 | 26,322 |
| Insurance | 0 | 0 | 0.0 | 0 |
| Travel In-State | 9,758 | 15,786 | 161.8 | (6,028) |
| Travel Out-of-State | 0 | 0 | 0.0 | 0 |
| Training | 5,000 | 0 | 0.0 | 5,000 |
| Facilities Operation (Rent) | 226,000 | 325,608 | 144.1 | (99,608) |
| Consult/Prof Services | 1,227,873 | 1,013,925 | 82.6 | 213,948 |
| Departmental Prorata | 610,898 | 615,109 | 100.7 | (4,211) |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 3,000 | 23,215 | 773.8 | (20,215) |
| Central Admin Svcs (Statewide Prorata) | 341,872 | 333,302 | 97.5 | 8,570 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 0 | 0.0 | 0 |
| Vehicle Operations | 0 | 0 | 0.0 | 0 |
| Attorney General Services | 190,000 | 21,557 | 11.3 | 168,443 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 7,500 | 0 | 0.0 | 7,500 |
| Court Reporter Services | 250 | 0 | 0.0 | 250 |
| Minor Equipment | 0 | 519 | 0.0 | (519) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 3,173,931 | 2,839,776 | 89.5 | 334,155 |
| **TOTALS, EXPENDITURES** | 6,918,009 | 6,355,228 | 91.9 | 562,781 |
| **Scheduled Reimbursements** | (384,000) | (318,613) | 83.0 | (65,387) |
| **Distributed Costs** | (31,131) | (22,044) | 70.8 | (9,087) |
| **NET TOTAL, EXPENDITURES** | 6,502,878 | 6,014,571 | 92.5 | 488,307 |
| **Unscheduled Reimbursements*** | | 0 | | |
| | | **6,014,571** | | |

** no authority to spend*

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Enforcement**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 2,490,580 | 1,927,018 | 77.4 | 563,563 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 200,000 | 75,522 | 37.8 | 124,479 |
| Overtime | 14,554 | 5,465 | 37.5 | 9,089 |
| Staff Benefits | 2,909,133 | 1,172,310 | 40.3 | 1,736,824 |
| BL 12-03 Blanket | 0 | 448,960 | | 0 |
| **TOTALS, PERS SERVICES** | 5,614,267 | 3,629,274 | 64.6 | 2,433,954 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,340 | 114,557 | 746.8 | (99,217) |
| Fingerprint Reports | 0 | 832 | 0.0 | (832) |
| Printing | 35,279 | 32,472 | 92.0 | 2,807 |
| Communications | 14,510 | 48,073 | 331.3 | (33,563) |
| Postage | 60,000 | 54,416 | 90.7 | 5,584 |
| Insurance | 0 | 0 | 0.0 | 0 |
| Travel In-State | 17,531 | 30,172 | 172.1 | (12,641) |
| Travel Out-of-State | 0 | 1,677 | 0.0 | (1,677) |
| Training | 31,000 | 3,715 | 12.0 | 27,285 |
| Facilities Operation (Rent) | 367,140 | 345,349 | 94.1 | 21,791 |
| Consult/Prof Services | 985,494 | 967,874 | 98.2 | 17,620 |
| Departmental Prorata | 3,664,636 | 3,751,003 | 102.4 | (86,368) |
| HQIU | 16,320,487 | 15,014,644 | 92.0 | 1,305,843 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 17,492 | 40,068 | 229.1 | (22,576) |
| Central Admin Svcs (Statewide Prorata) | 2,103,100 | 2,094,530 | 99.6 | 8,570 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 5,620 | 0.0 | (5,620) |
| Vehicle Operations | 0 | 5,368 | 0.0 | (5,368) |
| Attorney General Services | 13,157,280 | 11,768,781 | 89.4 | 1,388,499 |
| Office of Administrative Hearings | 1,525,080 | 953,408 | 62.5 | 571,673 |
| Evidence/Witness | 1,820,939 | 1,375,247 | 75.5 | 445,693 |
| Court Reporter Services | 224,750 | 215,046 | 95.7 | 9,704 |
| Minor Equipment | 0 | 8,204 | 0.0 | (8,204) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 40,360,057 | 36,831,055 | 91.3 | 3,529,003 |
| **TOTALS, EXPENDITURES** | 45,974,324 | 40,460,328 | 88.0 | 5,513,996 |
| **Scheduled Reimbursements** | | | 0.0 | 0 |
| **Distributed Costs** | (744,054) | (527,505) | 70.9 | (216,549) |
| **NET TOTAL, EXPENDITURES** | 45,230,270 | 39,932,823 | 88.3 | 5,297,447 |
| **Unscheduled Reimbursements*** | | (268,499) | | |
| | | **39,664,324** | | |

** no authority to spend*

**Health Quality Investigation Unit (HQIU)**
**Fiscal Year 2014-15**
**Budget Expenditure Report**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | 8,147,742 | 7,052,923 | 86.6 | 1,094,819 |
| Temp Help | 1,073,743 | 1,297,437 | 0.0 | (223,694) |
| Overtime | 5,559 | 12,547 | 225.7 | (6,988) |
| Staff Benefits | 4,338,004 | 3,878,219 | 89.4 | 459,785 |
| BL 12-03 Blanket | 0 | 7,140 | 0.0 | (7,140) |
| **TOTALS, PERS SERVICES** | 13,565,048 | 12,248,266 | 90.3 | 1,316,782 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 113,035 | 213,398 | 188.8 | (100,363) |
| Printing | 69,000 | 79,575 | 115.3 | (10,575) |
| Communications | 118,004 | 116,115 | 98.4 | 1,889 |
| Postage | 36,000 | 45,445 | 126.2 | (9,445) |
| Insurance | 39,000 | 30,056 | 77.1 | 8,945 |
| Travel In-State | 222,000 | 151,003 | 0.0 | 70,997 |
| Travel Out-of-State | 7,000 | 12 | 0.2 | 6,988 |
| Training | 27,000 | 25,904 | 0.0 | 1,096 |
| Facilities Operation (Rent) | 1,574,000 | 1,438,881 | 91.4 | 135,119 |
| Consult/Prof Services | 91,000 | 103,522 | 113.8 | (12,522) |
| Departmental Prorata | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 15,000 | 0 | 0.0 | 15,000 |
| Data Processing | 0 | 39,218 | 0.0 | (39,218) |
| Central Admin Svcs (Statewide Prorata) | 0 | 0 | 0.0 | 0 |
| Major Equipment | 141,200 | 0 | 0.0 | 141,200 |
| Other Items of Expense | 28,000 | 0 | 0.0 | 28,000 |
| Vehicle Operations | 216,000 | 275,105 | 0.0 | (59,105) |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 0 | 10,984 | 0.0 | (10,984) |
| Court Reporter Services | 0 | 201,482 | 0.0 | (201,482) |
| Minor Equipment | 59,200 | 30,678 | 0.0 | 28,522 |
| Special Items of Expense | 0 | 5,000 | 0.0 | (5,000) |
| **TOTALS, OE&E** | 0 | 0 | 0.0 | 0 |
| | 2,755,439 | 2,766,378 | 100.4 | (10,939) |
| **TOTALS, EXPENDITURES** | 16,320,487 | 15,014,644 | 92.0 | 1,305,844 |
| **Scheduled Reimbursements** | | | | 0 |
| **Distributed Costs** | | | | 0 |
| **NET TOTAL, EXPENDITURES** | | | | |
| **Unscheduled Reimbursements*** | 16,320,487 | 15,014,644 | 92.0 | 1,305,844 |
| | | 0 | | |
| | | **15,014,644** | | |

** no authority to spend*

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Probation**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 1,151,871 | 969,393 | 84.2 | 182,478 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 26,000 | 0 | 0.0 | 26,000 |
| Overtime | 3,517 | 0 | 0.0 | 3,517 |
| Staff Benefits | 380,377 | 518,462 | 136.3 | (138,085) |
| BL 12-03 Blanket | 0 | 12,876 | | 0 |
| **TOTALS, PERS SERVICES** | 1,561,765 | 1,500,731 | 96.1 | 73,910 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 4,500 | 7,060 | 156.9 | (2,560) |
| Fingerprint Reports | 0 | 0 | 0.0 | 0 |
| Printing | 8,000 | 6,232 | 77.9 | 1,768 |
| Communications | 26,000 | 16,000 | 61.5 | 10,000 |
| Postage | 400 | 1,325 | 331.2 | (925) |
| Insurance | 1,803 | 2,695 | 149.5 | (892) |
| Travel In-State | 19,003 | 14,969 | 78.8 | 4,034 |
| Travel Out-of-State | 0 | 0 | 0.0 | 0 |
| Training | 5,000 | 2,357 | 47.1 | 2,643 |
| Facilities Operation (Rent) | 55,000 | 122,952 | 223.5 | (67,952) |
| Consult/Prof Services | 0 | 2,500 | 0.0 | (2,500) |
| Departmental Prorata | 169,967 | 175,820 | 103.4 | (5,853) |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 500 | 2,538 | 507.6 | (2,038) |
| Central Admin Svcs (Statewide Prorata) | 116,146 | 116,146 | 100.0 | 0 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 0 | 0.0 | 0 |
| Vehicle Operations | 31,925 | 23,011 | 72.1 | 8,914 |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 65,000 | 138,640 | 213.3 | (73,640) |
| Court Reporter Services | 0 | 0 | 0.0 | 0 |
| Minor Equipment | 0 | 10,130 | 0.0 | (10,130) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 503,244 | 642,374 | 127.6 | (139,130) |
| **TOTALS, EXPENDITURES** | 2,065,009 | 2,143,105 | 103.8 | (78,096) |
| **Scheduled Reimbursements** | | | | 0 |
| **Distributed Costs** | | | | 0 |
| **NET TOTAL, EXPENDITURES** | 2,065,009 | 2,143,105 | 103.8 | (78,096) |
| **Unscheduled Reimbursements*** | | (1,463,579) | | |
| | | **679,526** | | |

** no authority to spend*

G:\Executive Office\Executive Unit\2015 Board Meetings\July 30-31, 2015\Exec. Comm\[EXEC 4 att 6.xlsx]HQIU

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Executive**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 825,883 | 547,059 | 66.2 | 278,824 |
| Board Members | 31,500 | 76,356 | 242.4 | (44,856) |
| Temp Help | 172,888 | 0 | 0.0 | 172,888 |
| Overtime | 2,460 | 3,006 | 122.2 | (546) |
| Staff Benefits | 273,332 | 288,821 | 105.7 | (15,489) |
| BL 12-03 Blanket | 0 | 2 | | 0 |
| **TOTALS, PERS SERVICES** | 1,306,063 | 915,244 | 70.1 | 390,821 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,340 | 57,133 | 372.4 | (41,793) |
| Fingerprint Reports | 0 | 0 | | 0 |
| Printing | 35,000 | 15,464 | 44.2 | 19,536 |
| Communications | 20,000 | 15,744 | 78.7 | 4,256 |
| Postage | 10,000 | 354 | 3.5 | 9,646 |
| Insurance | 0 | 2,310 | 0.0 | (2,310) |
| Travel In-State | 55,000 | 38,088 | 69.3 | 16,912 |
| Travel Out-of-State | 0 | 964 | 0.0 | (964) |
| Training | 4,000 | 2,320 | 58.0 | 1,680 |
| Facilities Operation (Rent) | 100,000 | 134,417 | 134.4 | (34,417) |
| Consult/Prof Services | 82,721 | 8,293 | 10.0 | 74,428 |
| Departmental Prorata | 184,182 | 184,182 | 100.0 | 0 |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 1,000 | 2,951 | 295.1 | (1,951) |
| Central Admin Svcs (Statewide Prorata) | 95,712 | 95,712 | 100.0 | 0 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 0 | 0.0 | 0 |
| Vehicle Operations | 0 | 0 | 0.0 | 0 |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 0 | 0 | 0.0 | 0 |
| Court Reporter Services | 0 | 0 | 0.0 | 0 |
| Minor Equipment | 0 | 435 | 0.0 | (435) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 602,955 | 558,366 | 92.6 | 44,589 |
| **TOTALS, EXPENDITURES** | 1,909,018 | 1,473,609 | 77.2 | 435,409 |
| **Scheduled Reimbursements** | | | | 0 |
| **Distributed Costs** | | | | 0 |
| **NET TOTAL, EXPENDITURES** | 1,909,018 | 1,473,609 | 77.2 | 435,409 |
| **Unscheduled Reimbursements*** | | (8,000) | | |
| | | **1,465,609** | | |

** no authority to spend*

G:\Executive Office\Administrative Services\Budgets\Board Packet Doc\FY 2015-16\July 2015 Mtg\[MBC Budget Expenditure Report FM11 2015.xls]Executive

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Information Systems**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 1,304,218 | 1,157,648 | 88.8 | 146,570 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 48,000 | 54,186 | 112.9 | (6,186) |
| Overtime | 3,704 | 2,093 | 56.5 | 1,611 |
| Staff Benefits | 404,516 | 525,071 | 129.8 | (120,555) |
| BL 12-03 Blanket | 0 | | | 0 |
| **TOTALS, PERS SERVICES** | 1,760,438 | 1,738,997 | 98.8 | 21,441 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 7,000 | 6,667 | 95.2 | 333 |
| Fingerprint Reports | 0 | 0 | 0.0 | 0 |
| Printing | 6,600 | 1,354 | 20.5 | 5,246 |
| Communications | 11,000 | 10,360 | 94.2 | 641 |
| Postage | 500 | 16 | 3.2 | 484 |
| Insurance | 0 | 0 | 0.0 | 0 |
| Travel In-State | 14,006 | 4,566 | 32.6 | 9,440 |
| Travel Out-of-State | 0 | 0 | 0.0 | 0 |
| Training | 7,894 | 150 | 1.9 | 7,744 |
| Facilities Operation (Rent) | 80,000 | 74,024 | 92.5 | 5,976 |
| Consult/Prof Services | 5,000 | 10,130 | 202.6 | (5,130) |
| Departmental Prorata | 281,524 | 281,524 | 100.0 | 0 |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 650,230 | 120,838 | 18.6 | 529,392 |
| Data Processing | 95,000 | 255,677 | 269.1 | (160,677) |
| Central Admin Svcs (Statewide Prorata) | 151,879 | 151,879 | 100.0 | 0 |
| Major Equipment | 57,180 | 48,893 | 85.5 | 8,287 |
| Other Items of Expense | 0 | 0 | 0.0 | 0 |
| Vehicle Operations | 0 | 0 | 0.0 | 0 |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 0 | 0 | 0.0 | 0 |
| Court Reporter Services | 0 | 0 | 0.0 | 0 |
| Minor Equipment | 28,950 | 70,462 | 243.4 | (41,512) |
| Special Items of Expense | 0 | | | 0 |
| **TOTALS, OE&E** | 1,396,764 | 1,036,539 | 74.2 | 360,224 |
| **TOTALS, EXPENDITURES** | 3,157,202 | 2,775,536 | 87.9 | 381,666 |
| **Scheduled Reimbursements** | | | | 0 |
| **Distributed Costs** | (2,279) | (4,428) | 194.3 | 2,149 |
| **NET TOTAL, EXPENDITURES** | 3,154,923 | 2,771,108 | 87.8 | 383,815 |
| **Unscheduled Reimbursements*** | | | | |
| | | **2,771,108** | | |

** no authority to spend*

G:\Executive Office\Administrative Services\Budgets\Board Packet Doc\FY 2015-16\July 2015 Mtg\[MBC Budget Expenditure Report FM11 2015.xls]Executive

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report - Administration**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 843,302 | 629,496 | 74.6 | 213,806 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 95,000 | 1,292 | 1.4 | 93,708 |
| Overtime | 2,373 | 2,820 | 118.8 | (447) |
| Staff Benefits | 261,740 | 318,565 | 121.7 | (56,825) |
| BL 12-03 Blanket | 0 | | | 0 |
| **TOTALS, PERS SERVICES** | 1,202,415 | 952,173 | 79.2 | 250,242 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,349 | 75,202 | 489.9 | (59,853) |
| Fingerprint Reports | 0 | 30 | 0.0 | (30) |
| Printing | 10,000 | 1,581 | 15.8 | 8,419 |
| Communications | 9,680 | 8,261 | 85.3 | 1,419 |
| Postage | 500 | 313 | 62.5 | 187 |
| Insurance | 250 | 385 | 154.0 | (135) |
| Travel In-State | 15,000 | 4,056 | 27.0 | 10,944 |
| Travel Out-of-State | 0 | 0 | 0.0 | 0 |
| Training | 2,000 | 0 | 0.0 | 2,000 |
| Facilities Operation (Rent) | 100,000 | 102,724 | 102.7 | (2,724) |
| Consult/Prof Services | 0 | 181 | 0.0 | (181) |
| Departmental Prorata | 148,348 | 148,348 | 100.0 | 0 |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 500 | 3,817 | 763.5 | (3,317) |
| Central Admin Svcs (Statewide Prorata) | 75,080 | 75,080 | 100.0 | 0 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 1,489 | 0.0 | (1,489) |
| Vehicle Operations | 0 | 0 | 0.0 | 0 |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 0 | 0 | 0.0 | 0 |
| Court Reporter Services | 0 | 0 | 0.0 | 0 |
| Minor Equipment | 0 | 1,155 | 0.0 | (1,155) |
| Special Items of Expense | 0 | 0 | | 0 |
| **TOTALS, OE&E** | 376,707 | 422,622 | 112.2 | (45,915) |
| **TOTALS, EXPENDITURES** | 1,579,122 | 1,374,794 | 87.1 | 204,328 |
| **Scheduled Reimbursements** | | | 0.0 | 0 |
| **Distributed Costs** | (2,536) | (1,305) | 51.5 | (1,231) |
| **NET TOTAL, EXPENDITURES** | 1,576,586 | 1,373,489 | 87.1 | 203,097 |
| **Unscheduled Reimbursements*** | | | | |
| | | **1,373,489** | | |

** no authority to spend*

G:\Executive Office\Administrative Services\Budgets\Board Packet Doc\FY 2015-16\July 2015 Mtg\[MBC Budget Expenditure Report FM11 2015.xls]Executive

MEDICAL BOARD OF CALIFORNIA BUDGET OVERVIEW BY BOARD COMPONENT

| | EXEC | ENFORCE | OPERATION SAFE MEDICINE | LICENSING | ADMIN SERVICES | INFO SYSTEMS | PROBATION MONITORING | BOARD TOTAL |
|---|---|---|---|---|---|---|---|---|
| **FY 11/12** | | | | | | | | |
| $ Budgeted | 1,885,220 | 40,510,088 | | 5,336,015 | 1,585,554 | 3,069,028 | 2,013,445 | 54,399,350 |
| $ Spent * | 1,775,576 | 33,754,208 | | 4,745,127 | 1,543,636 | 2,810,667 | 503,487 | 45,132,701 * |
| Positions Authorized | 8.8 | 164.1 | | 53.3 | 15.0 | 17.0 | 25.0 | 283.2 |
| **FY 12/13** | | | | | | | | |
| $ Budgeted | 2,132,008 | 39,300,606 | 525,515 | 6,399,247 | 1,570,587 | 3,754,162 | 2,239,391 | 55,921,516 |
| $ Spent * | 1,762,058 | 37,058,493 | 672,700 | 5,770,689 | 1,671,010 | 3,001,574 | 720,484 | 50,657,008 * |
| Positions Authorized | 8.8 | 147.0 | 6.0 | 53.3 | 14.0 | 17.0 | 25.0 | 271.1 |
| **FY 13/14** | | | | | | | | |
| $ Budgeted | 2,304,466 | 40,127,776 | 716,147 | 8,386,914 | 1,833,855 | 3,363,720 | 2,281,227 | 59,014,105 |
| $ Spent* | 1,427,599 | 40,148,898 | 879,418 | 6,023,718 | 1,650,434 | 3,166,541 | 1,424,973 | 54,721,581 * |
| Positions Authorized | 8.8 | 147.0 | 6.0 | 53.3 | 14.0 | 17.0 | 25.0 | 271.1 |
| **FY 14/15** | | | | | | | | |
| $ Budgeted ** | 1,909,018 | 45,230,270 | | 6,502,878 | 1,576,586 | 3,154,922 | 2,065,009 | 60,438,683 |
| $ Spent thru 05/31* | 1,473,609 | 39,932,823 | | 6,014,571 | 1,373,489 | 2,771,108 | 2,143,105 | 53,708,705 * |
| Positions Authorized | 8.0 | 44.0 | | 53.1 | 14.0 | 17.0 | 24.0 | 160.1 |

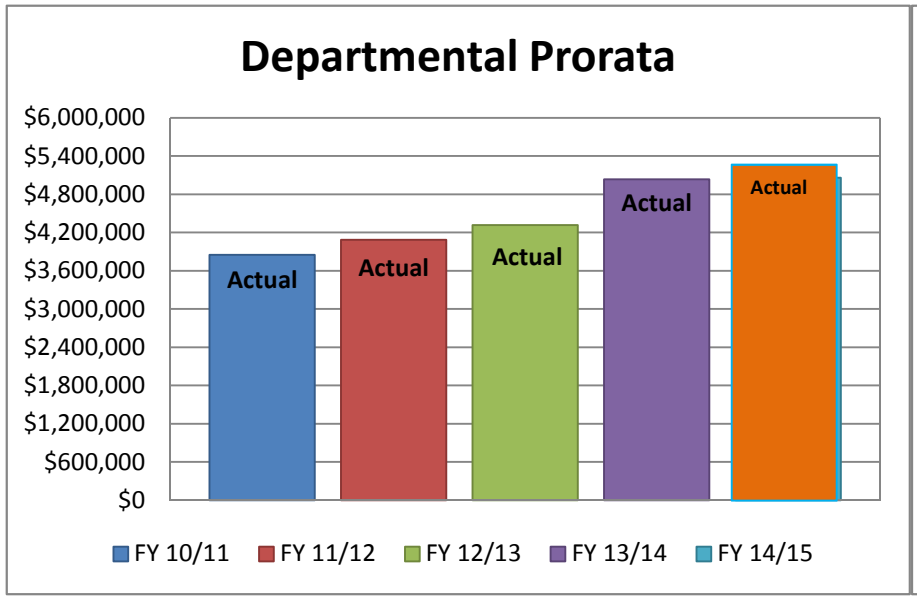
** net expenditures (includes unscheduled reimbursements)*

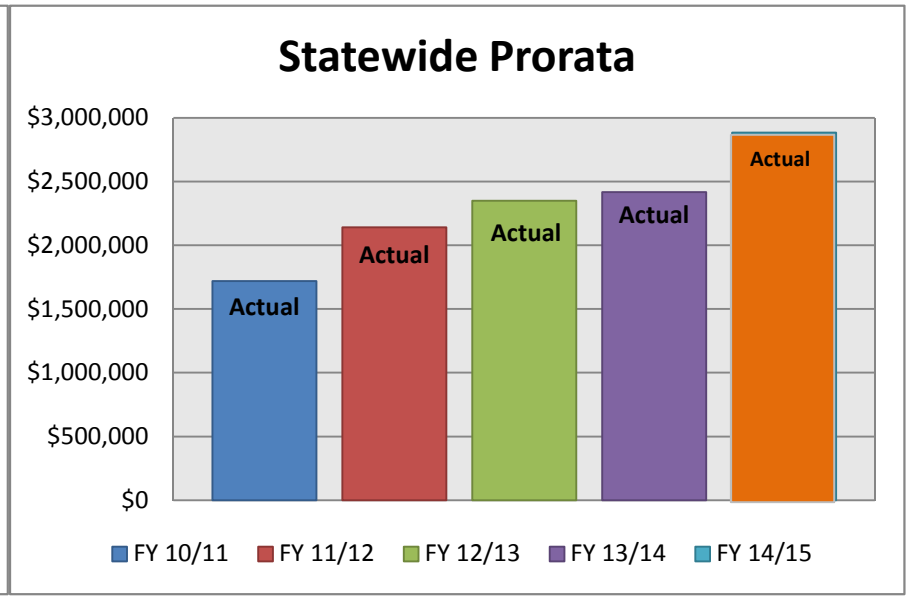
*** Budgeted does not include pending current year budget adjustments.*

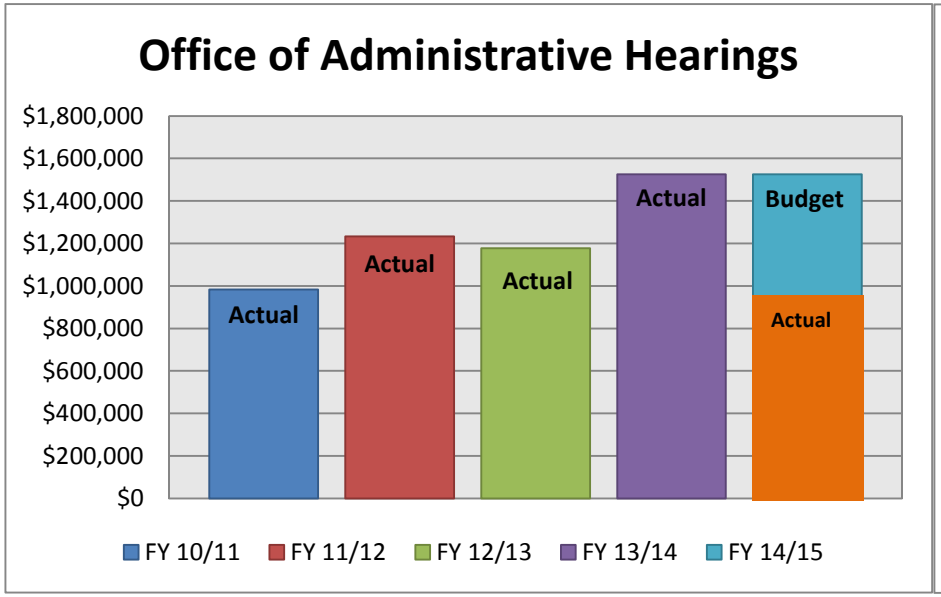
6/26/2015

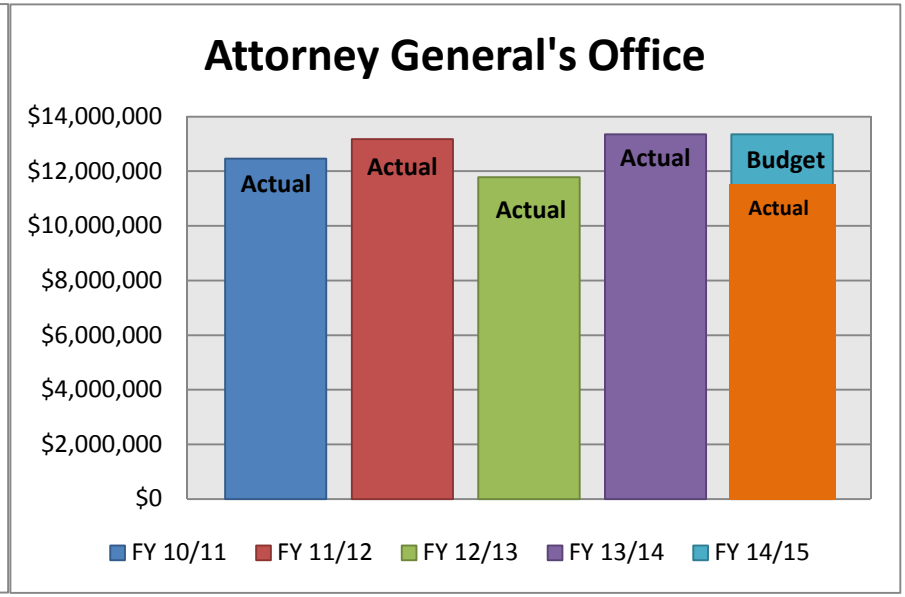
Budget Overview by Program.xls

# External Agencies' Spending




FY 14/15 actual expenditures through 5/31/15

Board Members' Expenditures - Per Diem/Travel
July 1, 2014 - June 30, 2015



| NAMES | JULY | AUG | SEPT | OCT | NOV | DEC | JAN | FEB | MAR | APRIL | MAY | JUNE | YTD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| DR BHOLAT - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |
| DR. BISHOP - Per diem | $ 600.00 | $ 200.00 | $ 600.00 | $ 700.00 | $ 300.00 | $ 600.00 | $ 600.00 | $ 600.00 | $ 300.00 | $ 800.00 | $ 900.00 | $ - | $ 6,200.00 |
| Travel | $ 875.32 | $ - | $ 511.52 | $ 75.60 | $ - | $ 671.39 | $ 809.30 | $ - | $ - | $ 543.44 | $ 522.79 | $ - | $ 4,009.36 |
| | $ 1,475.32 | $ 200.00 | $ 1,111.52 | $ 775.60 | $ 300.00 | $ 1,271.39 | $ 1,409.30 | $ 600.00 | $ 300.00 | $ 1,343.44 | $ 1,422.79 | $ - | **$ 10,209.36** |
| DR GNANADEV - Per diem | $ 1,400.00 | $ 1,000.00 | $ 1,100.00 | $ 900.00 | $ 400.00 | $ 700.00 | $ 1,000.00 | $ - | $ - | $ - | $ - | $ - | $ 6,500.00 |
| Travel | $ 823.38 | $ - | $ 115.96 | $ 683.22 | $ - | $ - | $ 817.20 | $ - | $ - | $ - | $ - | $ - | $ 2,439.76 |
| | $ 2,223.38 | $ 1,000.00 | $ 1,215.96 | $ 1,583.22 | $ 400.00 | $ 700.00 | $ 1,817.20 | $ - | $ - | $ - | $ - | $ - | **$ 8,939.76** |
| DR HAWKINS - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |
| DR. KRAUSS - Per diem | $ 1,400.00 | $ - | $ - | $ 1,400.00 | $ - | $ - | $ - | $ - | $ - | $ - | $ 1,300.00 | $ - | $ 4,100.00 |
| Travel | $ - | $ - | $ - | $ 691.22 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 691.22 |
| | $ 1,400.00 | $ - | $ - | $ 2,091.22 | $ - | $ - | $ - | $ - | $ - | $ - | $ 1,300.00 | $ - | **$ 4,791.22** |
| DR. LEVINE - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ 750.51 | $ - | $ - | $ 442.00 | $ - | $ - | $ - | $ 245.39 | $ - | $ 1,437.90 |
| | $ - | $ - | $ - | $ 750.51 | $ - | $ - | $ 442.00 | $ - | $ - | $ - | $ 245.39 | $ - | **$ 1,437.90** |
| DR. LEWIS - Per diem | $ 1,500.00 | $ 900.00 | $ 1,000.00 | $ 1,500.00 | $ 900.00 | $ 900.00 | $ 1,300.00 | $ 1,200.00 | $ 1,000.00 | $ 700.00 | $ 1,100.00 | $ - | $ 12,000.00 |
| Travel | $ 615.60 | $ - | $ - | $ 1,550.71 | $ 530.33 | $ 756.80 | $ 968.22 | $ 900.61 | $ - | $ - | $ 563.70 | $ - | $ 5,885.97 |
| | $ 2,115.60 | $ 900.00 | $ 1,000.00 | $ 3,050.71 | $ 1,430.33 | $ 1,656.80 | $ 2,268.22 | $ 2,100.61 | $ 1,000.00 | $ 700.00 | $ 1,663.70 | $ - | **$ 17,885.97** |
| MR. LUI - Per diem | $ - | $ - | $ - | $ 300.00 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 300.00 |
| Travel | $ - | $ - | $ - | $ 414.51 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 414.51 |
| | $ - | $ - | $ - | $ 714.51 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ 714.51** |
| MS. PINES - Per diem | $ 1,300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,200.00 | $ 1,000.00 | $ 1,000.00 | $ 1,500.00 | $ 1,200.00 | $ 1,100.00 | $ 1,500.00 | $ 1,000.00 | $ - | $ 13,000.00 |
| Travel | $ 677.46 | $ - | $ - | $ - | $ - | $ - | $ 783.75 | $ 656.95 | $ - | $ - | $ 70.00 | $ - | $ 2,188.16 |
| | $ 1,977.46 | $ 1,100.00 | $ 1,100.00 | $ 1,200.00 | $ 1,000.00 | $ 1,000.00 | $ 2,283.75 | $ 1,856.95 | $ 1,100.00 | $ 1,500.00 | $ 1,070.00 | $ - | **$ 15,188.16** |
| MS.SCHIPSKE - Per diem | $ 1,600.00 | $ 1,100.00 | $ 1,200.00 | $ 1,100.00 | $ 800.00 | $ 1,000.00 | $ 800.00 | $ 300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,100.00 | $ - | $ 11,200.00 |
| Travel | $ - | $ - | $ - | $ 166.36 | $ - | $ - | $ - | $ - | $ - | $ - | $ 129.40 | $ - | $ 295.76 |
| | $ 1,600.00 | $ 1,100.00 | $ 1,200.00 | $ 1,266.36 | $ 800.00 | $ 1,000.00 | $ 800.00 | $ 300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,229.40 | $ - | **$ 11,495.76** |
| MR. SERRANO SWELL- Per diem | $ 700.00 | $ 700.00 | $ 700.00 | $ 800.00 | $ 600.00 | $ 500.00 | $ 500.00 | $ 700.00 | $ 700.00 | $ 700.00 | $ 700.00 | $ - | $ 7,300.00 |
| | $ 413.72 | $ - | $ - | $ 639.41 | $ - | $ - | $ 254.80 | $ - | $ - | $ - | $ 580.37 | $ - | $ 1,888.30 |
| | $ 1,113.72 | $ 700.00 | $ 700.00 | $ 1,439.41 | $ 600.00 | $ 500.00 | $ 754.80 | $ 700.00 | $ 700.00 | $ 700.00 | $ 1,280.37 | $ - | **$ 9,188.30** |
| MS.WRIGHT - Per diem | $ 1,600.00 | $ 1,400.00 | $ 1,600.00 | $ 1,600.00 | $ 900.00 | $ 1,400.00 | $ 1,400.00 | $ 1,100.00 | $ 1,000.00 | $ 1,100.00 | $ 1,100.00 | $ - | $ 14,200.00 |
| Travel | $ 210.03 | $ - | $ - | $ 669.34 | $ - | $ - | $ 705.24 | $ - | $ - | $ - | $ 65.00 | $ - | $ 1,649.61 |
| | $ 1,810.03 | $ 1,400.00 | $ 1,600.00 | $ 2,269.34 | $ 900.00 | $ 1,400.00 | $ 2,105.24 | $ 1,100.00 | $ 1,000.00 | $ 1,100.00 | $ 1,165.00 | $ - | **$ 15,849.61** |
| MS. YAROSLAVSKY - Per diem | $ 1,000.00 | $ 700.00 | $ 1,200.00 | $ 1,400.00 | $ 700.00 | $ 800.00 | $ 1,400.00 | $ 1,200.00 | $ 900.00 | $ 1,700.00 | $ - | $ - | $ 11,000.00 |
| Travel | $ 799.36 | $ 1,116.37 | $ 462.44 | $ 678.26 | $ - | $ - | $ 756.17 | $ 1,921.63 | $ - | $ - | $ 375.45 | $ - | $ 6,109.68 |
| | $ 1,799.36 | $ 1,816.37 | $ 1,662.44 | $ 2,078.26 | $ 700.00 | $ 800.00 | $ 2,156.17 | $ 3,121.63 | $ 900.00 | $ 1,700.00 | $ 375.45 | $ - | **$ 17,109.68** |
| DR. YIP - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |

As of: 6/19/15

| | |
|---|---|
| **TOTAL PER DIEM** | $ 85,800.00 |
| **TOTAL PER DIEM BUDGETED** | $ 31,500.00 |
| **TOTAL TRAVEL** | $ 27,010.23 |
| **TOTAL** | **$ 112,810.23** |

MEDICAL BOARD OF CALIFORNIA
Song Brown Family Physician Training Program-Voluntary Fee
MONTHLY PROFILE: JULY 2010 - JUNE 2015

| | Jul-10 | Aug-10 | Sep-10 | Oct-10 | Nov-10 | Dec-10 | Jan-11 | Feb-11 | Mar-11 | Apr-11 | May-11 | Jun-11 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to OSHPD | 6,822 | 0 | 6,491 | 5,622 | 7,825 | 6,905 | 7,343 | 6,200 | 7,187 | 5,323 | 3,166 | 1,247 |
| FYTD TOTAL | 6,822 | 6,822 | 13,313 | 18,935 | 26,760 | 33,665 | 41,008 | 47,208 | 54,395 | 59,718 | 62,884 | 64,131 |

| | Jul-11 | Aug-11 | Sep-11 | Oct-11 | Nov-11 | Dec-11 | Jan-12 | Feb-12 | Mar-12 | Apr-12 | May-12 | Jun-12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to OSHPD | 7,275 | 8,405 | 7,527 | 6,867 | 5,897 | 6,550 | 8,689 | 7,622 | 7,527 | 4,603 | 3,398 | 1,575 |
| FYTD TOTAL | 7,275 | 15,680 | 23,207 | 30,074 | 35,971 | 42,521 | 51,210 | 58,832 | 66,359 | 70,962 | 74,360 | 75,935 |

| | Jul-12 | Aug-12 | Sep-12 | Oct-12 | Nov-12 | Dec-12 | Jan-13 | Feb-13 | Mar-13 | Apr-13 | May-13 | Jun-13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to OSHPD | 6,876 | 8,876 | 8,027 | 7,925 | 7,017 | 6,176 | 7,788 | 7,626 | 8,366 | 5,597 | 3,000 | 1,075 |
| FYTD TOTAL | 6,876 | 15,752 | 23,779 | 31,704 | 38,721 | 44,896 | 52,684 | 60,310 | 68,675 | 74,272 | 77,272 | 78,347 |

| | Jul-13 | Aug-13 | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to OSHPD | 7,575 | 8,541 | 8,575 | 4,377 | 14,890 | 16,537 | 18,111 | 13,880 | 16,355 | 10,747 | 8,505 | 8,834 |
| FYTD TOTAL | 7,575 | 16,116 | 24,691 | 29,068 | 43,958 | 60,495 | 78,606 | 92,486 | 108,841 | 119,588 | 128,093 | 136,927 |

| | Jul-14 | Aug-14 | Sep-14 | Oct-14 | Nov-14 | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to OSHPD | 14,780 | 14,473 | 15,555 | 15,900 | 13,207 | 14,394 | 16,036 | 15,124 | 20,145 | 12,832 | 13,153 | 0 |
| FYTD TOTAL | 14,780 | 29,253 | 44,808 | 60,708 | 73,915 | 88,309 | 104,345 | 119,469 | 139,614 | 152,446 | 165,599 | 165,599 |

revised 7/13/15

MEDICAL BOARD OF CALIFORNIA
Steven M. Thompson Loan repayment Program-Mandatory $25 Fee
MONTHLY PROFILE: JULY 2010 - JUNE 2015

| | Jul-10 | Aug-10 | Sep-10 | Oct-10 | Nov-10 | Dec-10 | Jan-11 | Feb-11 | Mar-11 | Apr-11 | May-11 | Jun-11 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to HPEF | 151,050 | 137,645 | 137,612 | 122,522 | 146,450 | 146,750 | 140,939 | 128,875 | 142,507 | 86,377 | 57,740 | 28,456 |
| FYTD TOTAL | 151,050 | 288,695 | 426,307 | 548,829 | 695,279 | 842,029 | 982,968 | 1,111,843 | 1,254,350 | 1,340,727 | 1,398,467 | 1,426,923 |

| | Jul-11 | Aug-11 | Sep-11 | Oct-11 | Nov-11 | Dec-11 | Jan-12 | Feb-12 | Mar-12 | Apr-12 | May-12 | Jun-12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to HPEF | 121,725 | 154,255 | 153,175 | 127,595 | 124,125 | 136,400 | 177,500 | 146,828 | 149,700 | 91,300 | 64,175 | 320,167 |
| FYTD TOTAL | 121,725 | 275,980 | 429,155 | 556,750 | 680,875 | 817,275 | 994,775 | 1,141,603 | 1,291,303 | 1,382,603 | 1,446,778 | 1,766,945 |

| | Jul-12 | Aug-12 | Sep-12 | Oct-12 | Nov-12 | Dec-12 | Jan-13 | Feb-13 | Mar-13 | Apr-13 | May-13 | Jun-13 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to HPEF | 131,775 | 155,948 | 140,826 | 156,275 | 132,548 | 131,200 | 143,941 | 141,224 | 138,595 | 103,703 | 54,075 | 27,392 |
| FYTD TOTAL | 131,775 | 287,723 | 428,549 | 584,823 | 717,371 | 848,571 | 992,511 | 1,133,735 | 1,272,330 | 1,376,033 | 1,430,108 | 1,457,499 |

| | Jul-13 | Aug-13 | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to HPEF | 143,563 | 175,398 | 154,168 | 87,780 | 134,782 | 150,000 | 183,612 | 135,632 | 152,693 | 104,324 | 75,224 | 100,833 |
| FYTD TOTAL | 143,563 | 318,961 | 473,129 | 560,909 | 695,691 | 845,691 | 1,029,303 | 1,164,935 | 1,317,628 | 1,421,952 | 1,497,176 | 1,598,009 |

| | Jul-14 | Aug-14 | Sep-14 | Oct-14 | Nov-14 | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Fund Transferred to HPEF | 142,130 | 137,184 | 152,900 | 156,863 | 136,882 | 145,117 | 157,636 | 141,128 | 185,309 | 121,008 | 144,433 | 0 |
| FYTD TOTAL | 142,130 | 279,314 | 432,214 | 589,077 | 725,959 | 871,076 | 1,028,712 | 1,169,840 | 1,355,149 | 1,476,157 | 1,620,590 | 1,620,590 |

revised 7/13/15

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 15, 2015
ATTENTION: Members, Executive Committee
SUBJECT: Consumer Satisfaction Survey Results
STAFF CONTACT: Letitia Robinson, Research Specialist

REQUESTED ACTION:
Review the Board's consumer satisfaction survey results to determine how the Medical Board of California (Board) is meeting the needs of consumers. This report is intended to provide the Members with an update and no action is needed at this time.

BACKGROUND:
As part of the Board's Strategic Plan, consumer surveys are being conducted. These surveys are a valuable tool for evaluating and enhancing the Board's organizational effectiveness and systems to improve services. There are three types of surveys currently being conducted by the Board:

- Applicant Survey
- Newsletter Survey
- Website Users Survey

The Board is using SurveyMonkey, a web-based system, to conduct these surveys. The applicant survey was started in August 2012. Information on the initial results were included in the 2012 Sunset Report and the 2013 Supplemental Sunset Report. The Newsletter survey was launched in the Fall 2012 Newsletter. In March 2013, the Board began the website user survey. Fiscal Years (FY) 12-13, 13-14, and 14-15 survey results are being provided.

DISCUSSION:
**Applicant Survey**
Initially, the applicant survey link was included in a letter sent to newly licensed physicians. Board staff sent these letters by email and regular mail. Unfortunately when the State eliminated the Board's student assistant positions, the Board was unable to continue sending these letters. Due to these staffing constraints, there were no surveys results from the third quarter of FY 2013-2014 to the second quarter of FY 2014-2015.

Shortly after initiating the survey in 2012, the Board decreased the number of questions from 17 to 5. This was done in an effort to increase the response rate and only include the most effective questions to measure applicants' satisfaction with the licensure process.

Beginning February 2015, the Board began sending email blasts to newly licensed physicians. Through the BreEZe system, email addresses are extracted twice monthly and an email with the survey link is sent.

The outcome of the "Applicant Satisfaction Survey - Quarterly Results" (**Attachment 1**) indicated as follows:

- In 2013, the Board revised the Physician's and Surgeon's Application. In addition, the online tutorials and clearer instructions were added to the website. These changes have contributed to the positive survey results. Of the applicants surveyed, 86% to 96% indicated the application instructions clearly state how to complete the application. And 80% to 94% stated the Board's website information was helpful.

- Many applicants using the BreEZe system were satisfied with the information it provided. On average, 68% reported they were either very satisfied or somewhat satisfied.

- On average, 70% of applicants reported there were satisfied with the service staff provided and with the application process.

**Newsletter Survey**
The Newsletter survey link is included in each edition of the Board's Newsletter. The Newsletter is produced four times per year and is sent electronically via email blast to all licensees and other interested parties. In addition, the Winter Newsletter is sent out annually via regular mail to all licensees who do not have an email account. This also includes the Newsletter survey link information. This will allow the readers to complete the survey.

This survey has produced a very low response rate. This can be attributed to the fact that the Newsletters are only being distributed four times per year. Over the three fiscal years, the Board only received 142 responses. In early additions of the Newsletter, the survey link was near the end of the Newsletter. In an effort to increase the response rate, the survey link is currently being advertised on Page 3 with the President's Message.

The survey consists of 16 questions. Most questions were intended for the readers to rate the usefulness of each section of the Newsletter. Out of the 16 questions, 4 rate the overall usefulness or satisfaction of the Newsletter.

The outcome of the "Newsletter Satisfaction Survey - Quarterly Results" (**Attachment 2**) indicated as follows:

- The majority of the readers reported being satisfied with the content of the Newsletter. On average 75% of the readers reported the contents as excellent, very good, or good in FY 14-15.

- The usefulness of the annual report question received very high ratings. Of the 11 quarters reported, 4 quarters received ratings of 100% for very useful, informative, or somewhat informative.

- On average 69% of the readers preferred to receive the Newsletter via email, 28% preferred hard copy via regular mail, and 3% preferred Social Media delivery.

- The majority of the Board's Newsletter audience is Physician/Surgeon. On average the Physician/Surgeon response rate was 80% in FY 12-13, 92% in FY 13-14, and 75% in FY 14-15.

**Website Users Survey**
The website users survey link is on the Board's website. Originally, the survey consisted of 17 questions. There were 277 responses in FY 13-14 and 113 responses in FY 14-15. The decline in the responses may be contributed to the changes in the Board's website layout in January 2014. In an effort to increase the declining response rate, the survey was decreased to 5 questions beginning in FY 14-15.

Of these 5 questions, 1 is intended to obtain readers feedback on topics or suggestions for improvement and is not included in the survey results. The remaining 4 questions are intended to obtain readers overall satisfaction while navigating the Board's website, as well as, identifying the type of individuals who visit the Board's website.

The outcome of the "Website Satisfaction Survey - Quarterly Results" (**Attachment 3**) indicated as follows:

- In FY 13-14, website users consisted of about 57% current licensees, 15% consumer/patients, and 17% categorized as other. In FY 14-15, website users consisted of about 33% current licensees, 30% consumer/patients, and 20% categorized as other.

- The majority of our website users were seeking information on license renewal, verifying a license, and filing a complaint. Ratings for filing a complaint increased in FY 14-15 by 14% compared to FY 13-14. This may be contributed to the BreEZe system enhancement that allows a consumer/patient to file a complaint electronically.

- Unfortunately, with the implementation of the new BreEZe system in the second quarter of FY 13-14 most website users reported they were unable to find the information they were seeking and reported dissatisfaction with the Board's website. Some commented that the Board's website was confusing and cumbersome, others stated the renewal processing and verifying a license was not user-friendly. Prior to the BreEZe system, on average 85% of the website users reported they were able to find the information they were seeking.

# Attachment 1
# Applicant Satisfaction Survey - Quarterly Results

**1. Did the application instructions clearly state how to complete the application?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 61 | Q2 - 167 | Q3 - 142 | Q4 - 173 | Q1 - 180 | Q2 - 25 | Q3 - 0 | Q4 - 0 | Q1 - 0 | Q2 - 0 | Q3 - 125 | Q4 - 258 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Yes | 88% | 93% | 94% | 94% | 89% | 96% | n/a | n/a | n/a | n/a | 86% | 88% |
| No | 12% | 7% | 6% | 6% | 11% | 4% | n/a | n/a | n/a | n/a | 14% | 12% |

**2. If you visited the Medical Board's website for assistance, was the information helpful?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 61 | Q2 - 167 | Q3 - 142 | Q4 - 173 | Q1 - 180 | Q2 - 25 | Q3 - 0 | Q4 - 0 | Q1 - 0 | Q2 - 0 | Q3 - 125 | Q4 - 258 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Yes | 87% | 90% | 94% | 90% | 87% | 92% | n/a | n/a | n/a | n/a | 80% | 81% |
| No | 13% | 10% | 6% | 10% | 13% | 8% | n/a | n/a | n/a | n/a | 20% | 19% |

**3. If you used the BreEZe online system, how satisfied were you with the information it provided?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 61 | Q2 - 167 | Q3 - 142 | Q4 - 173 | Q1 - 180 | Q2 - 25 | Q3 - 0 | Q4 - 0 | Q1 - 0 | Q2 - 0 | Q3 - 125 | Q4 - 258 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Very satisfied | 33% | 31% | 37% | 41% | 35% | 44% | n/a | n/a | n/a | n/a | 25% | 28% |
| Somewhat satisfied | 34% | 36% | 37% | 35% | 32% | 24% | n/a | n/a | n/a | n/a | 36% | 36% |
| Somewhat dissatisfied | 16% | 8% | 6% | 12% | 9% | 4% | n/a | n/a | n/a | n/a | 10% | 11% |
| Very dissatisfied | 5% | 7% | 6% | 2% | 7% | 8% | n/a | n/a | n/a | n/a | 10% | 7% |
| Not Applicable, I did not use the Web Applicant Access System. | 12% | 18% | 13% | 11% | 17% | 20% | n/a | n/a | n/a | n/a | 19% | 18% |

# Attachment 1
# Applicant Satisfaction Survey - Quarterly Results

**4. How satisfied were you with the courteousness, helpfulness, and responsiveness of the staff person who processed your application?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 61 | Q2 - 167 | Q3 - 142 | Q4 - 173 | Q1 - 180 | Q2 - 25 | Q3 - 0 | Q4 - 0 | Q1 - 0 | Q2 - 0 | Q3 - 125 | Q4 - 258 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Very satisfied | 53% | 60% | 53% | 56% | 50% | 52% | n/a | n/a | n/a | n/a | 44% | 41% |
| Somewhat satisfied | 12% | 16% | 20% | 19% | 22% | 16% | n/a | n/a | n/a | n/a | 22% | 22% |
| Somewhat dissatisfied | 12% | 5% | 5% | 7% | 4% | 0% | n/a | n/a | n/a | n/a | 14% | 14% |
| Very dissatisfied | 10% | 5% | 6% | 6% | 7% | 12% | n/a | n/a | n/a | n/a | 12% | 16% |
| Not applicable; I did not have any communication with the staff person who processed my application. | 14% | 13% | 16% | 12% | 17% | 20% | n/a | n/a | n/a | n/a | 8% | 7% |

**5. How satisfied were you with the application process?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 61 | Q2 - 167 | Q3 - 142 | Q4 - 173 | Q1 - 180 | Q2 - 25 | Q3 - 0 | Q4 - 0 | Q1 - 0 | Q2 - 0 | Q3 - 125 | Q4 - 258 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Very satisfied | 44% | 49% | 50% | 42% | 44% | 44% | n/a | n/a | n/a | n/a | 30% | 31% |
| Somewhat satisfied | 23% | 26% | 24% | 31% | 26% | 44% | n/a | n/a | n/a | n/a | 33% | 29% |
| Somewhat dissatisfied | 15% | 11% | 13% | 17% | 19% | 4% | n/a | n/a | n/a | n/a | 19% | 21% |
| Very dissatisfied | 18% | 14% | 14% | 9% | 11% | 8% | n/a | n/a | n/a | n/a | 18% | 19% |

## Attachment 2
# Newsletter Satisfaction Survey - Quarterly Results

**1. My overall satisfaction about the content of the Medical Board's Newsletter is:**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 9 | Q3 - 14 | Q4 - 14 | Q1 - 38 | Q2 - 9 | Q3 - 4 | Q4 - 8 | Q1 - 25 | Q2 - 8 | Q3 - 7 | Q4 - 6 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Excellent | n/a | 33% | 0% | 43% | 21% | 11% | 0% | 25% | 16% | 25% | 14% | 33% |
| Very Good | n/a | 45% | 29% | 21% | 18% | 33% | 50% | 38% | 24% | 38% | 29% | 17% |
| Good | n/a | 11% | 29% | 36% | 34% | 22% | 25% | 13% | 28% | 13% | 29% | 33% |
| Average | n/a | 0% | 36% | 0% | 16% | 34% | 0% | 13% | 20% | 13% | 14% | 0% |
| Disappointed | n/a | 11% | 6% | 0% | 11% | 0% | 25% | 11% | 12% | 11% | 14% | 17% |

**2. Please rate the usefulness of the Annual Report (fall issue):**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 9 | Q3 - 14 | Q4 -14 | Q1 - 38 | Q2 - 9 | Q3 - 4 | Q4 - 8 | Q1 - 24 | Q2 - 7 | Q3 - 7 | Q4 - 6 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Very Useful | n/a | 22% | 29% | 36% | 27% | 22% | 0% | 13% | 13% | 14% | 14% | 17% |
| Informative | n/a | 67% | 43% | 21% | 34% | 22% | 75% | 38% | 42% | 43% | 57% | 50% |
| Somewhat Informative | n/a | 11% | 21% | 43% | 34% | 56% | 0% | 38% | 33% | 43% | 15% | 16% |
| Not Useful At All | n/a | 0% | 7% | 0% | 5% | 0% | 25% | 11% | 12% | 0% | 14% | 17% |

## Attachment 2
# Newsletter Satisfaction Survey - Quarterly Results

**3. I prefer to receive the Newsletter:**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 9 | Q3 - 14 | Q4 - 14 | Q1 - 36 | Q2 - 9 | Q3 - 4 | Q4 - 8 | Q1 - 23 | Q2 - 7 | Q3 - 7 | Q4 - 6 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Via Email | n/a | 78% | 79% | 64% | 61% | 67% | 100% | 75% | 66% | 71% | 29% | 66% |
| Hard copy via Regular Mail | n/a | 22% | 21% | 36% | 28% | 33% | 0% | 25% | 30% | 29% | 71% | 17% |
| Social Media (when it becomes available) | n/a | 0% | 0% | 0% | 11% | 0% | 0% | 0% | 4% | 0% | 0% | 17% |

**4. My main interest in the Newsletter is as a:**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 9 | Q3 - 14 | Q4 - 14 | Q1 - 36 | Q2 - 9 | Q3 - 4 | Q4 - 8 | Q1 - 23 | Q2 - 7 | Q3 - 7 | Q4 - 6 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Physician / Surgeon | n/a | 67% | 86% | 86% | 78% | 100% | 100% | 88% | 91% | 71% | 86% | 50% |
| Associated Medical Professional | n/a | 0% | 0% | 0% | 11% | 0% | 0% | 0% | 0% | 0% | 14% | 17% |
| Interested Reader | n/a | 11% | 7% | 14% | 8% | 0% | 0% | 0% | 9% | 14% | 0% | 0% |
| Member of the Media | n/a | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Government Member | n/a | 11% | 0% | 0% | 3% | 0% | 0% | 0% | 0% | 0% | 0% | 17% |
| Other | n/a | 11% | 7% | 0% | 0% | 0% | 0% | 12% | 0% | 15% | 0% | 16% |

## Attachment 3
# Website Satisfaction Survey - Quarterly Results

**1. Which of the following best decribes you?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 0 | Q3 - 0 | Q4 - 71 | Q1 - 110 | Q2 - 76 | Q3 - 48 | Q4 - 43 | Q1 - 35 | Q2 - 27 | Q3 - 24 | Q4 - 27 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Consumer/Patient | n/a | n/a | n/a | 1% | 2% | 16% | 17% | 23% | 29% | 15% | 42% | 33% |
| Applicant (applying for licensure) | n/a | n/a | n/a | 3% | 6% | 8% | 10% | 2% | 6% | 11% | 8% | 11% |
| Current Licensee | n/a | n/a | n/a | 82% | 89% | 40% | 52% | 47% | 29% | 33% | 38% | 33% |
| Educator | n/a | n/a | n/a | 1% | 0% | 1% | 2% | 2% | 9% | 4% | 0% | 0% |
| Employer/Recruiter | n/a | n/a | n/a | 3% | 0% | 5% | 10% | 0% | 2% | 7% | 0% | 8% |
| Media | n/a | n/a | n/a | 0% | 0% | 0% | 2% | 0% | 2% | 0% | 0% | 0% |
| Other (please specify) | n/a | n/a | n/a | 10% | 4% | 30% | 6% | 26% | 23% | 30% | 12% | 15% |

**2. During your most recent visit to the Board's website, which of the following best describes the information you were seeking? [1/]**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 0 | Q3 - 0 | Q4 - 71 | Q1 - 110 | Q2 - 76 | Q3 - 48 | Q4 - 43 | Q1 - 35 | Q2 - 27 | Q3 - 24 | Q4 - 27 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| License Renewal | n/a | n/a | n/a | 82% | 83% | 26% | 38% | 28% | 40% | 30% | 17% | 22% |
| Application for Licensure | n/a | n/a | n/a | 7% | 4% | 13% | 15% | 5% | 0% | 7% | 4% | 7% |
| Verifying a License | n/a | n/a | n/a | 4% | 6% | 41% | 29% | 23% | 23% | 15% | 29% | 18% |
| Filing a Complaint | n/a | n/a | n/a | 1% | 4% | 5% | 6% | 14% | 20% | 15% | 29% | 18% |
| Public Documents | n/a | n/a | n/a | 6% | 2% | 15% | 8% | 7% | 14% | 4% | 8% | 0% |
| Name/Address Change | n/a | n/a | n/a | 3% | 4% | 3% | 6% | 9% | 9% | 4% | 8% | 4% |
| Board Publications/Media | n/a | n/a | n/a | 4% | 3% | 7% | 2% | 2% | 3% | 7% | 0% | 0% |
| Continuing Education | n/a | n/a | n/a | 4% | 1% | 1% | 2% | 0% | 3% | 4% | 4% | 0% |
| Legislation/Regulation | n/a | n/a | n/a | 1% | 2% | 3% | 0% | 5% | 3% | 0% | 0% | 0% |
| Other (please specify) | n/a | n/a | n/a | 11% | 11% | 25% | 19% | 23% | 37% | 41% | 42% | 52% |

[1/] Results exceeding 100% is attributed to raters having the option to choose multiple answers.

## Attachment 3
# Website Satisfaction Survey - Quarterly Results

**3. Were you successful in finding the information you were seeking?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 0 | Q3 - 0 | Q4 - 71 | Q1 - 110 | Q2 - 76 | Q3 - 48 | Q4 - 43 | Q1 - 35 | Q2 - 27 | Q3 - 24 | Q4 - 27 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Yes | n/a | n/a | n/a | 86% | 84% | 50% | 31% | 21% | 14% | 22% | 21% | 11% |
| No | n/a | n/a | n/a | 14% | 16% | 50% | 69% | 79% | 86% | 78% | 79% | 89% |

**4. Overall, how satisfied are you with the Board's website?**

| Answer Options | FY 2012 - 2013 | | | | FY 2013 - 2014 | | | | FY 2014 - 2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 - 0 | Q2 - 0 | Q3 - 0 | Q4 - 71 | Q1 - 110 | Q2 - 76 | Q3 - 48 | Q4 - 43 | Q1 - 35 | Q2 - 27 | Q3 - 24 | Q4 - 27 |
| | % | % | % | % | % | % | % | % | % | % | % | % |
| Extremely satisfied | n/a | n/a | n/a | 24% | 26% | 9% | 2% | 9% | 9% | 11% | 0% | 11% |
| Somewhat satisfied | n/a | n/a | n/a | 45% | 40% | 30% | 13% | 14% | 11% | 15% | 12% | 4% |
| Neither satisfied nor dissatisfied | n/a | n/a | n/a | 9% | 16% | 5% | 10% | 2% | 17% | 18% | 17% | 7% |
| Somewhat dissatisfied | n/a | n/a | n/a | 14% | 11% | 16% | 17% | 19% | 20% | 15% | 4% | 26% |
| Extremely dissatisfied | n/a | n/a | n/a | 9% | 8% | 40% | 58% | 56% | 43% | 41% | 67% | 52% |

Medical Board of California

# STRATEGIC PLAN 2014

July 2015 Update

**Goal 1: Professional Qualifications: Promote the professional qualifications of medical practitioners by setting requirements for licensure and relicensure, including education, experience, and demonstrated competence.**

| 1.1 | Define what is necessary to demonstrate competency and promote safe re-entry into medical practice after extended absences, including looking at the current difference between the requirement for retraining for re-entry (5 years) and the disciplinary re-entry (18 months). | HIGH - 1 | |
|---|---|---|---|
| **Activities** | **Date** | **Responsible Parties** | **Status** |
| a. Examine and identify other states' definitions and requirements for re-entry into practice. | Jan-2015 | Licensing Outreach Manager | |
| b. Compare the elements with California's existing practices for re-entry and determine if there are differences. | Jan-2015 | Licensing Outreach Manager | |
| c. Consult with experts in the field of professional skills and competency. | May-2015 | Licensing Outreach Manager | |
| d. Draft a report based upon this research, then propose appropriate length of non-practice to Board for review and approval. | Oct-2015 | Chief of Licensing; Licensing Outreach Manager | June 30, 2015 - Held Interested Parties Meeting on the issue of reentry to begin discussions. Need to schedule a second Interested Parties meeting in Southern California. |
| e. Make recommendations to the Business and Professions Committees and seek legislation. | Nov-2015 | Chief of Legislation | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 1: Professional Qualifications: Promote the professional qualifications of medical practitioners by setting requirements for licensure and relicensure, including education, experience, and demonstrated competence.**

| | | | |
|---|---|---|---|
| **1.2** | **Examine the Federation of State Medical Boards' (FSMB) Maintenance of Licensure (MOL) and the American Board of Medical Specialties' (ABMS) Maintenance of Certification (MOC) initiatives to determine if changes are needed to existing requirements in California (continuing medical education) in order to ensure maintenance of competency of California physicians.** | **HIGH - 2** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Review the FSMB MOL and the ABMS MOC documents and identify the various components. | Jan-2015 | Licensing Outreach Manager | July 24, 2014 – ABMS provided a presentation to the Licensing Committee on MOC. |
| b. | Compare the elements with California's laws and regulations regarding continuing medical education and determine if there are differences. | Apr-2015 | Licensing Outreach Manager | |
| c. | Staff will draft changes to laws and regulations as necessary. | May-2015 | Licensing Outreach Manager | |
| d. | Hold an interested parties meeting to discuss the proposed changes. | Jun-2015 | Chief of Licensing | |
| e. | Present the final changes to the laws and regulations to the Board for consideration. | Jul-2015 | Chief of Legislation | |
| f. | Based on the discussion by the Board, if legislative changes are needed, find an author and initiate the legislative process. | Oct-2015 | Chief of Legislation | |
| g. | Based on the discussion by the Board, if regulatory changes are needed, have staff initiate the rule-making process. | Oct-2015 | Licensing Outreach Manager | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards.**

| 2.1 | Effectively transition the investigators from the Board to Department of Consumer Affairs in order to improve investigative time frames. | | High - 1 | |
|---|---|---|---|---|
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Identify existing investigative timeframes. | Dec-2013 | Executive Director and Chief of Enforcement | Completed – however, due to BreEZe only have statistics as of October 3, 2013. |
| b. | Hold regular meetings with DCA to discuss the transition of the investigators. | Oct-2013 and ongoing | Executive Director and Chief of Enforcement | Completed |
| c. | Review and approve the Memorandum of Understanding to identify how the transition will be implemented and DCA/Board responsibilities. | Mar-2014 | Executive Director, Chief of Enforcement and Senior Staff Counsel | Completed |
| d. | Update the Board on the transition of staff. | Quarterly | Executive Director and Chief of Enforcement | Ongoing; Updates at each Board meeting. |
| e. | Meet with labor relations to discuss transition issues. | Apr-2014 | Executive Director and Chief of Enforcement | Completed |
| f. | Meet with staff to discuss the transition. | Ongoing | Executive Director and Chief of Enforcement | Completed |
| g. | Finalize the transition and movement of staff. | Jul-2014 | Executive Director and Chief of Enforcement | Completed |
| h. | Gather and review investigative timeframes. | Monthly | Executive Director and Enforcement Manager | Due to the transition to the BreEZe system, unable to obtain reports indicating these timeframes. |
| i. | Report investigative timeframes to the Board. | Quarterly | Executive Director and Enforcement Manager | Due to the transition to the BreEZe system, unable to obtain reports indicating these timeframes. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards.**

| 2.2 | Review the laws and regulations pertaining to the Board's responsibility to regulate outpatient surgery centers and suggest amendments. | | High - 2 | |
|---|---|---|---|---|
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Review existing laws to determine which laws/regulations need to be revised to meet the current needs for consumer protection and medical education. | Oct-2013 | Chief of Licensing | Completed |
| b. | Provide a summary of the proposed changes to the interested parties. | Jan-2014 | Chief of Licensing | Completed |
| c. | Determine which changes can be done with regulations versus legislation. | Jan-2014 | Senior Staff Counsel | Completed |
| d. | Hold an interested parties meeting to discuss the proposed changes. | Jan-2014 | Chief of Licensing | Completed |
| e. | Present the proposed changes to the Board to initiate the legislative process, if needed. | Oct-2014 | Chief of Legislation | These changes are in SB 396 (Hill) and this bill is currently moving through the Legislature. |
| f. | Initiate the rule-making process. | Oct-2014 | Chief of Licensing and Senior Staff Counsel | May 2015 Board meeting – approved moving forward with regulatory changes. July 31, 2015 – a regulatory hearing is scheduled to approve the regulatory changes. |
| g. | Work with the stakeholders to facilitate implementation of regulatory and statutory changes. | Jan-2015 and Jan-2016 | Chief of Licensing and Senior Staff Counsel | Awaiting finalization of regulatory and legislative changes. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards. | | | |
|---|---|---|---|
| **2.3** | **Identify methods to help ensure the Board is receiving all the mandated reports.** | **High - 3** | |
| **Activities** | **Date** | **Responsible Parties** | **Status** |
| a. Send individual notifications to all mandated reporters regarding the reporting requirements. | Annually | Enforcement Manager | Pending the hiring of the Chief of Enforcement and will be done in October 2015. |
| b. Obtain a list of reports from the National Practitioner Databank to cross check with the Board's information. | May annually | Research Program Specialist | Board staff has received the 2015 data put has not completed the verification process. |
| c. Identify opportunities for placement of articles on mandatory reporting in professional newsletters/publications and provide content to be used. | July-2014 and ongoing | Public Information Officer | The Fall Newsletter had an article addressing “Mandatory Reporting Requirements for Physicians and Others” that included requirements for physicians not only reporting to the Board, but to other entities. Board staff is still looking to work with the California State Coroners Association on getting the word out to the various county Coroners regarding Business and Professions Code section 802.5 |
| d. Conduct outreach on reporting requirements to all mandated reporters, as resources allow. | July-2014 and ongoing | Public Information Officer | In November 2014 Staff provided a Presentation to Los Angeles County Department of Health Services Quality Improvement and Patient Safety Program on mandatory requirements. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards.**

| 2.4 | Determine whether the Registered Dispensing Optician (RDO) Program should remain within the authority of the Board. | | High - 4 |
|---|---|---|---|
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Initiate discussions with the DCA, Board of Optometry, stakeholders, professional groups, and consumer representatives to discuss the potential transfer of the RDO program. | Aug-2014 | Chief of Legislation; Executive Director | Completed Fall/Winter 2014. |
| b. | Write a summary report of the discussions for the Board's review and approval. | Oct-2014 | Chief of Legislation; Executive Director | Completed at January 2015 Board Meeting. |
| c. | Make recommendations to the Business and Professions Committees and seek legislation if necessary. | Nov-2014 | Chief of Legislation; Executive Director | Completed. Decided no action needed at this time. |

| 2.5 | Examine the Expert Reviewer Program and policies to determine how it may be improved, including recruitment, evaluation of experts, opportunities for education, and policies governing the Board's use of experts. | | High - 5 |
|---|---|---|---|
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Continue to evaluate, revise, and update the training program and materials for experts. | Ongoing | Enforcement Manager | Pending the hiring of the Chief of Enforcement. |
| b. | Require the Deputies Attorney General who use the experts to provide evaluations on each expert report and each expert that testifies. | Within 30 days of completion of each expert task | Enforcement Manager | This is being completed as cases proceed through the enforcement process. |
| c. | Examine the evaluations to determine if there is a need for remediation or elimination of the experts. | Within 30 days of the evaluation | Enforcement Manager | The Expert Reviewer Program Analyst watches the evaluations to determine appropriate action, and when necessary forwards the information to appropriate parties. Full assessment is pending the hiring of the Chief of Enforcement. |
| d. | Continue to provide statewide trainings for the expert reviewers. | Provide two trainings | Enforcement Manager | Pending the hiring of the Chief of Enforcement. |
| e. | Provide a status report to the Board on the Expert Reviewer Program. | Quarterly | Enforcement Manager | Completed – July 2015 |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 2: Regulations and enforcement: Protect the public by effectively enforcing laws and standards. | | | | |
|---|---|---|---|---|
| **2.6** | **Partner with the Office of Administrative Hearings (OAH) and Health Quality Enforcement Section (HQES) of the Attorney General's (AG) office to identify opportunities, and design curriculum, for the ongoing education of judges.** | | **Med - 6** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Examine recent disciplinary decisions to identify any training needed for the Administrative Law Judges. | Monthly | Enforcement Manager | Currently the Executive Director is performing this function but will be transitioned to the Chief of Enforcement. |
| b. | Identify subject matter experts and arrange OAH training at least every other month. | Six times annually | Enforcement Manager | Pending hiring of the Chief of Enforcement. Training has been identified and the Chief of Enforcement will identify speakers and assist OAH. |
| c. | Provide OAH with updates on the Board issues and changes to disciplinary guidelines. | Annually | Executive Director and Enforcement Manager | Meeting will be scheduled with OAH in August 2015. |
| **2.7** | **Study disciplinary and administrative cases, including looking at physicians in training, to identify trends or issues that may signal dangerous practices or risks.** | | **Med - 7** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Identify the metrics to be used to examine disciplinary cases within last five years. | Aug-2014 | Research Program Specialist | Pending initiation due to other important projects and lack of staff. |
| b. | Identify the red flags that could be used to predict patterns before serious harm occurs. | Nov-2014 | Research Program Specialist | |
| c. | Draft a report based upon the findings to present to the Board for possible action. | Jan-2015 | Research Program Specialist | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services. | | | | |
|---|---|---|---|---|
| **3.1** | **Review the Board's public disclosure laws regarding posting postgraduate information and move forward with rescinding the 10-year time limit for posting disciplinary information/documents.** | | **High - 1** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Seek legislation to rescind the 10-year time limit for posting disciplinary information/documents. | Feb-2014 | Chief of Legislation | AB 1886 – passed and became effective January 1, 2015. |
| b. | Discuss the proposal to remove the posting of postgraduate training information with interested parties, specifically consumer interest groups. | Aug-2014 | Chief of Legislation and Chief of Licensing | Due to the ability in BreEZe to gather this information, at the July 2014 Board Meeting staff presented, and the Board approved, the recommendation to not seek legislation to remove the posting of postgraduate information. |
| c. | Provide the recommendation on postgraduate training information to the Board for approval. | Oct-2014 | Chief of Legislation and Chief of Licensing | Due to the ability in BreEZe to gather this information, at the July 2014 Board Meeting staff presented, and the Board approved, the recommendation to not seek legislation to remove the posting of postgraduate information. |
| d. | Make recommendations to the Business and Professions Committees and seek legislation. | Nov-2014 | Chief of Legislation | Board will not seek legislation. |

| Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services. | | | | |
|---|---|---|---|---|
| **3.2** | **Expand all outreach efforts to educate physicians, medical students, and the public, regarding the Board's laws, regulations, and responsibilities.** | | **High - 2** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Engage in two or more consumer outreach events with area organizations, as travel permits. | Quarterly | Public Information Officer | Board staff held or attended 16 events from January 1, 2015 to June 30, 2015, including town halls, presentations at Rainbow Chamber of Commerce, senior centers, high schools, health care classes at CSU, etc. |
| b. | Continue to provide articles and information in the Newsletter regarding potential violations to assist physicians in understanding the laws and regulations. | Quarterly | Public Information Officer | Four articles were included in the Spring 2015 Newsletter. The Board anticipates it will have at least six articles in the Summer 2015 Newsletter. The PIO is assisting the Department of Consumer Affairs with an Article on Midwifery for their Consumer Connection Magazine. |
| c. | Launch a Twitter account to provide stakeholders with updates on best practices, changes in laws and regulations, and recent Board activities. | Aug-2014 | Public Information Officer | Launched in January 2015; Sent out 37 Tweets during the period of January to June 2015. Twitter impressions have grown to 4,771 with 203 followers. The Natalie Coughlin PSA, which won the State's Gold Award, has been re-tweeted many times and has garnered the most response. |
| d. | Provide two or more articles to appropriate media outlets regarding laws and regulations and what they mean to stakeholders. | Quarterly | Public Information Officer | The Board's Prescribing Guidelines were shared with several agencies and media outlets who have provided links to the Guidelines in their stories. Staff worked with the County of Los Angeles Department of Consumer Affairs assisting them with information they published about the Board. On June 3, 2015, Staff worked with Telemundo on a story for their audience "It's Safe for Undocumented Immigrants in the Hispanic Community to File a Complaint When Concerned About Their Medical Care." |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services.**

| 3.3 | Examine opportunities for the Board to provide training to licensees via the internet, including hosting webinars on subjects of importance to public protection and public health. | | High - 3 | |
|---|---|---|---|---|
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Work with DCA to establish webinar protocol and the tools needed to hold successful webinars. | Jun-2014 | Public Information Officer | The Board recently obtained editing software and plan to start a tutorial on "How to File a Complaint". In addition, a tutorial on "How to Look Up Your Physician" is also being planned. |
| b. | Work with healthcare agencies and organizations regarding topics of interest for training purposes. | Sep-2014 | Public Information Officer | The Board continues to partner with the California Department of Public Health regarding the Statewide work group that seeks to curb prescription drug misuse and abuse. Additional plans for this campaign are in discussion.<br>The Board has partnered with the California State Bar and the legislature to educate consumers and stakeholders on the joint mission of consumer protection.<br>Board staff are working with the California Medical Association on the corporate practice of medicine and utilization review.<br>In March 2015 Board staff gave a presentation and update on the Outpatient Surgery Settings Program to the California Ambulatory Surgery Association.<br>On May 15, 2015 Board staff was a panelist during a session entitled "Bring State-level Organizations Together for Surgical and Procedural Patient Safety in California" as part of a conference entitled "Eliminating Serious Patient Safety Events in Surgical and Procedural Areas: A Statewide Conference and Call to Action for California Hospitals." |
| c. | Develop interactive webinar content for licensees to promote public protection. | Jan-2015 | Public Information Officer | |
| d. | Conduct webinars to promote public protection. | Apr-2015 and bi-annually | Public Information Officer | Please see above tutorial project on "How to File a Complaint" and "How to Look Up Your Physician." |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services. | | | | |
|---|---|---|---|---|
| **3.4** | **Establish a proactive approach in communicating via the media, and other various publications, to inform and educate the public, including California's ethnic communities, regarding the Board's role in protecting consumers through its programs and disciplinary actions.** | | **High - 4** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Expand and continue to cultivate relationships with various ethnic communities through their individual media outlets by providing information and education on the Board's role and responsibilities. | Quarterly | Public Information Officer | On April 8, 2015, Board staff attended and participated in a State Information Officers Counsel presentation titles "Communicating Your Message to Culturally Diverse Media Groups."<br>On June 8, 2015, Board staff attended a meeting with Editor and Senior Vice-President of the Sacramento Bee. Discussions ranged from the diversity of the community to the new approach for media. |
| b. | Engage in television and radio interviews promoting transparency and providing needed information as requested. | Ongoing | Public Information Officer | Staff continues to work with the San Jose Mercury News regarding the issue involving psychotropic drugs and foster kids.<br>The PIO has given several interviews and quotes to a variety of media outlets on a variety of topics. |
| c. | Create PSAs and videos that can be placed online for viewing that address topics of interest as well as educate stakeholders. | Aug-2014 and ongoing | Public Information Officer | On May 20, 2015, the Board's video/PSA featuring Natalie Coughlin won the State Information Officer Counsel (SIOC) Gold Award for excellence. This resulted in over a thousand viewings on YouTube.<br>On May 20, 2015, the Board's video for physicians featuring Dr. Bishop won the SIOC Silver Award for excellence. This resulted in over 600 viewings on YouTube. |
| d. | Promote the Board's website and provide consumer friendly information on how to file a complaint. | Ongoing | Public Information Officer | Currently, Board staff is working on a video explaining how to file a complaint. Next, Board staff will look to develop a video explaining how to verify a license. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 3: Consumer and Licensee Education: Increase Public and Licensee awareness of the Board, its mission, activities and services. | | | | |
|---|---|---|---|---|
| **3.5** | **Establish a method for hosting public seminars taught by legal or enforcement personnel on disciplinary cases, laws violated, and other issues of importance to the profession and the public.** | | **Med - 5** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Develop a list of groups who have shown interest for Board speakers in the past, in order to identify similar groups that the Board can reach out to for potential seminars. | Sep-2014 | Public Information Officer | Board staff has a list, and will continue to expand it in the future. |
| b. | Cultivate relationships with groups not previously engaged, in order to provide seminars. | Sep-2014 | Public Information Officer | The Newsletter has a regular boxed article offering Board speakers to provide presentations at meetings and events regarding the Board's mission and functions/duties<br>The PIO makes contacts at various outreach events that result in being invited to more outreach events. |
| c. | Revise and update presentations already developed for the purpose of providing seminars. | Jan-2015 | Public Information Officer, Senior Staff Counsel, and Enforcement Manager | Corporate Practice of Medicine Presentation was provided on January 29, 2015 and is on the Board's website.<br>A presentation for Board Members was updated and completed in June 2015 and is available when necessary for presentations. |
| d. | Conduct and record the seminar and post it on the Board's website. | Mar-2015 and ongoing | Public Information Officer, Senior Staff Counsel, and Enforcement Manager | Corporate Practice of Medicine Presentation was provided on January 29, 2015 and is on the Board's website. |

**Goal 4: Organizational Relationships: Improve effectiveness by building relationships with related organizations to further the Board's mission and goals.**

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|---|---|---|---|---|
| **4.1** | **Build collaborative relationships with elected officials and their staffs to work toward shared interests in consumer protection and advancing the profession.** | | **High - 1** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Develop a plan to visit Senate and Assembly Business and Professions Committee members and staff with Board members. | Oct-2014 | Chief of Legislation | Completed February 2015. |
| b. | Invite legislative members and staff to Board meetings. | Quarterly | Chief of Legislation | Ongoing. |
| c. | Continue to reach out to new legislative members to inform them of the Board's roles and responsibilities. | Ongoing | Chief of Legislation | Ongoing as new Members join the Senate and Assembly Business and Professions Committee.<br>Board staff and a Board Member met with the Speaker of the Assembly at her district office to discuss Board functions. |
| **4.2** | **Improve educational outreach to hospitals, health systems, and similar organizations about the Board and its programs.** | | **High - 2** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Arrange licensing fairs and orientations at teaching facilities to educate applicants on the Board and its application and licensing processes. | Monthly | Licensing Outreach Manager | Held 17 events from January 1, 2015 to June 30, 2015. |
| b. | Provide presentations on the Board's roles, responsibilities, mandatory reporting requirements, and processes at hospitals, health systems, and similar organizations, as travel permits. | Quarterly | Public Information Officer and Appropriate Subject Matter Expert | In March 2015 staff gave a presentation and update on the Outpatient Surgery Settings Program to the California Ambulatory Surgery Association.<br>Board staff attend two meetings with the UC Regents Graduate Medical Education to update the GME associate deans regarding Board issues including postgraduate training requirements, physician reentry to practice, and informed them of the interested parties meeting on June 30.<br>Staff gave a presentation regarding disruptive and impaired physicians to 50-60 physicians at a medical center.<br>In November 2014, Staff and a Board Member provided a presentation on discipline, drugs, and duties to health care providers at the Multidisciplinary Healthcare Conference. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 4: Organizational Relationships: Improve effectiveness by building relationships with related organizations to further the Board's mission and goals.**

| | | | |
|---|---|---|---|
| **4.3** | **Optimize relationships with the accreditation agencies, associations representing hospitals and medical groups, consumer organizations, professional associations and societies, the Federation of State Medical Boards, federal government agencies, and other state agencies, including the Department of Consumer Affairs and the Business, Consumer Services and Housing Agency.** | **High - 3** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Develop a contact list of representatives for stakeholder organizations. | Mar-2014 and update annually | Public Information Officer | The Public Information Officer is maintaining a contact list for the stakeholder organizations who have contacted the Board and will continue to add to this list. |
| b. | Offer to make presentations to all stakeholder organizations to provide educational information and updates on the Board's current activities, as travel permits. | May-2014 and ongoing | Public Information Officer | In March 2015 Board staff met with staff from the Department of Business Oversight to discuss the Corporate Practice of Medicine.<br>Staff attended the California Worker's Compensation Institutes 51st Annual Meeting to discuss utilization review.<br>Staff provided a presentation at the Riverside District Attorney's Office during a consumer protection roundtable.<br>Staff provided a presentation regarding the investigation process at the Department of Insurance Fraud training.<br>Board staff provided a presentation for the Employers Fraud Task Force on utilization review. |
| c. | Maintain regular communication with stakeholders, including attending stakeholder meetings as appropriate, as travel permits. | Ongoing | Public Information Officer | Board staff continues to regularly meet with the California Medical Association and Consumer's Union on issues of interest as requested.<br>Board staff have attended and provided comments on webinars provided by the Federation of State Medical Boards. |
| d. | Invite stakeholders to participate in the Board's Newsletter with articles and information, approved by the Editorial Committee, pertinent to licensees. | Mar-2014 and ongoing | Public Information Officer | In the Fall 2014 Newsletter there were articles on: POLST (physician orders for life sustaining treatment) from the Coalition for Compassionate Care of California; information for Medi-Cal providers on the Recovery Audit Contractor Program from the Department of Health Care Services; and Medi-Cal participation from the University of California, San Francisco.<br>In the Spring 2015 Newsletter there were articles on: organ donors from the Donate Life Campaign; information on Million Hearts campaign from the Department of Health Care Services; information on Fentanyl from the Drug Enforcement Administration; and information on physician assistant delegation of services agreements from the Physician Assistant Board. |
| e. | Provide activity reports to the Education and Wellness Committee. | At each committee meeting | Public Information Officer | Presented at the January 29, 2015 Education and Wellness Committee. |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

**Goal 5: Organizational Effectiveness: Evaluate and enhance organizational effectiveness and systems to improve service.**

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|---|---|---|---|
| **5.1** | **Review licensing applications within 45 days. Reduce complaint processing, investigations, and discipline timelines by 10% from prior fiscal year; reduce complaint processing median to less than 70 days, with 50-60% less than 50 days.** | **High - 1** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Gather and evaluate statistics regarding the Board's application review timeframes. | Quarterly | Chief of Licensing | Completed at January 2015 Board meeting. Will present at July 2015 Board meeting in the Licensing Chief's Report. |
| b. | Determine if the Board is reviewing applications within 45 days, and if not, identify possible problems and solutions. | Quarterly | Chief of Licensing | Completed at January 2015 Board meeting in the Licensing Chief's Report. |
| c. | Implement the possible solutions for licensing process enhancement. | As Necessary | Chief of Licensing | Ongoing; BreEZe online application deficiency status went online July 1, 2015 |
| d. | Gather and evaluate statistics regarding the Board's enforcement timeframes. | Quarterly | Enforcement Manager | Due to BreEZe, the Board has been unable to obtain enforcement statistics. |
| e. | Determine if the Board is meeting enforcement timeframes goals, and if not, identify possible problems and solutions. | Quarterly | Enforcement Manager | Due to BreEZe, the Board has been unable to obtain enforcement statistics. |
| f. | Implement the possible solutions for enforcement process enhancements. | As Necessary | Enforcement Manager | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 5: Organizational Effectiveness: Evaluate and enhance organizational effectiveness and systems to improve service. | | | | |
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| **5.2** | **Obtain and monitor feedback from those who access Board services and provide a report to the Board.** | | **High - 2** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Evaluate consumer satisfaction statistics. | Quarterly | Research Program Specialist | The Board is revising all compliant closure letters to include the updated website link to the DCA's consumer satisfaction survey. |
| b. | Evaluate applicant satisfaction statistics. | Quarterly | Research Program Specialist | Ongoing. |
| c. | Evaluate web user satisfaction statistics. | Quarterly | Research Program Specialist | Ongoing. |
| d. | Evaluate Newsletter reader satisfaction statistics. | Quarterly | Research Program Specialist | Ongoing. |
| e. | Create a summary report of satisfaction statistics and present them to the Board. | Quarterly | Research Program Specialist and Executive Director | Statistics will be presented at the July 2015 Board meeting and ongoing. |
| f. | Implement changes as needed based upon the feedback received. | As Necessary | Research Program Specialist and Executive Director | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

| Goal 5: Organizational Effectiveness: Evaluate and enhance organizational effectiveness and systems to improve service. | | | | |
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| **5.3** | **Establish a consistent approach to educating staff about the Board's activities and priorities set by Board Members, including but not limited to facilitating staff attendance at meetings and Board Member attendance at staff meetings.** | | **Med - 3** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Send an email to all staff after each Board meeting indicating the action taken by the Board and any projects that will need to be completed. | Quarterly | Executive Director | This is being completed after each Board meeting. |
| b. | Send emails to all staff updating them on projects of the Board. | Monthly | Executive Director | This has been done more on a quarterly or as-needed basis, |
| c. | Hold regular staff meetings and provide a Q and A time for staff. | Quarterly | Executive Director | Ongoing. |
| d. | Send an email to staff notifying them of upcoming meetings where they may attend. | Quarterly | Executive Director | Ongoing. |
| e. | Invite Board Members to all staff meetings. | Quarterly | Executive Director | Ongoing. |

| Goal 5: Organizational Effectiveness: Evaluate and enhance organizational effectiveness and systems to improve service. | | | | |
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| **5.4** | **Conduct a review every two years of each of the Committees established by the Board to determine if they are still needed, if they are fulfilling the purpose for which they were established, and determine if they should continue, be reconfigured, or eliminated.** | | **Med - 4** | |
| **Activities** | | **Date** | **Responsible Parties** | **Status** |
| a. | Add an agenda item to the Board's October meeting to review the Committees. | Oct-2014 and Biennially | Executive Director | Completed at the October 2014 meeting. |
| b. | Review the Committee Roster in October and identify Committees that may no longer be needed or may need reconfigured. | Oct-2014 and Biennially | Executive Director | Completed at the October 2014 meeting. |
| c. | Prepare a memo for the Board Meeting Packet identifying the purpose of every committee and making staff recommendations. | Oct-2014 and Biennially | Executive Director | Completed at the October 2014 meeting. |
| d. | Discuss the Committee Roster at the Board meeting. | Oct-2014 and Biennially | Executive Director | Completed at the October 2014 meeting. |
| e. | Update the Committee Roster as approved by the Board. | Oct-2014 and Biennially | Executive Director | Completed at the October 2014 meeting. |

**Goal 6: Access to Care, Workforce, and Public Health: Understanding the implications of Health Care Reform and evaluating how it may impact access to care and issues surrounding healthcare delivery, as well as promoting public health, as appropriate to the Board's mission in exercising its licensing, disciplinary and regulatory functions.**

| 6.1 | Inform the Board and stakeholders on the Affordable Care Act (ACA) and how it will impact the physician practice, workforce, and utilization of allied healthcare professionals, and access to care for patients. | High | |
|---|---|---|---|
| **Activities** | **Date** | **Responsible Parties** | **Status** |
| a. Continue to invite appropriate speakers to inform the Board about the ACA. | Bi-annually | Chief of Legislation and Executive Director | There will be a presentation at the July 2015 Board meeting. |
| b. Identify and obtain ACA articles to print in the Board's Newsletter. | Bi-annually | Public Information Officer | An article will be placed in the Fall Newsletter regarding the information from the presentation at the July 2015 Board meeting. |
| c. Educate physicians on opportunities to assist patients not within the ACA in obtaining access to care. | Bi-annually | Public Information Officer | |

Green activity is complete. Yellow activity is in process or ongoing. Red activity has not been completed in the timeframe requested.

# MEDICAL BOARD OF CALIFORNIA

## LICENSING COMMITTEE
## MEETING AGENDA

***COMMITTEE MEMBERS***
***Michael Bishop, M.D., Chair***
***Dev GnanaDev, M.D.***
***Denise Pines***
***Gerrie Schipske, R.N.P., J.D.***
***Jamie Wright, J.D.***

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Hwy.
Burlingame, CA 94010
650-692-9100 (Directions Only)
Irvine Room

**Thursday, July 30, 2015**
**1:45 pm – 2:30 pm**
(or until the conclusion of business)

Teleconference – See Attached
Meeting Information

**ORDER OF ITEMS IS SUBJECT TO CHANGE**

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

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

***Please see Meeting Information Section for additional information on public participation***

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

1. Call to Order / Roll Call

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

3. Approval of Minutes from July 24, 2014 Meeting

4. Licensing Program Update – Mr. Worden

5. Update on June 30, 2015 Postgraduate Training Requirements and Physician Reentry to Practice Interested Parties Meeting – Mr. Worden

6. Future Agenda Items

7. Adjournment

## Meeting Information

This meeting will be available via teleconference. Individuals listening to the meeting will have an opportunity to provide public comment as outlined below.

**The call-in number for teleconference comments is: (877) 209-9920**

Please wait until the operator has introduced you before you make your comments.

To request to make a comment during the public comment period, press *1; you will hear a tone indicating you are in the queue for comment. If you change your mind and do not want to make a comment, press #. Assistance is available throughout the teleconference meeting. To request a specialist, press *0.

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

***NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Lisa Toof at (916) 263-2389 or lisa.toof@mbc.ca.gov or send a written request to Lisa Toof. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.***

# MEDICAL BOARD OF CALIFORNIA

## LICENSING COMMITTEE MEETING

Courtyard by Marriot – Cal Expo
Golden State Room A & B
1782 Tribute Road
Sacramento, CA 95815

**Thursday July 24, 2014**

## MINUTES

**Agenda Item 1 Call to Order / Roll Call**

Dr. Bishop called the Licensing Committee of the Medical Board of California (Board) to order on Thursday, July 24, 2014 at 1:00 p.m. A quorum was present and due notice was provided to all interested parties.

**Licensing Committee Members Present:**

Michael Bishop, M.D., Chair
Ronald Lewis, M.D.
Denise Pines
Jamie Wright, Esq.

**Licensing Committee Members Absent:**

Gerrie Schipske, R.N.P., J.D.

**Board Members Present:**

Dev Gnanadev, M.D.
Howard Krauss, M.D.
Sharon Levine, M.D.
Barbara Yaroslavsky

**Staff Present:**

Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Cassandra Hockenson, Public Affairs Manager
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Officer
Destiny Pavlacka, Administrative Assistant
Regina Rao, Associate Governmental Program Analyst
Kevin Schunke, Outreach Manager
Jennifer Simoes, Chief of Legislation

DRAFT

Christina Thomas, Associate Governmental Program Analyst
Cheryl Thompson, Associate Governmental Program Analyst
Lisa Toof, Administrative Assistant
See Vang, Business Services Officer
Kerrie Webb, Staff Counsel
Curtis Worden, Chief of Licensing
Christine Zimmer, Executive Staff Manager

**Members of the Audience:**

G.V. Ayers, Consultant, Senate Business, Professions, and Economic Development Committee
Adam Brearley, Investigator, Department of Consumer Affairs
Gloria Castro, Supervising Assistant Attorney General, Attorney General's Office
Yvonne Choong, California Medical Association
Scott Clark, California Medical Association
Carol Clothier, Vice President, State Health Policy, and Public Affairs, American Board of Medical Specialties
Julie D'Angelo Fellmeth, Center for Public Interest Law
Roberto Moya, Investigator, Department of Consumer Affairs
Renee Threadgill, Chief of Enforcement, Department of Consumer Affairs
Cesar Victoria, Department of Consumer Affairs

**Agenda Item 2 Public Comments on Items Not on the Agenda**

No public comment was offered.

**Agenda Item 3 Approval of Minutes from the January 31, 2013 Licensing Committee Meeting**

***Ms. Pines made a motion to approve the minutes from the January 31, 2013 Licensing Committee meeting; s/Dr. Bishop. Motion carried with two abstention. (Dr. Lewis and Ms. Wright)***

**Agenda Item 4 Presentation on American Board of Medical Specialties, Maintenance of Certification - Ms. Clothier, Vice President, State Health, and Public Affairs**

Dr. Bishop introduced Ms. Clothier of the American Board of Medical Specialties (ABMS). Ms. Clothier joined ABMS in March 2011 as Vice President for State Health Policy and Public Affairs. Ms. Clothier has over 20 years of strategic planning and health policy experience, including 15-year tenure with the Federation of State Medical Boards (FSMB).

Ms. Clothier gave a presentation about ABMS and described the work it does to ensure that physicians who are certified have the appropriate qualifications to represent themselves as specialists in their area of expertise. ABMS requires a physician be fully trained in the full scope of specialty concerning education and training. The physician requesting to be certified must also successfully complete training that the certifying boards have in place to ensure the physician is providing an appropriate level of care necessary for gaining certification.

Ms. Clothier described updated standards recently adopted by the ABMS Board of Directors that created the framework for how the Maintenance of Certification (MOC) Program was developed and implemented. The ABMS MOC is a four-part program that sets the expectation of the diplomat to be continuously participating in some type of activity that ensures the diplomat is gaining and maintaining the knowledge and skills necessary to provide quality care to patients in the area of specialization. The ABMS Program for the MOC involves ongoing measurement of six core competencies defined by ABMS: practice-based learning, improvement, patient care, procedural skills, systems-based practice, medical knowledge, interpersonal, communication skills, and professionalism.

Ms. Clothier also explained how certifying boards use disciplinary data provided by the FSMB and described the efforts to seek alignment between the MOC and other organizations that have reporting requirements in place to hold physicians accountable for maintaining competence in the practice and care that they give to their patients.

Ms. Clothier identified how the ABMS MOC has several elements that meet Continue Medical Education (CME) requirements for license renewal. Ms. Clothier advised the Licensing Committee that she had met with staff and staff had advised her that the Board may be able to accept ABMS MOC as meeting the Board's CME requirements with an amendment to current regulation. Ms. Clothier asked the Board to consider updating regulations to accept ABMS MOC as meeting the Board's CME requirements and to accept documents from ABMS as proof of meeting the CME requirements.

Dr. Lewis stated that he believes physicians and surgeons share the same core values and the promise of patient welfare, patient safety, and professional competence, but he is unable to find data that shows being recertified means patients are treated better and there are less adverse outcomes. Dr. Lewis also commented that he understood there to be higher failure rates for examinations for internal medicine and asked Ms. Clothier if she had an explanation as to why.

Ms. Clothier replied that Dr. Lewis' comment regarding recertification is one of the biggest points of contention from diplomats. MOC is a young program that has only been around since 2006 and there is a need for studies to develop the hard evidence that physicians want to see. As MOC changes behaviors and impacts outcomes, there will be more emerging data. In addition, information can be found on the website in the Evidence Library where a lot of research has been documented.

Ms. Clothier expressed that she was aware of the increased failure rates of internal medicine recertification examinations, but needed to research the reasons and would provide the information to Ms. Kirchmeyer.

Dr. Bishop asked Ms. Clothier how the ABMS planned to construct recertification program in the future, as medicine becomes more and more subspecialized.

Ms. Clothier stated that this is a standard topic of interest for the ABMS, but it is very complex and is something the ABMS will continue to discuss.

Dr. Levine thanked Ms. Clothier for her presentation and stated that there have been some concerns raised about the ABMS decision to move to a milestone approach. The first issue of concern is that physicians could be faced with choosing between completing a probationary term

with the Board and continuing to be recognized by the ABMS because a full and unrestricted license is required by the ABMS MOC program. The other issue is barriers for physicians who have never been board certified or whose board certification is time unlimited. It creates a problem when a physician who is not participating in the milestone work will be reflected on the Board's website as not meeting criteria for Board certification. If these physicians are pulled out of the queue, they are essentially violating the law because they are falsely advertising their certification status. Therefore, the issues need to be resolved to ensure the continuing professional development of the practice community.

Ms. Clothier expressed how the ABMS is increasingly recognizing the importance of being able to offer pathways to physicians who have been actively certified and for whatever reasons have discontinued, whether for disciplinary actions or voluntarily, to be able to engage in some aspects of the MOC programs so they can more easily reenter into the recertification system when they are ready.

Dr. Bishop recommended that Ms. Clothier take the Licensing Committee's comments back, provide feedback, and work cooperatively with the Board to find a solution to the issues. Ms. Clothier agreed to do so.

Dr. Gnanadev asked Ms. Clothier if ABMS or any of the boards were considering eliminating part three of the MOC, which is an examination.

Ms. Clothier stated that the ABMS is discussing with the American Medical Association (AMA) and some of their stakeholders to see how outcome data from the physician's clinical practice could be used to replace an evaluation of the physician's medical knowledge on a 10-year basis. A physician would have to be willing to participate in a registry or database. If the database shows that the physician is providing good care and is exceeding clinical benchmarks in particular areas, they would be exempt from having to take the examination. Ms. Clothier stated that the multiple-choice questions are one area where the ABMS has data about the correlation between good performance and good care.

**Agenda Item 5 Review, Discussion, and Consideration of the Minimum Number of Years of Approved Postgraduate Training for Licensure, and Licensure Exemption While Participating in an Approved Training Program**

Mr. Worden began his presentation by discussing the two types of postgraduate training that the Board recognizes for licensure in California, the Accreditation Council for Graduate Medical Education (ACGME) programs only completed in the United States, and the Royal College of Physicians and Surgeons of Canada (RCPSC) programs only completed in Canada. He stated that current minimum requirements for approved post graduate training for U.S. and Canadian medical school graduates (US/CAN) is one year successful completion of either training program, and two years for international medical school graduates (IMG). The current exemption for US/Canadian is a maximum of two years of training without a license, and for IMG the maximum is three years. Mr. Worden addressed different areas of specialties and went over a chart detailing what the postgraduate training requirements are in other states.

Mr. Worden expressed the Board's concern that one or two years of ACGME or RCPSC training may not be enough for a physician to obtain licensure to practice medicine safely without supervision. He explained how the practice of medicine and medical education is very different

today than it was in 1980 when Business and Professions Code Sections 2065 and 2066 became law.

Mr. Worden suggested that the Board consider increasing the minimum number of years from one for US/CAN and two for IMG to one of the following: Two years for both US/CAN and IMG, or three years for both US/CAN and IMG.

Mr. Worden explained that only adding one year to US/CAN graduates would still not meet the minimum number of years to complete a program. Requiring three years of post-graduate training would also meet the FSMB Interstate Medical Licensure Compact and would increase consumer protection.

Mr. Worden expressed that changing the requirements for postgraduate training requires the Board to address other related issues, such as: Will the Board still need to have a medical school recognition process? What type of licensure exemption is needed? Is a training license for all residents necessary? How and when will residents apply for a training license? How and when will residents apply for a full license? How will the change affect the California ACGME accreditation programs? How will the change affect the residents? How will it affect the need for residents to have DEA registrations? How and when will the residents qualify for DEA registration? How will it affect the need to write prescriptions without a co-signer? Mr. Worden suggested that the Board gather input from interested parties to help identify what statutes and regulations may be effected by the proposed changes, draft proposed language and possibly identify legislative authors for proposed draft statutes. He suggested holding interested parties meetings to discuss these issues.

Mr. Worden asked the Committee to authorize licensing staff to proceed with investigating and holding an interested parties meeting for this concept.

Dr. Lewis asked what the current standard is for postgraduate training. Mr. Worden stated that **c**urrently the Board is licensing most residents after one or two years of post-graduate training because that is what most of the programs are allowed to do. This gives more opportunity for teaching hospitals to use their residents. This also allows residents to write their own prescriptions without cosigners and sign death certificates.

Dr. Bishop proposed a motion to approve to proceed with interested parties meeting and subsequent meetings to obtain input regarding extending the requirements for postgraduate training in California.

Dr. Levine asked if the motion made is agnostic as to the number of years of extension or is it specific requesting three years of postgraduate training.

Dr. Bishop stated that it is the impact of extending the requirements with no specific time specified at this point.

***Dr. Lewis made a motion to allow staff to proceed with an interested parties meeting and subsequent meetings to obtain input regarding extending the requirements for postgraduate training in California for licensure; s/Ms. Pines. Motion carried.***

**Agenda Item 6 Future Agenda Items**

Dr. Bishop asked for input on agenda items for the next Licensing Committee meeting. Dr. Lewis suggested that agenda item 5 be further discussed at the next meeting. No other suggestions were made for future agenda items.

**Agenda Item 7 Adjournment**

Dr. Bishop adjourned the meeting at 2:09 p.m.

# MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 15, 2015
ATTENTION: Members, Licensing Committee
SUBJECT: June 30, 2015 Interested Parties Meeting Update
STAFF CONTACT: Curtis J. Worden, Chief of Licensing

UPDATE:

On June 30, 2015, the Medical Board of California (Board) held a Physician Postgraduate Training Requirements and Physician Reentry to Practice Interested Parties meeting in Sacramento. This meeting included teleconferencing and webcasting. The Interested Parties meeting was chaired by Michael Bishop, M.D., Licensing Committee Chair.

Dr. Bishop opened the meeting and provided some background on this issue. Dr. Bishop then asked Mr. Worden to provide an overview of the physician requirements for postgraduate training in California. Mr. Worden referred to the postgraduate training material that was prepared for the Interested Parties meeting **(Attachment 1).**

Mr. Worden provided an overview of the physician postgraduate training (residency) requirements in California. The Board recognizes two types of accredited postgraduate training: the Accreditation Counsel for Graduate Medical Education (ACGME) in the United States, and the Royal College of Physicians and Surgeons of Canada (RCPSC) for the training in Canada. The minimum requirement for postgraduate training to qualify for licensure in California for United States and Canada (US/CAN) medical school graduates is the successful completion of one year of ACGME or RCPSC accredited postgraduate training. For US/CAN medical school graduates, they must be licensed prior to the completion of 24 months of ACGME or RCPSC accredited postgraduate training. For International Medical School Graduates (IMG), they require successful completion of two years of ACGME or RCPSC accredited postgraduate training. There are also requirements as to how many years of postgraduate training an individual can complete before licensing in required. It is important to note that all training in any ACGME or RCPSC accredited postgraduate training program counts towards the 24 or 36 months license exemption period.

The minimum number of years for any ACGME or a RCPSC accredited postgraduate training program is three years and some programs are up to seven years. This does not include additional postgraduate training in a fellowship-training program or research years during postgraduate training.

The specific requirements for postgraduate training by state and issues that have been identified by staff, Graduate Medical Education (GME) Deans, GME staff and GME Program Director to consider prior to seeking changes to California statute and regulations are identified in the June 30, 2015 Interested Parties meeting material **(Attachment 1).**

The Board received one public comment from a fourth year international medical school student who supported increasing the required minimum number of years of ACGME or RCPSC accredited postgraduate training to three years and also supported the new World Medical School

directory instead of the current California list of recognized medical schools to be eligible for licensure if the minimum number of years of ACGME or RCPS accredited training required for licensure in California was increased to three years.

Dr. Bishop moved to the discussion regarding physician reentry to practice after a period of nonpractice. Dr. Bishop raised the question of how long of a period of nonpractice would be allowed before a physician should be reevaluated in order to practice medicine again.

Ms. Kirchmeyer provided some additional information stating this is not just a California issue, but is a nationwide issue. What does reentry mean? What can a physician do in order to come back into practice? What would be required in order to ensure consumer protection? Ms. Kirchmeyer stated one of the problems, even from the Federation of State Medical Board's perspective, is there are very few programs that provide the training needed in order to train these individuals to come back into practice.

The Board received valuable input from the participants during the meeting from the following individuals:

Ms. Cindy Boling, Director of Communication and Regulatory Board Liaison for Professional Boundaries Inc., provided information concerning what is or is not effective training for physicians who are returning to practice, for instance, point education, the fly in and fly out in two or three days does not work. Ms. Boling stated linear education was more effective in helping physicians return to practice.

Dr. David Perrot, Senior Vice President, Chief Medical Officer, California Hospitals Association and serves on the Board of Commissioners for the Joint Commission, stated hospitals generally use the two-year rule for physicians who were returning to a hospital after nonpractice. If a physician has not practiced for two or more years, hospitals are going to require the physician to obtain training and/or will not allow the physician to practice without some type of monitoring. In addition, he stated there needs to be some training available to physicians who left the practice of medicine for a period of time, who now want to reenter the practice of medicine and need some refresher training. This would assist physicians in returning to the work force.

Ms. Yvonne Choong, California Medical Association, agreed with Ms. Boling and Dr. Perrot. Ms. Choong stated there is a need to define what does out of practice mean? Does it mean physicians who are currently in practice but have limited patient interaction? Ms. Choong said one size does not fit all physicians. Ms. Choong also identified cost, the length of the program, and the location of the programs as being issues to consider. Ms. Choong also identified some physicians may want to change their practice from one area to another area of medicine and would that be considered reentry since the Board issues a plenary license.

The Board plans to hold another Interested Parties meeting on these same subjects in the Southern California Area in the near future.

# ATTACHMENT 1

**MEDICAL BOARD OF CALIFORNIA**
**MINIMUM POSTGRADUATE TRAINING REQUIREMENTS**
**INTERESTED PARTIES MEETING**
**JUNE 30, 2015**

## MEDICAL BOARD OF CALIFORNIA – APPROVED POSTGRADUATE TRAINING

- ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION (ACGME) – Programs Completed In The United States Only

- ROYAL COLLEGE OF PHYSICIANS AND SURGEONS OF CANADA (RCPSC) – Programs Completed In Canada Only

## CURRENT MINIMUM REQUIREMENTS:

US and Canada Medical School Graduates:

- Successful completion of one year of ACGME or RCPSC accredited GME

International Medical School Graduates:

- Successful completion of two years of ACGME or RCPSC accredited GME

## CALIFORNIA'S CURRENT LICENSE EXEMPTIONS FOR RESIDENTS:

US and Canada Medical School Graduates:

- Must be licensed after completing two years of ACGME and/or RCPSC accredited training anywhere in the US and/or Canada
  (Business and Professions Code (BPC) Section 2065)

International Medical School Graduates:

- Must be licensed after completing three years of ACGME and/or RCPSC accredited training anywhere in the US and/or Canada
  (BPC Section 2066)

## NUMBER OF YEARS TO COMPLETE AN ACGME OR RCPSC ACCREDITED RESIDENCY:

Examples of minimum number of years:

- Internal Medicine (General) and Family Medicine Programs - Three Years

- Neurosurgery - Seven Years

**Note:** Transitional year programs are for residents who need one year of clinical experience to qualify to enter some specialty programs.

**IS ONE OR TWO YEARS OF ACGME OR RCPSC TRAINING ENOUGH FOR A PHYSICIAN TO OBTAIN LICENSURE AND PRACTICE SAFELY WITHOUT ANY SUPERVISION?**

- The practice of medicine and medical education is very different today, than in 1980 when BPC Sections 2065 and 2066 became law

**WHAT IS THE MINIMUM NUMBER OF YEARS OF RESIDENCY TRAINING REQUIRED BY OTHER STATES FOR LICENSURE?**

The minimum postgraduate training requirements vary from state to state – from one to three years, or the successful completion of an accredited program (ACGME or RCPSC):

| US/CAN: | 1 Year | 2 Years | 3 Years | Full Program |
|---|---|---|---|---|
| *Number of States: | 31 | 16 | 2 | 1 |

| IMG: | 1 Year | 2 Years | 3 Years | Full Program |
|---|---|---|---|---|
| *Number of States: | 2 | 19 | 27 | 1 |

Note: Some states will accept Non-ACGME accredited GME

**WHAT IS THE FEDERATION OF STATE MEDICAL BOARDS' RECOMMENDATION FOR THE MINIMUM NUMBER OF YEARS OF RESIDENCY TRAINING?**

The FSMB recommends three years of ACGME or AOA accredited graduate medical education prior to full licensure.

The FSMB's proposed "Interstate License Compact" states: "Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education..."

**HOW MANY YEARS OF ACGME OR RCPSC TRAINING SHOULD THE BOARD CONSIDER REQUIRING TO BE ELIGIBLE FOR LICENSURE IN CALIFORNIA?**

The Board should consider increasing the minimum number of years from one (US/CAN) and two (IMG) years to one of the following:

- Two years for both US/CAN and IMG

or

- Three years for both US/CAN and IMG

* Please see pages 5 – 6 for detailed chart by state.

**TWO YEARS OR THREE YEARS OF ACGME AND/OR RCPSC?**

US/CAN and IMG Two Years:

- Adds one year to US/CAN
- US/CAN and IMG would have the same minimum requirement
- Does not meet the minimum number of years for an ACGME and/or RCPSC accredited training program
- Does not meet the FSMB minimum recommendation
- Does not seem reasonable to add only one year to US/CAN

US/CAN and IMG Three Years:

- Adds two years to US/CAN and one year to IMG
- US/CAN and IMG would have the same minimum requirement
- Meets the minimum number of years to complete an ACGME and/or RCPSC accredited training program
- Meets the FSMB minimum recommendation
- Meets the FSMB Interstate Medical Licensure Compact
- Increases consumer protection

**IDENTIFIED ISSUES TO CONSIDER**

- How will the registration process for medical school graduates/applicants need to change to participate in a California ACGME accredited program?
- Will both International medical school graduates and US/CAN medical school graduates need to complete the same number of years of ACGME?
- How important is International Medical School Recognition if the minimum ACGME accredited training requirement is increased to three years?
- ** Should the new "World Directory of Medical Schools" be used for recognition of non-LCME accredited medical schools for license eligibility in California?
- The need for a training license and when to apply?
- How will the training license be transitioned into a full license?

- How will the change affect the California ACGME accreditation programs?
- How will the change affect the residents?
- The need for residents to have DEA registrations. How and when will the residents qualify for DEA registration?
- The need to write prescriptions without a co-signer.
- How will the change affect the signing of birth certificates and death certificates?
- How will the change affect research years during an ACGME accredited program?
- How will the change affect billing for services rendered by a resident physician?

** The World Directory of Medical Schools has been developed through a partnership between the World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education and Research (FAIMER) in collaboration with the World Health Organization and the University of Copenhagen.

| Postgraduate Training Requirements by State | | |
|---|---|---|
| **State** | **Requirements for US/Canada Medical School Graduates** | **Requirements for International Medical School Graduates** |
| Alabama | 1 year ACGME training | 3 years ACGME training |
| Alaska | 2 years | 3 years |
| Arizona | 1 year | 3 years |
| Arkansas | 1 year | 3 years IMG unless currently enrolled in training program through University of Arkansas for Medical Sciences. |
| California | 1 year ACGME training | 2 years ACGME training |
| Colorado | 1 year | 3 years |
| Connecticut | 2 years | 2 years |
| Delaware | 1 year | 3 years |
| Florida | 1 year | 2 years |
| Georgia | 1 year | 1 year if IMG is on list<br>3 years IMG if not on list |
| Hawaii | 1 year | 2 years |
| Idaho | 1 year | 3 years |
| Illinois | 2 years | 2 years |
| Indiana | 2 years | 2 years |
| Iowa | 1 year | 2 years |
| Kansas | 1 year | 3 years IMG (minimum 2 years in a ACGME approved program) |
| Kentucky | 2 years | 2 years |
| Louisiana | 1 year | 3 years |
| Maine | Prior to 07/01/04 - 2 years ACGME<br>After 3 Years ACGME | 3 years ACGME training |
| Maryland | 1 year | 2 years |
| Massachusetts | Prior to 01/14 - 1 year<br>After 01/14 - 2 years | Prior to 01/14 - 2 years<br>After 01/14 - 3 years |
| Michigan | 2 years | 2 years |
| Minnesota | 1 year | 2 years |
| Mississippi | 1 year | 3 years |
| Missouri | 1 year | 3 years |
| Montana | 2 years | 3 years |

| Postgraduate Training Requirements by State | | |
|---|---|---|
| **State** | **Requirements for US/Canada Medical School Graduates** | **Requirements for International Medical School Graduates** |
| Nebraska | 1 year | 3 years |
| Nevada | 3 years | 3 years |
| New Hampshire | 2 years | 2 years |
| New Jersey | Prior to 7/1/03 - 1 year<br>After 7/1/03 - 2 years | Prior to 7/1/03 - 2 years<br>After 7/1/03 - 3 years |
| New Mexico | 2 years | 2 years |
| New York | 1 year | 3 years |
| North Carolina | 1 year | 3 years |
| North Dakota | 1 year | 30 months ACGME training |
| Ohio | 1 year | 2 years |
| Oklahoma | 1 year | 2 years |
| Oregon | 1 year | 3 years |
| Pennsylvania | 2 years | 3 years |
| Rhode Island | 2 years | 3 years |
| South Carolina | 1 year | 3 years |
| South Dakota | Successful completion of residency program | Successful completion of residency program |
| Tennessee | 1 year | 3 years |
| Texas | 1 year | 2 years |
| Utah | 2 years | 2 years |
| Vermont | 1 year | 3 years |
| Virginia | 1 year | 2 years |
| Washington | 2 years | 2 years |
| West Virginia | 1 year | 1 year |
| Wisconsin | 1 year | 1 year |
| Wyoming | 2 years (1 year if applicant has current certification by an ABMS or AOABOS/BOC specialty board, or continuous licensure in good standing in one or more states and/or D.C. for the preceding 5 years.) | |

# MEDICAL BOARD OF CALIFORNIA

## EDUCATION AND WELLNESS COMMITTEE MEETING AGENDA

***COMMITTEE MEMBERS***
***Barbara Yaroslavsky, Chair***
***Howard Krauss, M.D***
***Denise Pines***
***Gerrie Schipske, R.N.P., J.D.***

San Francisco Airport Marriott Waterfront
180 Old Bayshore HWY
Burlingame, CA 94010
(650) 692-9100 (Directions Only)
Irvine Room

**Thursday, July 30, 2015**
**2:30 p.m. – 3:15 p.m.**
(or until the conclusion of business)

Teleconference – See Attached Meeting Information

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

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

***Please see Meeting Information Section for additional information on public participation***

**ORDER OF ITEMS IS SUBJECT TO CHANGE**

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

1. Call to Order/Roll Call – Ms. Hockenson

2. Public Comments on Items Not on the Agenda
*Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. [Government Code §§11125, 11125.7(a)]*

3. Approval of the Minutes from the January 29, 2015 Education and Wellness Committee Meeting

4. Presentation on Updates on the Affordable Care Act and Information on Physician Compliance Programs - Ashby Wolfe, MD, MPP, MPH, Chief Medical Officer, Region IX, Centers for Medicare and Medicaid Services

5. Presentation on Trauma Informed Care and its Impact on Lifelong Health - Andres F. Sciolla, MD, Associate Professor of Clinical Psychiatry, Medical Director, Northgate Point RST, University of California, Davis

6. Future Agenda Items

7. Adjournment

## Meeting Information

This meeting will be available via teleconference. Individuals listening to the meeting will have an opportunity to provide public comment as outlined below.

**The call-in number for teleconference comments is: (877) 209-9920**

Please wait until the operator has introduced you before you make your comments.

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# MEDICAL BOARD OF CALIFORNIA
## Executive Office

## Education and Wellness Committee Meeting

Four Points by Sheraton Sacramento
International Airport
Natomas Room
4900 Duckhorn Drive
Sacramento, CA 95815
916-263-9000 (directions only)

**Thursday, January 29, 2015**
**1:00 p.m. – 2:00 p.m.**

**MINUTES**

**Agenda Item 1 Call to Order/Roll Call**

The Education and Wellness Committee of the Medical Board of California (Board) was called to order by Chair Barbara Yaroslavsky at 1:00 p.m. A quorum was present, and due notice had been mailed to all interested parties.

**Members of the Committee Present:**
Barbara Yaroslavsky, Chair
Howard Krauss, M.D.
Denise Pines

**Members of the Committee Not Present:**
Gerrie Schipske, R.N.P., J.D.

**Other Members not on Committee Present:**
Dev GnanaDev, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.

**Staff Present:**
Liz Amaral, Deputy Director
Nichole Bowles, Staff Services Analyst
Erika Calderon, Associate Governmental Program Analyst
Ramona Carrasco, Staff Services Manager
Charlotte Clark, SISA
Dianne Dobbs, Legal Counsel, Department of Consumer Affairs
Rashya Henderson, Supervising Special Investigator I
Cassandra Hockenson, Public Affairs Manager
Nicole Kraemer, Manager
Kimberly Kirchmeyer, Executive Director

Ian McGlone, Associate Governmental Program Analyst
Armando Melendez, Business Services Officer
Destiny Pavlacka, Administrative Assistant
Dino Pierini, Business Services Officer
Regina Rao, Associate Governmental Program Analyst
Paulette Romero, Staff Services Manager II
Jennifer Simoes, Chief of Legislation
Kevin Schunke, Licensing Outreach Manager
Lisa Toof, Administrative Assistant
Kerrie Webb, Staff Counsel
Susan Wolbarst, Public Information Officer
Curt Worden, Chief of Licensing

Members of the Audience:
Lee Anderson, California Department of Corrections & Rehabilitation (CDCR)
Teresa Anderson, California Academy of Physician Assistants
Connie Broussard, Supervising Deputy Attorney General, Attorney General's Office
Gloria Castro, Senior Assistant Attorney General, Attorney General's Office
Yvonne Choong, California Medical Association
Genevieve Clavreul
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Karen Ehrlich, Licensed Midwife
Stephen Ellis, M.D.
Carolyne Evans, Deputy Attorney General, Attorney General's Office
Michael Gomez, Deputy Director, Department of Consumer Affairs
Marian Hollingsworth, Consumers Union
Sarah Huchel, Consultant, Senate Business, Professions and Economic Development Committee
Christine Lally, Deputy Director, Department of Consumer Affairs
Mark Loomis, Supervising Investigator, Health Quality Investigation Unit
Leslie Lopez, Business, Consumer Services, and Housing Agency
Michelle Monserrat-Ramos, Consumers Union
Robert Moya, Investigator, Health Quality Investigation Unit
Bryce Penney, Department of Consumer Affairs
Patrick Rogers, California State Library
Brian Sala, California State Library
Anita Scuri
Taryn Smith, Office of Senate Research
Laura Sweet, Deputy Chief of Enforcement, Health Quality Investigation Unit
Peggie Tarwater, Deputy Attorney General, attorney General's Office

**Agenda Item 2 Public Comment on Items Not on the Agenda**

No public comments were received



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**Agenda Item 3 Approval of Minutes from the July 24, 2014, Education and Wellness Committee Meeting**

***Dr. Krauss made a motion to approve the minutes from the July 24, 2014 meeting; Ms. Pines/seconded. Motion carried.***

**Agenda Item 4 Presentation on the Corporate Practice of Medicine**

Mr. McGlone, Ms. Webb and Ms. Dobbs provided a presentation on the Corporate Practice of Medicine. Mr. McGlone gave some background on corporate practice of medicine and why it is banned. He stated that California Business and Professions Code Section 2052 prohibits any person from practicing medicine in this state without a valid certificate or license. Mr. McGlone stated California Business and Professions Code Section 2400 indicates that corporations and other artificial legal entities have no professional right, privileges, or powers to practice medicine or to get a license to practice nor are they able to engage in any of those activities that are prohibited by Section 2052. He stated a layperson cannot employ a physician except under certain circumstances.

Mr. McGlone noted that while corporations have no professional rights or powers under the Medical Practice Act, there are some very limited exceptions, such as physicians may practice in partnership with other physicians, which is considered a business entity. Also physicians may practice under a professional medical corporation that is properly formulated under California law.

He continued with Section 2401 of the California Business and Professions Code, which allows for certain clinics, narcotic treatment programs, and hospitals to charge for professional services and/or employ physicians. However, these artificial entities shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon, which means physicians have to be in charge of their own practices and these individuals are accountable to the Medical Board of California (Board).

Mr. McGlone stated that some of the signs that an arrangement is not legal are if the physician does not have control over the patient records and if a management services company is telling a physician what kind of things should go into a record, or is giving support for a certain type of care, tests, or procedures. It is also a sign if the unlicensed individuals are telling physicians who they should hire and whether a certain provider should be fired. Physicians should be the ones making the decisions about equipment, testing, who gets hired and what kind of advertising is done. Mr. McGlone went on to say that just because a business or franchise agreement gets approved by the Department of Business Oversight, or is registered with the Secretary of State, does not mean a physician's involvement is legal.

Ms. Dobbs reiterated that even if the paperwork says all the right things, it is really important to focus on the actual practice, what is actually being done in the office and how the office practices are being carried out.

Mr. McGlone added that operating a practice as a limited liability company, a limited liability partnership or a general corporation is all prohibited. Management services organizations are limited to providing administrative services, not medical services, and they should not be arranging for the advertisement of the medical practice. In addition, physicians acting as medical directors for non-physician owned operations, like medi-spas, are illegal. It is the physician's responsibility to make sure that they are fully in control of the whole practice.

Mr. McGlone gave three points on how a physician can operate legally in a corporate structure. First, comply with the Moscone Knox Professional Corporations Act in setting up the corporation. Second, make sure that the makeup of the medical corporation is at least 51 percent physician-owned, and no more than 49 percent of other healthcare professions noted in Corporations Code Section 1341.5 can be a part of the medical corporation. Third, comply with all the requirements of sections 2285 and 2415 regarding a fictitious name permit.

Dr. Krauss stated that it would appear that the ban on corporate practice is intended to protect patients. He stated it was intended to assure that a patient's physician is not under any kind of coercive arrangement that might cause them to withhold care. He pointed out that physicians are still in other types of coercive arrangements, such as insurance companies who make decisions about medical necessity, what is covered and what is not covered, etc. Dr. Krauss asked if there are any case laws where these items have been looked at as potentially in violation of corporate practice.

Ms. Dobbs replied that she is not aware of anything that specifically addresses that issue. Physicians must be aware that it is their responsibility to fight for what is absolutely in a patient's best interest.

Ms. Webb commented that there are many appeal processes that have to be followed and the Department of Managed Healthcare gets involved in making these decisions, and that it is a different section of law when it comes to insurance coverage.

Dr. Krauss asked what the Board's experience has been regarding disciplinary action on this matter, how many complaints have been received and how many cases does the Board look at regarding the ban on corporate practice?

Ms. Webb stated that the California courts have been firm in supporting the ban on corporate practice in California and there are numerous cases. She added that specific statistics would have to be gathered by staff.

Ms. Yaroslavsky asked if there were opportunities where the Department of Corporations or Managed Healthcare are involved with the Board in disciplining or bringing attention to physicians for what is or is not appropriate behavior as far as the corporate practice of medicine goes.

Ms. Webb replied that occasionally the Department of Business Oversight seeks confirmation on agreements and sends them to the Board to look over, but that there are private corporate attorneys working on these agreements and making assurances to other agencies that everything is correct.

Ms. Yaroslavsky asked if the public should be made aware of companies that are doing this as well, and asked if there is a structure set up where the insurance company or the private business entity employing physicians is also being informed and disciplined.

Ms. Dobbs commented that there are civil and criminal consequences for unlicensed practice.

Ms. Webb added that the physician can be disciplined for unprofessional conduct for aiding and abetting, and the unlicensed people can be subject to fines for unlicensed practice and criminal penalties.

Ms. Kirchmeyer suggested that these slides would be very helpful and a great educational tool if placed on the



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Board's website and sent to applicants when they apply for fictitious name permits.

Ms. Yaroslavsky suggested that this educational tool could also be used at the point when the applicants are filling out applications for their business licenses.

Ms. Kirchmeyer also suggested that the Board could give the information to the Department of Business Oversight, and have them hand out the information and, provide the same information to the counties that are handing out these applications to help the applicants.

Dr. Krauss stated that he assumes that the ban on the corporate practice has been a recent subject in the Board's Newsletter, and if not, perhaps it warrants an update.

**Agenda Item 5 Public Affairs Office Strategic Plan Update**

Ms. Hockenson presented the Public Affairs Office Strategic Plan update starting with the first goal which was to identify opportunities for placement of articles on mandatory reporting in the professional newsletter and other publications. She commented that in the summer Newsletter, the Board had an article from the Los Angeles Coroner on the need for physicians to sign death certificates. The Board also had an article on the importance of physicians reporting pesticide poisoning to the local health departments and the protocol to file a report. Board staff is completing an article for the coroners to include in their newsletter on the need for a coroner to report to the Board pursuant to Business and Professions Code Section 802.5.

Ms. Hockenson also stated that the Public Affairs Office published an article in the fall Newsletter on the Soldier's Project. A former board member, Linda Lucks, drew attention to this project, and staff wrote an article. It was also requested by the Board of Psychology to reproduce that article in their newsletter and on their website.

Ms. Yaroslavsky suggested that at the end of every year the Board should write an article reminding coroners to report and every year there should be an article reminding everyone about the corporate practice of medicine.

Ms. Hockenson concurred and continued with a list of presentations she participated in 2014.

- April 2014, staff discussed mandatory reporting requirements involving hospitals and physicians with the San Bernardino Sun and the LA Daily News.
- May 8, 2014, a presentation was provided to the California Association of Medical Staff Services in Sacramento addressing mandatory reporting requirements, specifically focusing on the Business and Professions Code Sections 805 and 805.01. Approximately one hundred individuals were in attendance.
- June 13, 2014, staff had a conference call with the staff from Public Citizen to discuss the peer review process and reporting requirements.
- August 1, 2014, a presentation was provided to the California Association of Medical Staff Services in Riverside addressing the Business and Professions Code Sections 805 and 805.01 reporting process.
- August 20, 2014, a presentation was given to the Rancho Los Amigos Rehabilitation Hospital on the reporting requirements of Business and Professions Code Section 805.
- November 7, 2014, a presentation was given to the Los Angeles County Department of Health Services Quality Improvement and Patient Safety Program on Business and Professions Code Sections 805 and 801.01.

Ms. Yaroslavsky asked if as a result of the presentations and discussions, if Ms. Hockenson was able to garner if there was any increase in articles or reports and if she was going to be able to track whether these visits or these presentations were able to result in increased output of Board information.

Ms. Hockenson commented that a lot of the presentations are done by enforcement investigators and continued with the fact that groups are addressed, laws explained, requirements explained, and organizations are told what they should be looking at and what they should expect. The feedbacks always positive, because when an organization asks to post the Boards presentation on their website, that is a sign that it has been valuable information for them, and they want to share it.

Ms. Hockenson pointed out the outreach calendar.

- January 12, presented a town hall meeting in Folsom, for consumers.
- January 23, attended a presentation with Assemblywoman Susan Bonilla in Walnut Creek, which was very successful and generated an article on Number 3 news. There were about 150 people in attendance. Ms. Hockenson also talked with Assemblywoman Bonilla about arranging a health fair or a health-related town hall, which her and her staff was very interested in pursuing.
- February 20, there will be a presentation at the town hall in Citrus Heights.
- March 4, Ms. Hockenson will be making a presentation to the consumer health class at California State University Sacramento.
- The Board is planning a prescription drug awareness campaign to coincide with March being prescription drug awareness month.
- The Board will be participating in a health fair and a 5K walk in San Ramon, related to the issue of prescription drug abuse awareness.

Ms. Hockenson stated that working together with other agencies and continuing to provide articles and information in the Newsletter regarding potential violations to assist physicians in understanding the laws and regulations is the goal. Ms. Hockenson also spoke about the summer Newsletter articles on recommending marijuana and things physicians should know; the article regarding the inadvertent, unlicensed practice of medicine by post-graduate training individuals; and the article on what to know about signing death certificates.

Ms. Hockenson continued talking about articles that were in the fall 2014 Newsletter including one entitled: "Do Not Panic. What you should expect if a complaint is filed against you." Also in the fall Newsletter, was an article on Physicians Orders for Life-Sustaining Treatment (POLST) from the Coalition of Compassionate Care of California. The winter Newsletter will have an article on fictitious name permits, in additional to part two of the "Do Not Panic" article, which will discuss what happens during the investigation and disciplinary process.

Ms. Hockenson stated that the Twitter account has been launched and the Board's Twitter handle is *@MedBoardofCA*. The first tweet was sent on January 14 announcing the release of the Annual Report. It was retweeted and picked up. The Board tweeted; inviting people to attend this meeting and it was picked up by the Ebola Group with 96,000 followers and retweeted. The Board also tweeted about Board Meetings, and that they are open to the public and that the meetings are live and can be watched on the Board's website.

Ms. Hockenson noted that the Board is working with DCA to establish webinar protocol and the necessary tools needed for successful webinars because they have examined opportunities for the Board to provide training to licensees via the Internet. The Board's new Public Information Officer will be focusing on identifying needed

webinars and training. Ms. Hockenson also stated that an editing room with software and the ability to record have been set up.

Ms. Hockenson stated that additional plans are in discussion for the work with the California Department of Public Health, the Dental Board, the Pharmacy Board, the Department of Education, and the California Department of Managed Healthcare regarding the statewide work group that seeks to curb prescription drug misuse and abuse. The Governor's Office has asked that the state come out with a united front and message with regards to the problem of prescription drug misuse and abuse.

Ms. Hockenson continued stating the Public Affairs Office is looking forward to cultivating relationships with various ethnic communities through their individual media outlets by providing information and education on the Board's roles and responsibilities. Town hall meetings are key to developing this outlet. In April 2014, Board staff, including a Spanish-speaking investigator, assisted Telemundo with a multi-part series on consumer protection for the Hispanic community. Also, there is a group in Citrus Heights of Afghani and Iraqi refugees and the Board is looking forward to reaching out to their community.

The Public Affairs Office will continue to engage in television and radio interviews promoting transparency and providing needed information as requested. Staff has been and continues to work with the San Jose Mercury News regarding an issue involving psychotropic drugs and foster kids. In addition, Department of Consumer Affairs, Division of Investigation is working closely with KPIX and CBS in the Bay Area regarding a news story focused on the investigative process.

Ms. Hockenson stated that there are three Public Service Announcements out regarding prescription drug awareness and she is still looking to get those broadcasted on network television. Also, the Board is working on a video to be placed on the Board's website explaining how to file a complaint, in addition to how to look up a physician.

Ms. Hockenson wanted to point out that providing presentations on the Board's roles and responsibilities in mandatory reporting requirements for hospitals and health systems is a priority. In June, 2014 and October, 2014, Board staff met with UC schools and UC regions representatives to discuss graduate medical education issues and overall application processing issues. Also, on November 6, Laura Sweet and Board Member Dr. Lewis gave a presentation entitled, "Discipline, Drugs, and Duties" to nurses and physicians in San Diego at the 2014 Multidisciplinary Correctional Healthcare Conference.

Ms. Hockenson stated that with a grant received from the Federation of State Medical Boards, the Board held a three-hour free Continuing Medical Education seminar course in Los Angeles at the Hilton LAX on safe prescribing, titled "Extended Release and Long-Acting Opiate Analgesic Risk Evaluation and Mitigation Strategy."

Ms. Monserrat-Ramos complimented Ms. Hockenson on launching the public Twitter account, but stated that the twitter handle is not easily locatable. Ms. Monserrat-Ramos recommended tweeting press releases released via e-mail alert so the public will know there is disciplinary action being taken against doctors who are putting California patients at risk, tweeting how the public can sign up for e-mail alerts regarding the work the Board is doing, tweeting at least three days in advance regarding Board Meetings and, if possible, attaching the agendas with instructions on how to participate via teleconference.

**Agenda Item 6 Future Agenda Items**

Dr. Krauss suggested that the Board approach the potential for a physician health program and suggested that staff gather information and report the spectrum of physician health programs that exist in other states.

**Agenda Item 7 Adjournment**

***Ms. Yaroslavsky adjourned the meeting at 2:07 p.m.***

The complete webcast can be viewed at: http://www.mbc.ca.gov/About_Us/Meetings/2015/

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**Ashby Wolfe, MD, MPP, MPH**
**Chief Medical Officer**
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**Centers for Medicare & Medicaid Services**
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**Ashby.Wolfe1@cms.hhs.gov**
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**@ashbywolfe**

Dr. Ashby Wolfe currently serves as Chief Medical Officer for Region IX of the Centers for Medicare and Medicaid Services (CMS). CMS Region IX includes California, Arizona, Nevada, Hawaii, and the Pacific Territories. The San Francisco Regional Office spans a vast geographic area, has one of the most culturally diverse populations in the nation, and serves over 20 million Medicare, Medicaid, and Children's Health Insurance Program beneficiaries.

In her current position, her focus is on implementation of the many facets of the Affordable Care Act (ACA) and its role in providing access to high quality care and improved health at a lower cost. In addition, Dr. Wolfe provides clinical expertise to many regional CMS programs and divisions, as well as serving as the medical and scientific lead for quality improvement efforts; as chief clinician for all regional CMS outreach and education efforts; and as a liaison with healthcare providers in the region.

Dr. Wolfe is a board-certified family physician. She completed her MD at the State University of New York (SUNY) Stony Brook School of Medicine, and completed her residency training at the UC Davis Medical Center in Sacramento, California. She also holds a Masters in Public Policy and a Masters in Public Health from the University of California, Berkeley. She practiced broad-scope family medicine in Oakland, California, before joining CMS in March 2015. Dr. Wolfe has experience in the development and implementation of health policy at the local, state and federal levels and holds particular interest in improving the quality and equity of care for underserved and low-income populations. Dr. Wolfe has worked with a number of healthcare organizations, provider groups and community organizations in her clinical and health policy work, including leadership roles with the California Academy of Family Physicians and the California Medical Association. She has experience as a physician team leader for quality and access-to-care improvement projects. In addition, she has served as a commissioner on the Healthcare Workforce Policy Commission for the state of California. She has published articles on Medicare and Medicaid policy, assisted in the development of pandemic flu and continuity of operations planning for skilled nursing facilities in California, and is a contributing author of the public health text, *Prevention is Primary* (Jossey-Bass).

# Updates on the Affordable Care Act & the Provider Compliance Program

**Ashby Wolfe, MD, MPP, MPH**
*Chief Medical Officer, Region IX*
*Centers for Medicare and Medicaid Services*

Presentation to the California Medical Board
July 30, 2015

# Objectives

- Review Section 6401 of the Affordable Care Act
  - Review key elements of Provider Compliance
  - No new updates since June 2014
  - Most recent published guidance
- Review ACA updates and programs of note
  - Value-based Payment
  - Cardiovascular Disease Risk Reduction Model
- Questions

# Provider Compliance Programs

- Background
  - Section 6401 of the ACA
  - Directs HHS in consultation with OIG to establish core elements for provider and supplier compliance programs within the health industry
  - Enforcement dates not yet established
  - Nursing facilities have their own program, with enforcement date of March 23, 2013

The Patient Protection & Affordable Care Act
Provider Compliance Program mandated in the Patient Protection and Affordable Care Act
OIG Initiative
OIG initiative is to support Healthcare Professions in establishing a compliance program
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
OIG
OIG Guidances
OIG has issued several provider-specific compliance program guidances.
Benefits
OIG believes health care providers can use internal compliance and control policies to effectively improve and reduce:
1 Claim Submission Errors
2 Medicare Fraud
3 Waste and Abuse

# Why emphasize Compliance Programs?

## Benefits of a Good Compliance Program

**Fraud and abuse recoveries totaled**
**$4.3 BILLION in FY 2013 and**
**$19.2 BILLION over the last five years.**

CMS Medicare Learning Network® (MLN) fraud and abuse awareness tools are available on the MLN Products web page and the MLN Provider Compliance web page.

http://go.cms.gov/MLNProducts

http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html

# Provider Compliance Programs

## Affordable Care Act Compliance Program Mandate

The Affordable Care Act compliance program mandate:

- Is intended to induce ***all*** health care professionals to implement a compliance program;
- Is NOT a guarantee that the risk of fraud, waste, abuse or inefficiency will not occur; and
- Will aid providers in better protecting themselves from risk of improper conduct.

# Seven Core Elements

# What steps should physicians take?

## Dos and Don'ts for Health Care Compliance Plans

1. **Follow the OIGs Guide for Physician Groups**
   http://oig.hhs.gov/authorities/docs/physician.pdf October 5, 2000

2. Know where to locate **easy and free resources** such as the Health Care Fraud Prevention and Enforcement Action Team (HEAT) Provider Compliance Training (many great – free tools!) http://oig.hhs.gov/compliance/provider-compliance-training/index.asp

3. **Keep the plan simple!** If it is not readable- it is probably not USEABLE. No one wants an elaborate plan that sits on a shelf (or in a computer) and is never viewed / used.

4. **Set a date to review the plan every year.** Put it on your calendar. It is easy to get busy and forget to review the plan, so set a date!

# ACA Programs of note

- PQRS & EHR Incentive program
  - Mandatory participation 2015
  - Negative payment adjustments in 2017 if eligible and not reporting
- MACRA
  - Eliminates old reimbursement plan
  - Streamlines data reporting programs
  - Allows for “means testing” in Medicare
- Regional Innovation Network (through CMMI)
  - Sign up at: https://collaboration.cms.gov/

# Million Hearts® Cardiovascular Disease Risk Reduction Model

## Background & Rationale

- **New Value-Based Payment Model**
  - Heart attack and stroke (ASCVD) are leading causes of death and disability
- **In the past**
  - Risk reduction focused on specific process measure targets, i.e. LDL cholesterol level and blood pressure, with the same targets applied to all patients
  - Currently, risk factors are discussed as independent conditions rather than risk factors contributing to ASCVD
  - Patients have little idea of their actual risks of heart attack and stroke
- **What the model will change**
  - Uses data-driven, widely accepted predictive algorithm to give individualized 10-year risk score for ASCVD to each beneficiary
  - Providers get value-based payment depending on absolute risk drop across entire panel, necessitating population health management

# Model Aim and Eligibility

**Aim**

- Offer clinicians incentives for risk stratification, shared decision-making and enhanced accountability across a provider's entire Medicare FFS patient panel
- Reduce predicted 10-year ASCVD risk, reduce the incidence of heart attacks & strokes

**Practice Eligibility**

- At least 1 professional: As defined by the PQRS definition
- Enrolled and eligible to bill for Medicare Part B
- Using an Office of the National Coordinator (ONC) certified Electronic Health Record
- Have met the criteria for the Medicare EHR Incentive Program in performance year 2015

# Important Dates

## Letters of Intent: due by September 4th

http://innovation.cms.gov/initiatives/Million-Hearts-CVDRRM/

| Date | Activity |
|---|---|
| May 2015 | Announcement |
| May – August 2015 | LOI Period |
| July - August 2015 | Application Period |
| August – November 2015 | Application Review & Selection |
| November 2015 | Awards |
| January 2016 | Model Go Live |

# References & Further Reading

- **Provider Compliance programs & guidance**
  http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNEdWebGuide/Downloads/MLN-Compliance-Webinar.pdf

  https://oig.hhs.gov/compliance/101/

- **Value-Based Payment Programs** (PQRS, Meaningful Use)
- http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/PQRS/index.html?redirect=/PQRS/

- **Cardiovascular Disease Risk Reduction** Model
  http://innnovation.cms.gov/initiatives/Million-Hearts-CVDRRM

- **Regional Innovation Network**
  https://collaboration.cms.gov/

# Questions?

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# Andres D. Sciolla

Andres D Sciolla, MD is an Associate Professor at the Department of Psychiatry & Behavioral Sciences at the University of California, Davis the Medical Director for Northgate Point Regional Support Team, a community mental health clinic. In addition, Dr Sciolla is Co-Director of the Doctoring 2 course at the School of Medicine.

As a researcher, Dr Sciolla has published in the field of behavioral and psychiatric aspects of adult survivors of childhood trauma, neuropsychiatric aspects of HIV and Latino mental health disparities. As a clinician educator, Dr Sciolla has published in competency based medical education in LGBT healthcare, psychotherapy training of psychiatry residents and physicians with professional boundary violations.

Prior to UC Davis, Dr Sciolla was at UC San Diego, where he was an Associate Training Director for the general psychiatry residency-training program.

Dr Sciolla is a member of the Dean's LGBTQI Advisory Council at UC Davis, and was a member of the Chancellor's Advisory Committee on Lesbian, Gay, Bisexual, and Transgender Issues at UC San Diego.

**The Medical Board of California**
**Education and Wellness Committee**

An Unprecedented Synergy between Neuroscience & Population Health

# Trauma-Informed Clinical Competencies for Physicians

Andrés F Sciolla, MD
University of California, Davis
Department of Psychiatry & Behavioral Sciences

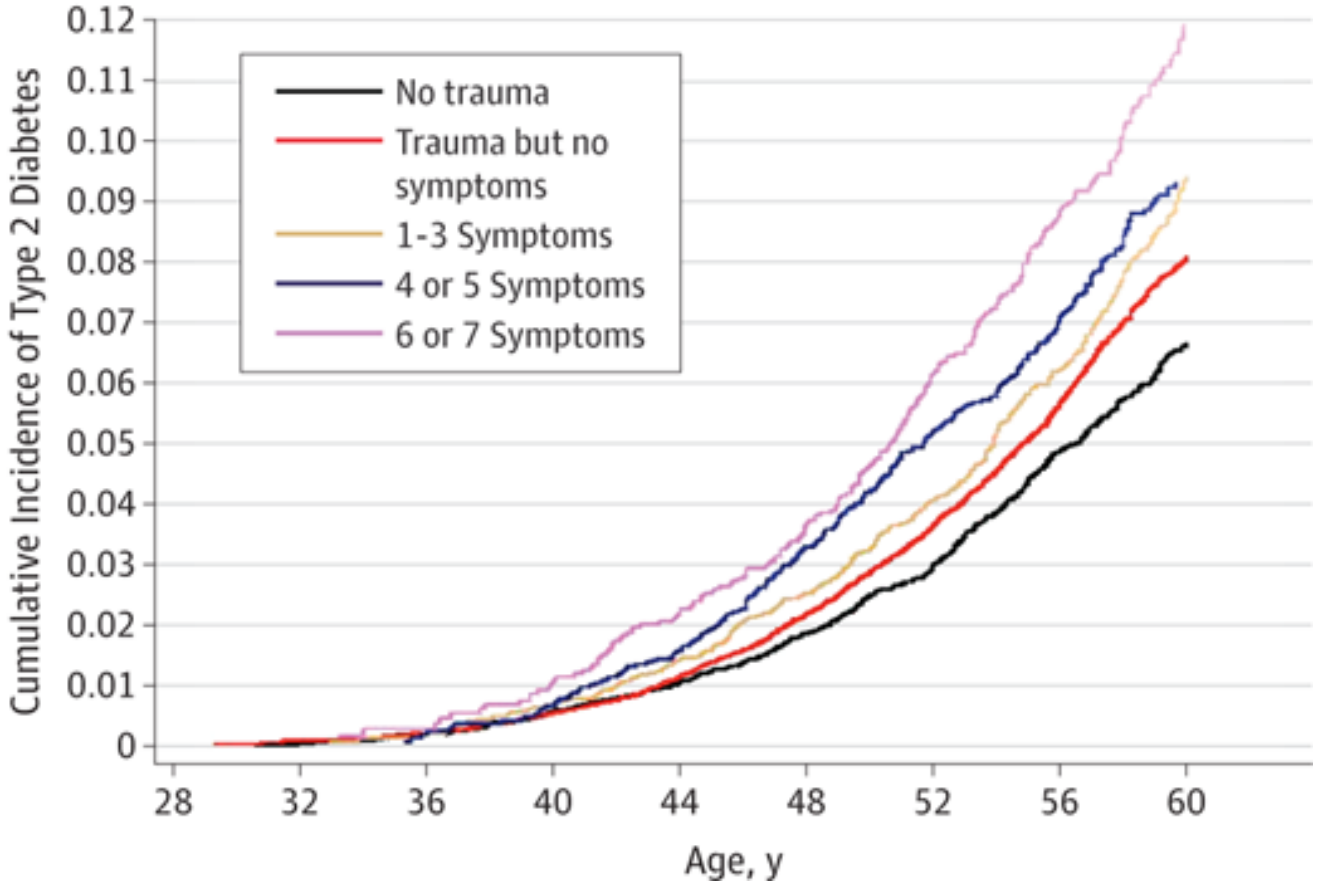
# Objectives of the Presentation

1. Provide a brief overview of epidemiologic and neuroscience research on the prevalence of adverse and traumatic experiences across the lifespan and the mechanism underlying their association with poor health outcomes
2. Propose measurable patient-physician communication attitudes and skills that can enhance health outcomes in patients with trauma histories

- *"Childhood maltreatment appears to be a risk factor in the history of patients having <u>many</u> different psychiatric outcomes […] Indeed, it is more difficult to identify a disorder to which childhood maltreatment is <u>not</u> linked than to identify a disorder to which it is linked with specificity.*
- *… childhood maltreatment raises risk for a particular psychiatric disorder because maltreatment exacerbates the liability to experience <u>any</u> disorder at all."*

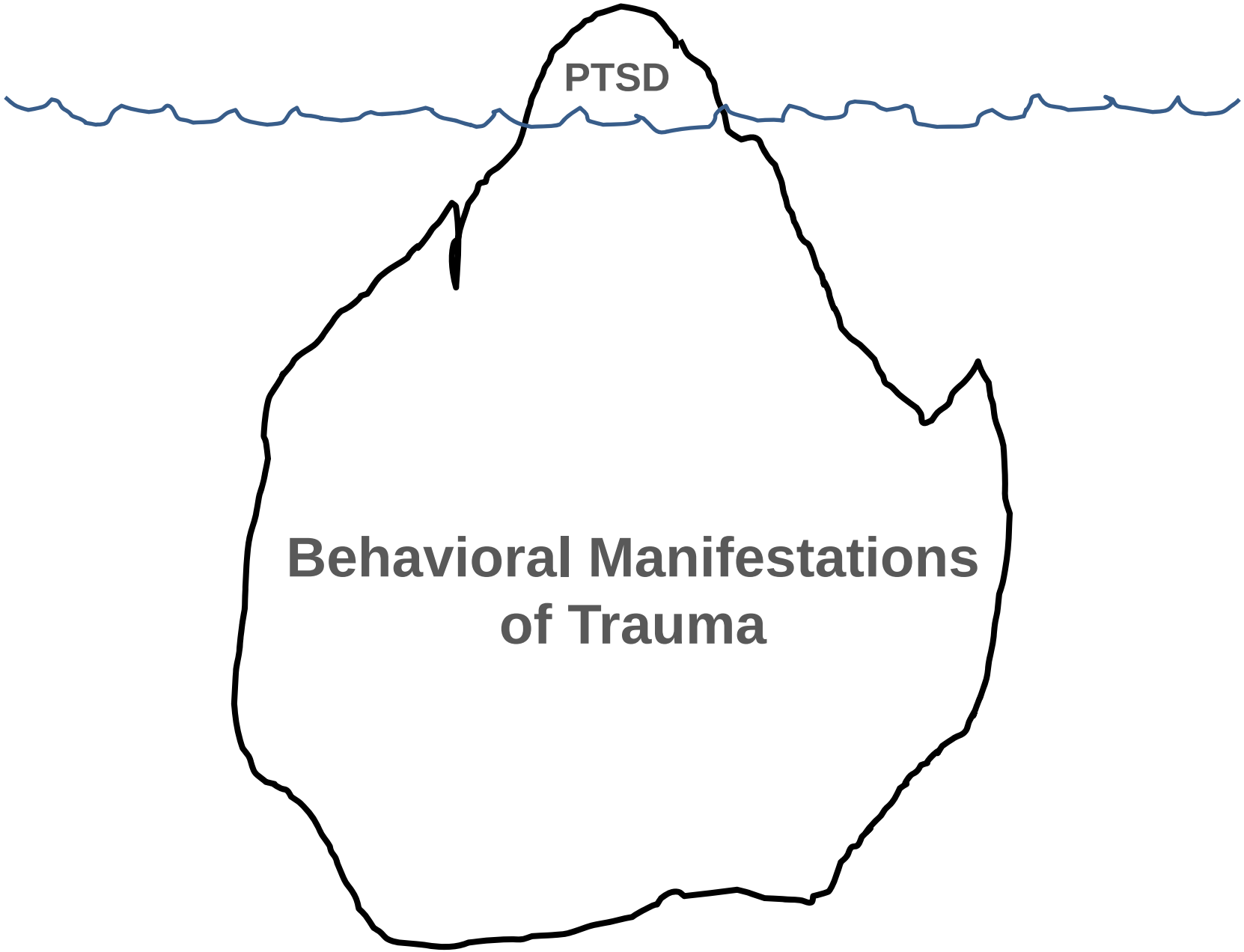
**Caspi A et al. Clin Psychol Sci. 2014 Mar;2(2):119-137.**

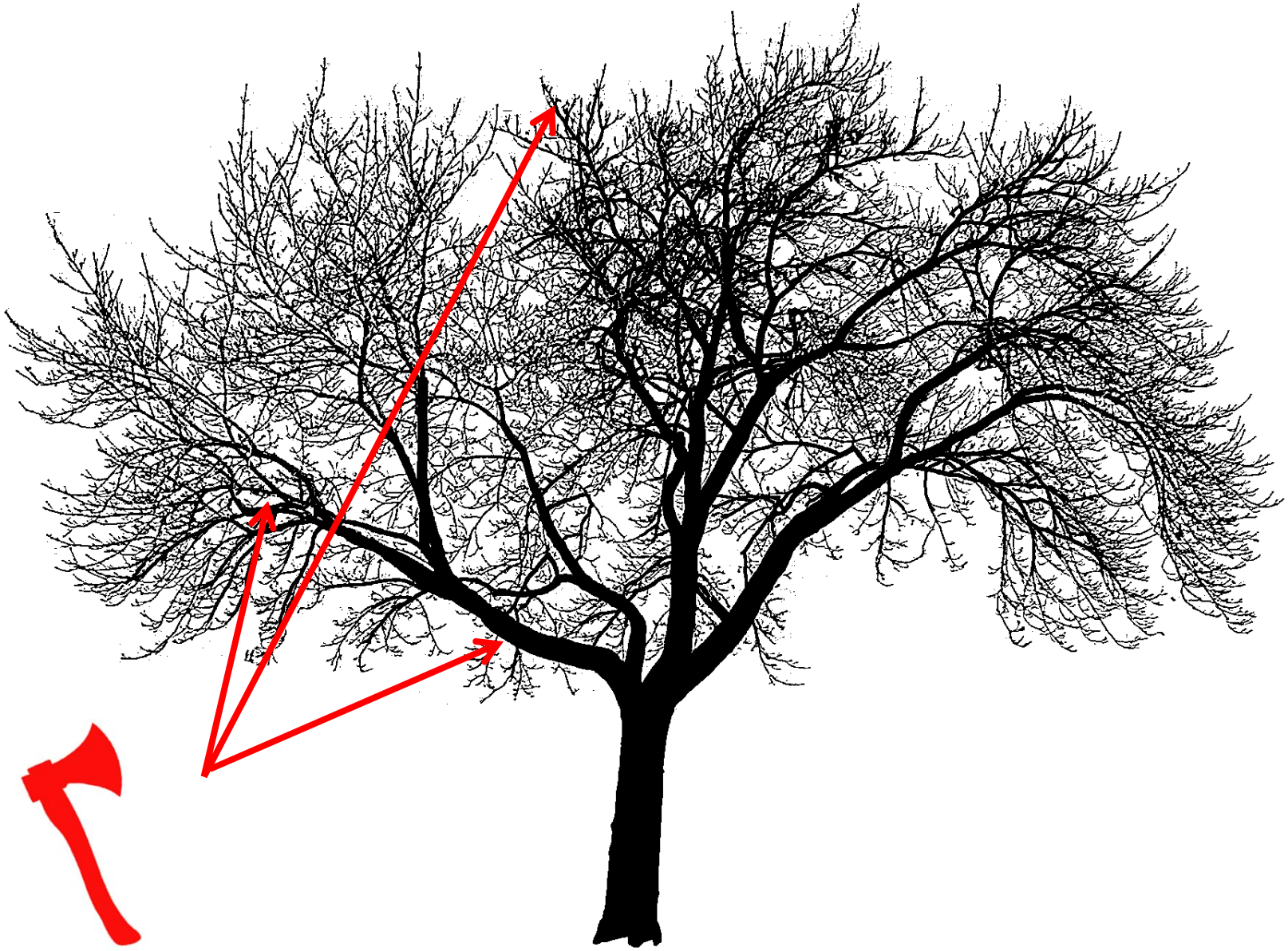
# Posttraumatic Stress and Diabetes




- Cumulative Incidence of Type 2 Diabetes, Stratified by Number of Posttraumatic Stress Disorder Symptoms (Nurses' Health Study II, 1989-2011)

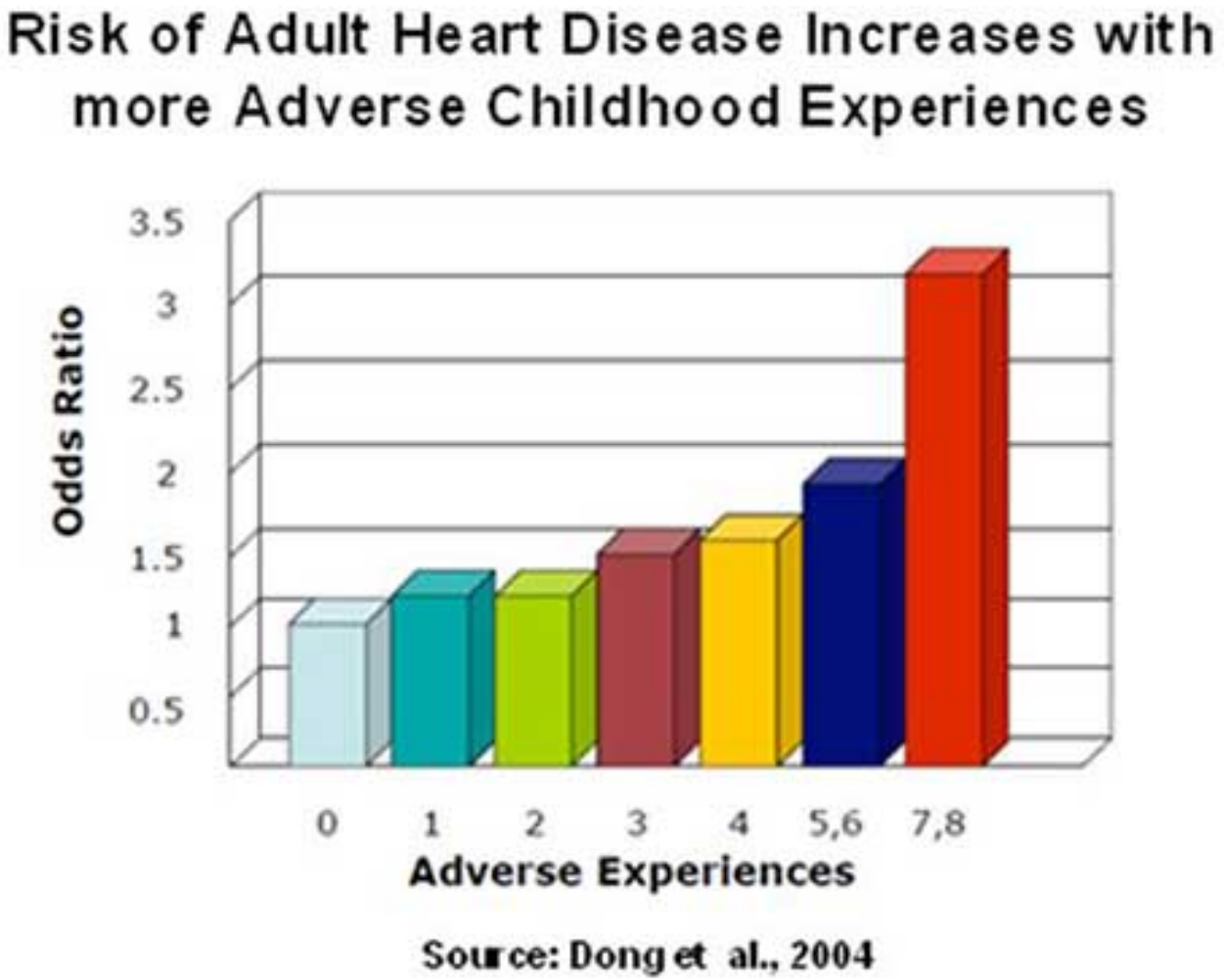
Roberts AL et al. JAMA Psychiatry. 2015 Mar 1;72(3):203-10.


PTSD
Behavioral Manifestations of Trauma

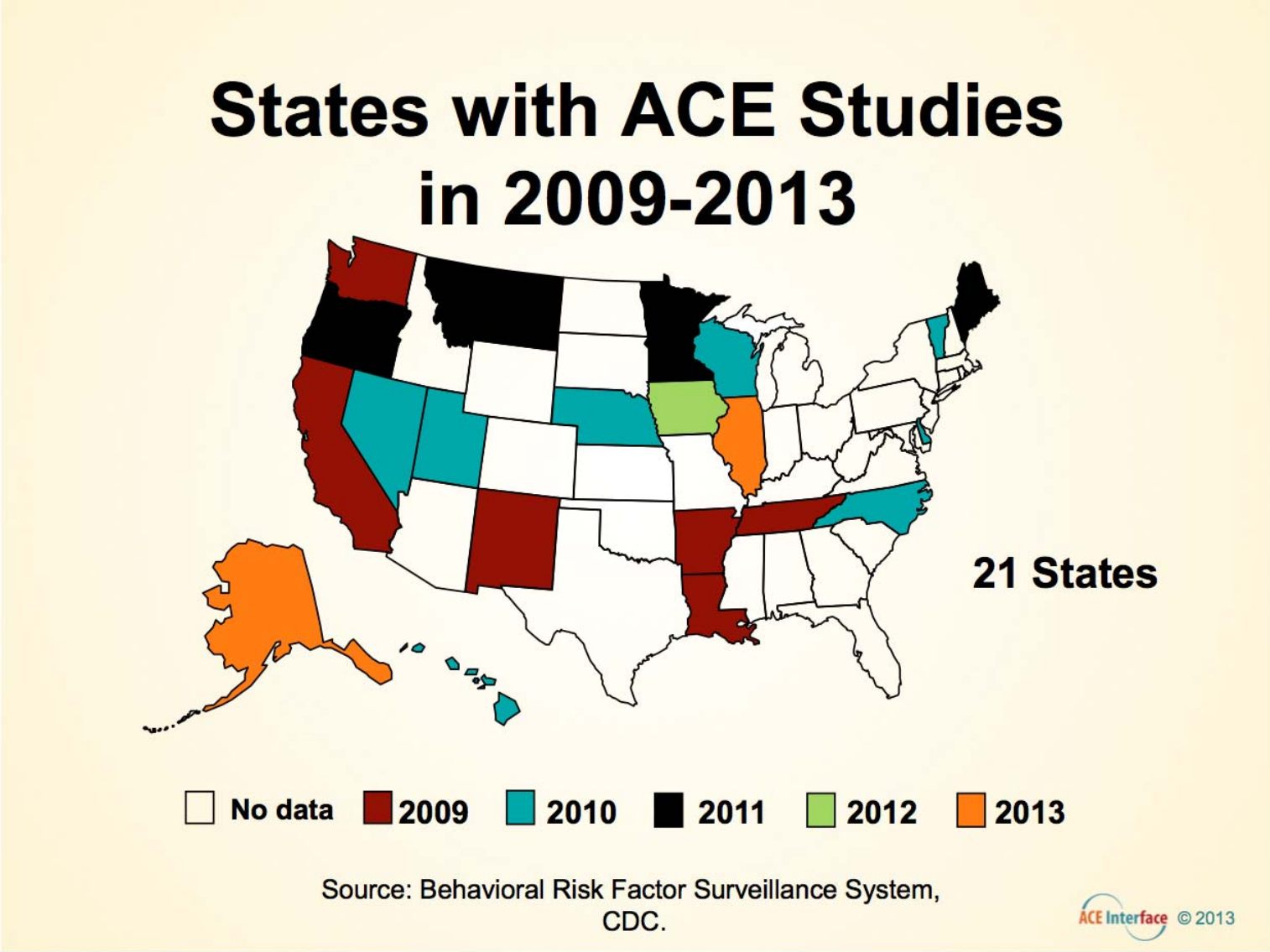


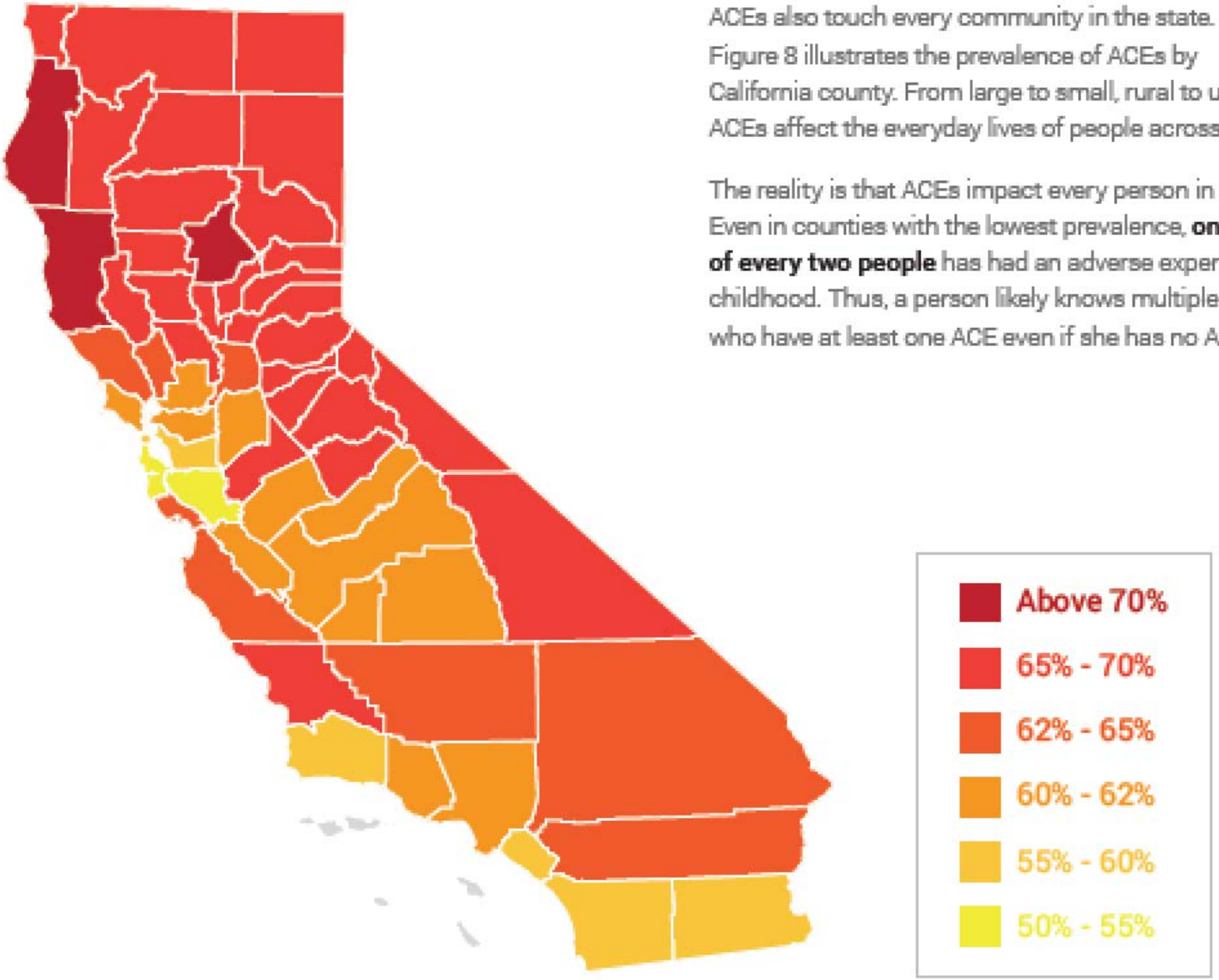
Childhood Adverse Experiences

# The Adverse Childhood Experiences (ACE) Study



# ACEs Being Measured across the Country






ACEs also touch every community in the state. Figure 8 illustrates the prevalence of ACEs by California county. From large to small, rural to urban, ACEs affect the everyday lives of people across California.

The reality is that ACEs impact every person in California. Even in counties with the lowest prevalence, **one out of every two people** has had an adverse experience in childhood. Thus, a person likely knows multiple people who have at least one ACE even if she has no ACEs

# Trauma exposure is associated with

- Increased morbidity and premature mortality
- Treatment-resistant, chronic conditions
- Health risk behaviors
- Difficulty trusting healthcare systems and providers

# Trauma exposure is associated with

- Increased sensitivity to power differentials and authority figures
- Problematic clinical encounters (i.e., “difficult” patients)
- Difficulty engaging in preventive care
- Increased physical and behavioral health co-morbidity (including substance use disorders)

# Implications for Clinical Care

- Trauma exposure across the lifespan is prevalent in the general population and all clinical settings
- Patients want to be asked about trauma and are not harmed when asked about it
- For many patients, disclosure of traumatic experiences is therapeutic on itself
- Many patients are unaware that their health problems are linked to ACEs

# Challenges of Trauma-Informed Care (TIC)

- TIC requires excellent patient-centered communication skills
- TIC may imply changes in certain billing and reimbursement procedures
- TIC works best when care is collaborative and integrated
- TIC needs to inform new developments in medical school curriculum and assessment of competency

# Opportunities of Trauma-Informed Care

- TIC fits naturally with cultural competence
- TIC is congruent with interprofessional practice
- TIC works synergistically with ACA-supported patient-centered medical homes
- TIC takes into account social determinants of health
- TIC is aligned with the goal of eliminating health disparities

# Proposed Trauma-Informed Competencies for Physicians

*Board-certified physicians should be able to*

- Elicit regularly histories of exposure to traumatic experiences across the lifespan in patients and caregivers in all clinical settings, as appropriate
- Adjust interviewing in response to patient's demographics, e.g., sex, age, religious practices/beliefs, race/ethnicity, SES, sexual orientation/gender identity

# Proposed Trauma-Informed Competencies for Physicians

- Respond with compassion, normalization and education to patient disclosure of traumatic or adverse experiences
- Identify and advocate for resources and refer patients to appropriate psychosocial services in the clinical setting and community in which they work

# Proposed Trauma-Informed Competencies for Physicians

- Determine the patient's strengths, life goals and values that can sustain recovery and healing from trauma
- Integrate the trauma and resilience information gathered in patient-centered, culturally-responsive treatment plans to enhance health outcomes

afsciolla@ucdavis.edu

# THANK YOU

# MEDICAL BOARD OF CALIFORNIA

## APPLICATION REVIEW AND SPECIAL PROGRAMS COMMITTEE MEETING AGENDA

***MEMBERS OF THE COMMITTEE***

***Gerrie Schipske, R.N.P., J.D.,***
***Ronald Lewis, M.D.***

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Hwy.
Burlingame, CA 94010
650-692-9100 (Directions Only)
Irvine Room

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

**Friday, July 31, 2015**
**8:30 a.m. – 9:00 a.m.**
(or until conclusion of business)

**Open Session:**

1. Call to Order/Roll Call

**Closed Session**:

2. Application Review
   A closed session will be held pursuant to Gov. Code §11126(c)(2) to consider applications for licensure.

**Reconvene in Open Session:**

3. Adjournment

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

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

***Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Committee, but the Chair may apportion available time among those who wish to speak.***
***For additional information, call (916) 263-2389.***

# MEDICAL BOARD OF CALIFORNIA

# QUARTERLY BOARD MEETING AGENDA

***MEMBERS OF THE BOARD***

***President***
***David Serrano Sewell, J.D.***
***Vice President***
***Dev GnanaDev, M.D.***
***Secretary***
***Denise Pines***
***Michelle Bholat, M.D.***
***Michael Bishop, M.D.***
***Randy Hawkins, M.D.***
***Howard Krauss, M.D.***
***Sharon Levine, M.D.***
***Ronald Lewis, M.D.***
***Gerrie Schipske, R.N.P, J.D.***
***Jamie Wright, Esq.***
***Barbara Yaroslavsky***
***Felix Yip, M.D.***

San Francisco Airport Marriott Waterfront
1800 Old Bayshore Hwy
Burlingame, CA 94010
650-692-9100 (Directions Only)
Irvine Room

**Thursday July 30, 2015**
**3:30 p.m. – 5:45 p.m.**
(or until the conclusion of business)

**Friday, July 31, 2015**
**9:00 a.m. – 3:00 p.m.**
(or until the conclusion of business)

Teleconference – See Attached Meeting Information

**ORDER OF ITEMS IS SUBJECT TO CHANGE**

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

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

***Please see Meeting Information Section for additional information on public participation.***

***Please see last page of the agenda for CURES Registration Information.***

**Thursday, July 30, 2015**

1. Call to Order/Roll Call

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

3. Approval of Minutes from the May 7 – 8, 2015 Meeting

4. Board Member Communications with Interested Parties – Mr. Serrano Sewell

5. Presentations on Physician Health Programs and Discussion/Consideration – Ms. Robinson
   A. Doris C. Gundersen, M.D., Medical Director – Colorado Physician Health Program
   B. Michel A. Sucher, M.D., Medical Director – Monitored Aftercare Program

6. Discussion and Possible Action on Legislation/Regulations – Ms. Simoes
   A. 2015 Legislation

| | | | | | | |
|---|---|---|---|---|---|---|
| AB 26 | AB 595 | AB 890 | SB 128 | SB 396 | SB 538 | SB 800 |
| AB 34 | AB 611 | AB 1306 | SB 149 | SB 408 | SB 622 | SJR 7 |
| AB 159 | AB 637 | ACR 29 | SB 277 | SB 464 | SB 643 | |
| AB 266 | AB 684 | SB 19 | SB 323 | SB 467 | SB 715 | |
| AB 483 | AB 773 | SB 22 | SB 337 | SB 482 | SB 738 | |

B. Status of Regulatory Actions
C. Federal Legislation – Telemedicine for Medicare Act of 2015

7. President's Report – Mr. Serrano Sewell

8. Update from the Executive Committee – Mr. Serrano Sewell

9. Update from the Licensing Committee – Dr. Bishop

10. Update from the Education and Wellness Committee – Ms. Yaroslavsky

**Friday, July 31, 2015**

11. Call to Order/Roll Call

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

13. 9:00 a.m. REGULATIONS – PUBLIC HEARING
Physician's and Surgeon's Licensing Examinations Minimum Passing Scores. Amendment to Section 1328.1 of Title 16, California Code of Regulations. This proposal would further define the law pertaining to passing scored on licensing examinations and eliminate the need for the Medical Board of California to pass a yearly resolution for the minimum passing examination score.

14. 9:05 a.m. REGULATIONS – PUBLIC HEARING
Outpatient Surgery Setting Accreditation Agency Standards. Amendment to Section 1313.4 of Title 16, California Code of Regulations. This proposal would make these regulations consistent with Health and Safety Code Section 1248.15 and 1248.35. The amendment will require all outpatient setting locations to be inspected and require an accreditation agency to report actions to the Board.

15. 9:10 a.m. REGULATIONS – PUBLIC HEARING
Disclaimers and Explanatory Information Applicable to Internet Postings. Amendment to Section 1355.35 of Title 16, California Code of Regulations. This proposal will update the list of disclaimers and explanatory information provided with public disclosure information released on the internet. The amendment will also add public disclosure screen types for court orders related to family support issues.

16. Discussion and Possible Action on Proposed Regulations Updating the Manual of Model Disciplinary Orders and Disciplinary Guidelines – Ms. Kirchmeyer and Ms. Romero

17. Presentation and Update from the Federation of State Medical Boards – Jacqueline A. Watson, D.O. and Mike Dugan

18. Presentation on Findings from the 2013 Supplemental Survey on Electronic Health Record Availability and Medi-Cal Participation – Janet Coffman, M.A., M.P.P., Ph.D., Associate Professor, University of California, San Francisco

19. Executive Management Reports – Ms. Kirchmeyer
    A. Approval of Orders Following Completion of Probation and Orders for License Surrender During Probation
    B. Administrative Summary
    C. Enforcement Program Summary
    D. Licensing Program Summary
    E. Update on Coordination with State Agencies regarding Psychotropic Medications for Foster Children
    F. Update on the CURES Program

20. Update from the Department of Consumer Affairs – Ms. Lally

21. Investigation and Vertical Enforcement Program Report
    A. Program Update from the Department of Consumer Affairs – Mr. Gomez
    B. Program Update from the Health Quality Enforcement Section – Ms. Castro

22. Discussion and Possible Action on the Midwifery Challenge Program Offered by Maternidad La Luz – Mr. Worden and Ms. Webb

23. Update from the Attorney General's Office – Ms. Castro

24. Update on the Physician Assistant Board – Dr. Bishop

25. Update on the Health Professions Education Foundation – Ms. Yaroslavsky and Dr. Yip

26. Agenda Items for the October 2015 Meeting in the San Diego Area

27. Election of Officers

28. Adjournment

## Meeting Information

This meeting will be available via teleconference. Individuals listening to the meeting will have an opportunity to provide public comment as outlined below.

**The call-in number for teleconference comments is:**

**Thursday July 30, 2015 - (877) 209-9920**

**Friday July 31, 2015 - (800) 553-5260**

Please wait until the operator has introduced you before you make your comments.

To request to make a comment during the public comment period, press *1; you will hear a tone indicating you are in the queue for comment. If you change your mind and do not want to make a comment, press #. Assistance is available throughout the teleconference meeting. To request a specialist, press *0.

During Agenda Item **2** and **12** – Public Comments on Items Not on the Agenda, the Board has limited the total public comment period via teleconference to 20 minutes. Therefore, after 20 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

During public comment on any other agenda item, a total of 10 minutes will be allowed for comments via the teleconference line. After 10 minutes, no further comments will be accepted. Each person will be limited to three minutes per agenda item.

Comments for those in attendance at the meeting will have the same time limitations as those identified above for individuals on the teleconference line.

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

***NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Lisa Toof at (916) 263-2389 or lisa.toof@mbc.ca.gov or send a written request to Lisa Toof. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.***

# Sign Up for CURES at the Medical Board of California July Board Meeting in Burlingame!

Effective January 1, 2016, all California licensed physicians must be registered to access PDMP/CURES (as required by Section 209 of the California Business and Professions Code). Registering for CURES access allows the physician to access patient activity reports before prescribing controlled substances. The current registration process requires the physician to complete the online application and have the application notarized.

The Medical Board of California has volunteered to assist physicians in registering for access to CURES by reviewing the completed documents and verifying the physician's identity in place of the requirement to have the documents notarized. MBC is authorized to accept the applications and forward them directly to the Department of Justice for expedited processing.

**MEETING LOCATION: San Francisco Airport Marriott Waterfront**
**1800 Old Bayshore Hwy**
**Burlingame, CA 94010**

## ** BEFORE COMING TO THE MEETING:

You must start the process by going to oag.ca.gov/cures-pdmp. Select "prescriber," then:

1. **Complete** the online application form
2. **Print** the completed form, then sign and date it
3. **Attach** a copy of:
    - Your CA medical license
    - DEA controlled substances registration
    - Driver's license or other photo government identification

**AT THE BOARD MEETING – APPLICANT MUST BE PRESENT TO PROCESS**

**YOU** must bring the **completed** packet in person to Medical Board staff table at the Hotel on Thursday, July 30, 2015, from 10:00 a.m. to 5:00 p.m., or on Friday, July 31, 2015, from 9:00 a.m. to 1:00 p.m.

A confirmation will be emailed to you from the Department of Justice once your registration is processed.

# MEDICAL BOARD OF CALIFORNIA
## QUARTERLY BOARD MEETING

Los Angeles Airport Marriott
5855 W. Century Blvd.
Los Angeles, CA 90054

**Thursday May 7, 2015**
**Friday May 8, 2015**

## MEETING MINUTES

***Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.***

**Members Present:**
David Serrano Sewell, J.D., President
Dev GnanaDev, M.D., Vice President
Denise Pines, Secretary
Michelle Bholat, M.D.
Michael Bishop, M.D.
Randy Hawkins, M.D.
Howard Krauss, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Gerrie Schipske, R.N.P., J.D.
Jamie Wright, Esq.
Barbara Yaroslavsky
Felix Yip, M.D.

**Members Absent:**
Elwood Lui

**Staff Present:**
Liz Amaral, Deputy Director
Irene Bisson, Inspector III
Sandra Borja, Inspector II
Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Steven Froberg, Inspector I
Ruben Garcia, Inspector II
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Analyst
Cajetan Onu, Inspector I
Dino Pierini, Business Services Analyst
Regina Rao, Associate Government Program Analyst
Elizabeth Rojas, Business Services Officer
Paulette Romero, Staff Services Manager II, Central Complaint Unit

Jennifer Simoes, Chief of Legislation
Adrienne Smith, MST
Lisa Toof, Administrative Assistant II
Rachel Wacholz-LaSota, Inspector III
Kerrie Webb, Legal Counsel
Curt Worden, Chief of Licensing

**Members of the Audience:**
Jeremy Adler, Physician Assistant, California Academy of Physician Assistants
Teresa Anderson, California Academy of Physician Assistants
Carmen Balber, Consumer Watchdog
Jodi Barber, Consumer Watchdog
Larry Bennett, Investigator, Department of Consumer Affairs
Lisa Bond, Consumer Watchdog
Evelyn Bravo-Ayala, Senator Hertzberg's Office
Gaye Breyman, California Academy of Physician Assistants
Adam Carter, Senator Lui's Office
Gloria Castro, Senior Assistant Attorney General Attorney General's Office
Yvonne Choong, California Medical Association
Kang Chot, Midwestern University
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Ververly Edwards, Consumer's Union
Karen Ehrlich, L.M., Midwifery Advisory Council
Julie Eschot, Supervising Investigator I, Department of Consumer Affairs
Yotham Fraenkel, Midwestern University
Lou Galiano, Videographer, Department of Consumer Affairs
Bridget Gramme, Center for Public Interest Law
Richard Granese, SCPA
Marion Hollingsworth, Consumers Union
Anthony Jackson, M.D., Black American Political Association of California
Jennifer Kamel, Founder/Director, VBAC Facts
James Kennedy
Christine Lally, Department of Consumer Affairs
Lisa McGiffert, Consumers Union
Albert Medina, Investigator, Department of Consumer Affairs
Guy Menme, California Academy of Physician Assistants
Greg Mennie, M.D., California Academy of Physician Assistants
Michelle Monseratt-Ramos, Consumers Union
Carol Moss, Consumer's Union
Ty Moss, Consumer's Union
Bob Pack, Consumer Watchdog
Robert Park, Assemblymember Santiago's Office
Robert Pulido, Supervising Investigator
T.S.S. Rajan, M.D., Black American Political Association of California
Sylvia Salcedo, Investigator, Department of Consumer Affairs

Suely Saro, Senator Lara's Office
A.R. Savage, Black American Political Association of California & National Association for the Advancement of Colored People
Andrew Sou, Midwestern University
Carrie Sparrevohn, Midwifery Advisory Council Chair
Jack Sun, Investigator, Department of Consumer Affairs
Pawarid Techathaveewat
Audrey Tse, Midwestern University
Paul Yost, M.D., California Society of Anesthesiologists

**Agenda Item 1 Call to Order/Roll Call**

Mr. Serrano Sewell began by introducing the two newest Board Members, Dr. Hawkins, and Dr. Bholat. He welcomed them by administering the ceremonial oath of office to each new member.

Mr. Serrano Sewell called the meeting of the Medical Board of California (Board) to order on May 7, 2015 at 1:06 pm. A quorum was present and due notice was provided to all interested parties.

**Agenda Item 2 Public Comments on Items not on the Agenda**

Lisa McGiffert, Director of Consumers Union Safe Patient Project, requested the Board to put an item on the July 2015 agenda. She would like a discussion on changing the disciplinary guidelines so all physician probation orders include a requirement to notify their patients.

**Agenda Item 3 Approval of Minutes from the January 29-30, 2015 Meeting**

Ms. Kirchmeyer announced that there was an amendment made to the bottom of page 25 and the top of page 26 of the meeting minutes to include a comment that was received by Ms. D'Angelo Fellmeth. She noted the two amended pages were handed out to each Board Member and that there were public copies available on the back table in the room.

***Dr. Lewis made a motion to approve the meeting minutes with amendments; s/Ms. Yaroslavsky. Motion carried. 10 Support, 3 Abstain (Bholat, Hawkins, and Schipske).***

**Agenda Item 5 President's Report**

Mr. Serrano Sewell stated, he and Dr. GnanaDev continue to meet with the Board Executive Director and staff regularly to discuss projects at the Board and to ensure everything is moving forward as needed for the Board Meetings.

Mr. Serrano Sewell stated the first annual Legislative Day took place on February 26, 2015, and was a success. Dr. Lewis, Ms. Pines, Ms. Yaroslavsky, and himself, along with Board staff, met with various Legislators and Chairs of Committees at the State Capitol.

They discussed the mission of the Board and the work that it does. He stated the meetings were appreciated and welcomed by the Legislators' offices.

Mr. Serrano Sewell noted one item that seemed to be a concern of the Legislative and Committee's staff was the Board's Interim Suspension Orders (ISOs).

Dr. Lewis stated that many of the Legislative and Committee staff were unfamiliar with the mission of the Board, and it gave the Members the opportunity to define, in detail, just what the Board does, and he felt the meetings were beneficial to all who participated. Ms. Yaroslavsky felt the Legislative and Committee staff were very engaged in the conversations, queried the Members on different issues, and she felt these meetings were beneficial.

Mr. Serrano Sewell then referred the members to pages BRD 5-1 and BRD 5-2, which consisted of the Board's updated Committee Roster. This roster includes the Committee appointments of the two new Board Members. He reminded the members that if anyone would like to consider changing Committees, to please let Ms. Kirchmeyer know.

**Agenda item 6 Discussion and Possible Action on Legislation/Regulations**

Ms. Simoes began by stating she contacted all Legislative district offices in the Los Angeles area and invited them to the Board Meeting.

She stated the agenda now has to include all of the legislative bills that will be and/or could be discussed at each meeting. She has listed all of these bills with this possibility, though some may not have to be discussed. She presented on the following bills.

**SB 482** (Lara) would require all prescribers issuing Schedule II and III drugs to access and consult the CURES database before prescribing or dispensing. This bill would further the Board's goal of consumer protection and take steps forward in addressing the issue of doctor shopping and opioid abuse. Board staff suggested that the Board support this bill.

Ms. Saro, Senator Lara's Office, the author of SB 482, requested the Board support this bill.

Dr. Hawkins stated, as a physician in private practice, he finds the CURES system easy to use and very helpful.

Dr. Krauss noted he has some concerns about Legislative language that sets a requirement on the physician prior to prescribing, without having specification of performance of the system. He recommended working with the author to ensure there is language that frees the physician of liability from day to day, should the CURES system not be functioning as required for whatever reason.

Dr. Levine stated her concerns regarding the fact that the pharmacists were removed from the original version of the bill and asked what the reason was for that omission.

Ms. Saro responded, stating that current law already requires pharmacists to report what they are dispensing, which is the reason for the omission.

Ms. Schipske requested the Board take a position that the author includes language that would make the pharmacists be required to use the CURES system as well. She then asked the reason that The California Medical Association (CMA) opposed this bill.

Dr. Lewis stated his concerns about the language in the bill referring to "real time" or not. Ms. Kirchmeyer noted there is current law that allows pharmacists seven days to enter the information into the CURES system. Until that law is changed, it will remain at the seven day allowance. She stated that even at seven days; the CURES system will be able to tell a physician if a patient has been "doctor shopping" or has gone to multiple physicians.

Ms. Kirchmeyer then responded to Dr. Krauss' concern about the liability of a physician using the CURES system, should the system not be functioning at some point. She read a section of language already written in the current bill, that would free the physician of liability should the system be down for any reason.

***Dr. Lewis made a motion to support SB 482, if amended to include further definition on what it means to have the CURES system "up and running," and to have the dispensers added back in to the bill's language; s/Ms. Yaroslavsky.***

Jodi Barber shared her story of her son who passed away in year 2010 due to overprescribing and feels that the use of the CURES system can prevent this from happening to another family.

Carmen Balber, Director of Consumer Watchdog, stated her support for SB 482 and encouraged the Board to support it as well.

Julie D'Angelo Fellmeth, Center for Public Interest Law, stated it does not make any sense to require physicians and dispensers to register with the CURES system unless it is a requirement for them to check it prior to prescribing an addictive controlled substance to patients. She encouraged the Board to support SB 482.

Yvonne Choong, CMA, stated CMA is in opposition of SB 482. They feel this bill is premature and runs opposite of the work the Board has done related to prescription drug abuse and are finding that currently, many physicians, while not required to register and/or use CURES are still using the current CURES system. She stated CMA's concerns are about the issue of the language in the bill stating that implementation being contingent upon certification of the system by the Department of Justice (DOJ). CMA does not feel that is enough. They believe there should be some kind of third party verification that the system actually works as DOJ states. CMA is concerned the impact of this bill is going to be on patients that have legitimate pain needs. CMA is urging the Board's opposition of this bill.

James Kennedy encouraged the Board's support of SB 482. He shared his story of the loss of his son due to overprescribing, and feels that this bill will help prevent this from happening to other families.

***Motion carried unanimously.***

**SB 396 (Hill)** would make changes to the outpatient setting laws. Ms. Simoes pointed out specific pieces of the bill that could affect the Board. She stated this was an update only and no vote was needed.

Yvonne Choong, CMA, stated they are taking of an oppose, unless amended position on SB 396. Their concerns arise from some of the proposed changes and their impact on a facility, depending on its structure. Since outpatient surgery settings can be a small single physician office or a larger facility with multiple clinicians, they believe that changes to the regulatory structure could have different impacts on a facility depending on its size and structure. They feel it is unclear what the Board is trying to accomplish. The reporting requirement would place both administrative and financial burdens on facilities and CMA feels there needs to be more clarity about what the Board is trying to achieve before imposing these requirements.

**SB 408 (Morrell)** would establish training requirements in statute for midwife assistants and parameters on what services can be provided by midwife assistants, which would further 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 CMA and the American College of Obstetricians and Gynecologists and to add Certified Nurse Midwife (CNM) as supervisors, as requested by the CNM Association. Ms. Simoes stated this was an update only and no vote was needed.

**SB 800 (Omnibus) (Committee on Business, Professions, and Economic Development)** is the vehicle by which omnibus legislation has been carried by the Senate Business, Professions, and Economic Development Committee. This bill would specifically authorize licensed midwives, non-resident contact lens sellers, spectacle lens dispenser, contact lens dispensers, registered dispensing opticians, and polysomnographic technologists, technicians, and trainees to petition the Board for reinstatement or termination/modification of probation. Ms. Simoes stated, there are also several technical, clean up amendments in the bill. These statute changes have already been approved by the Board to be included in the omnibus bill. She added this was an update only, and no vote was needed.

**AB 34 (Bonta and Jones-Sawyer)** 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 for the Board, which will help to ensure consumer protection. Lastly, this bill would not allow physicians to be employed by marijuana clinics or dispensaries, which will help to ensure that physicians are not making marijuana recommendations for financial or employment reasons. In January, 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 supported AB 26 because it would provide the Board with enforcement tools that would help ensure consumer protection. Ms. Simoes suggested the Board take a support position on this bill.

Dr. Krauss expressed his concerns about the in-person examinations being removed from the bill; he would recommend continuing to ask the author to include in-person examinations for marijuana recommendations in this bill.

***Dr. Lewis made a motion to support AB 34; s/Dr. Levine. Motion failed. 7 Abstain (Bholat, GnanaDev, Krauss, Yip, Pines, Wright, Yaroslavsky), 5 Support (Bishop, Hawkins, Levine, Lewis, Serrano Sewell), 1 Oppose (Schipske)***

***Dr. Krauss made a new motion to support AB 34 if amended to include an in-person examination; s/Dr. Yip. Motion carried. 11 Support, 2 Opposed (Serrano Sewell, Lewis)***

**AB 266 (Cooley) & SB 243 (McGuire)** would both put various licensing and enforcement requirements on medical marijuana dispensaries and cultivation facilities and would create a Bureau of Medical Marijuana Regulation (Bureau) in the Department of Consumer Affairs that would be the regulatory agency performing the licensing functions. It would also give local agencies the primary responsibility for enforcement of Bureau standards, in accordance with Bureau regulations. These bills would both impose almost identical requirements on physicians recommending marijuana to patients for medical purposes and on the Board. Ms. Simoes stated, the discussion only covered the portions of the bills related to the requirements on physicians recommending medical marijuana and the requirements of the Board.

These bills would also require the Board to consult with the Center for Medicinal Cannabis Research (CMCR) when developing guidelines, but do not expressly require the Board to develop and adopt guidelines for the appropriate administration and use of marijuana. If these bills were to pass, the Board would need to update its current statement and at that time would consult and solicit input from the CMCR.

Ms. Simoes suggested the Board take a neutral position on both AB 266 and SB 643.

***Dr. Levine made a motion to take a neutral position on both AB 266 and SB 643; s/Ms. Yaroslavsky. Motion carried unanimously.***

**AB 483 (Patterson)** would require initial licensing fees for physicians and surgeons to be prorated on a monthly basis. This bill would require the Board to prorate the initial licensing fees to ensure that licensees are not overcharged. This bill could accomplish

that, however it would result it delays in issuing licenses and increased workload. If this bill were to pass, it would require the Board, once all documents are received, to calculate a prorated amount that would result in delays in issuing licenses. Board staff believes that the goal of this bill could be obtained by requiring the Board to issue a straight two-year license. This would ensure the applicants are not overcharged and would not create any additional steps in the licensure process. Staff discussed this with the author's office and they are willing to remove the Board from this bill if the Board is added to AB 773 (Baker), which would change the initial license time period to a two-year license. Ms. Simoes is recommending taking a neutral if amended position on this bill.

***Dr. Lewis made a motion to take a neutral if amended position on this bill; s/Ms. Yaroslavsky. Motion carried. (Wright absent from vote)***

**AB 637 (Campos)** would allow nurse practitioners (NPs) and physician assistants (PAs), under physician supervision, to sign Physician Orders for Life Sustaining Treatment (POLST) forms. NPs and PAs are currently involved in providing end-of-life care to patients in California. Therefore, it would make 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 would further the Board's mission of promoting access to care. Board staff recommends the Board take a support position on this bill.

Theresa Anderson, California Academy of Physician Assistants (CAPA) stated CAPA supports this bill and encouraged the Board's support.

***Dr. Lewis made a motion to take a support position on this bill; s/Dr. Yip. Motion carried. (Wright absent from vote)***

**AB 684 (Bonilla)** would place a moratorium on discipline for registered dispensing opticians and optometrists (RDOs) by the Board or the California Board of Optometry (CBO) for engaging in any business relationship prohibited by the Business and Professions Code Section 655. This bill would take effect immediately, as it contains an urgency clause. 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. AB 595 included protections for an optometrist's clinical judgment to address concerns that an RDO would influence or interfere with the clinical decision of an optometrist.

AB 684 would allow time, until January 1, 2017, for the business model arrangement issues to be worked out in AB 595. At this time, putting a moratorium on disciplinary action for RDOs and optometrists makes sense; however, the language in the current

moratorium is too broad and needs to be better defined. If changes were made to address the concern, it would allow the issue of optical business models in California to be addressed and ensure RDOs and optometrists are not penalized while AB 595 is being worked through the Legislature. Ms. Simoes suggested the Board take a neutral if amended position.

***Dr. Krauss made a motion to take a neutral if amended position; s/Dr. Levine. Motion carried. 11 Support, 1 Abstain (Bholat), (Wright absent from vote)***

**AB 773 (Baker)** would require licenses issue by the California Board of Psychology to be valid for two years from issuance. This bill is attempting to resolve the same overpayment issue that AB 483 (Patterson) would address for licenses issued by the California Board of Psychology. This bill would require the Board of Psychology 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. Board staff has discussed adding the Board to this bill with the author and her staff, and they are willing to add the Board to this bill. Ms. Simoes suggested that the Board support this bill if it is amended to add physician and surgeon licenses issued by the Board.

***Dr. Lewis made a motion to support this bill if amended to add physician and surgeons; s/Dr. Krauss. Motion carried unanimously.***

**AB 890 (Ridley-Thomas)** would enact the Anesthesiologist Assistant Practice Act and would make it unlawful for any person to hold himself or herself out as an anesthesiologist assistant (AA) unless he or she meets specified requirements. The AA is required to work under the direction and supervision of an anesthesiologist, and would be allowed to assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient.

This bill is a title act that would require a person to meet specified requirements in order to hold himself or herself out as an AA. This bill would require an AA to graduate from an AA program recognized by the Commission on Accreditation of Allied Health Education Programs or by its successor agency. An AA would also have to hold an active certification by the National Commission on Certification for Anesthesiologist Assistants. This bill would require an AA to work under the direction and supervision of an anesthesiologist, which must be physically present on the premises and immediately available to the AA when medical services are being rendered. The supervising anesthesiologist must oversee the activities of, and accept responsibility for, the medical services being rendered by the AA. This bill would allow the AA, under the supervision of an anesthesiologist, to assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient.

AAs are highly educated individuals that receive appropriate clinical education and experience to assist anesthesiologists. However, AAs would not receive a license under this bill, so there is no direct regulatory oversight on the medical care being provided by an AA. If an AA were to provide substandard patient care, there is no license to take disciplinary action against and there is no way to stop the AA from practicing. Although the bill would charge the supervising

anesthesiologist with accepting responsibility for the medical services being rendered by an AA, there is not a clear pathway for regulatory oversight other than the normal regulatory oversight provided by the Board for physicians. Ms. Simoes is suggested that the Board take a neutral position if this bill is amended to include a framework to stop an AA that is providing substandard care from practicing.

Dr. Bishop stated he fully supports this bill if amended and noted his reason for supporting it. He stated the nation is facing a shortage of health care providers, which can have an adverse effect on access to care, especially in underserved areas. This bill would help alleviate this shortage. It does not seek to expand the scope of practice of a certain group of providers. The AA program requirements include completion of the Medical College Admission Test (MCAT), the same test required for medical school applicants.

Dr. Bishop stated the Board is mandated to provide consumer protection as its highest priority and there could be no higher component of that mission then ensuring prompt access to care. The bill is currently imperfect, but the intent of this bill is clear, and simply proposes that the State of California allow a group of highly qualified, immediately available health care providers to practice in the state for the benefit of the citizens. He noted his confidence in the author's response to this bill and believes he will readily amend the bill, such as appropriate licensure, supervision and any other safety concerns that need be addressed.

***Dr. Bishop made a motion to support this bill if amended to consider licensure rather than certification and to have staff work with the author for oversight provisions; s/Dr. Lewis.***

Dr. Yost, President of California Society of Anesthesiologists, sponsor of AB 890, thanked the Board for their service and stated there was a 2010 study that showed there is a shortage of anesthesiologists nationally and California is even worse. He noted California has only 18 anesthesiologist providers per 100,000 population, where the rest of the country has 30 providers per population. He stated anesthesiologist assistants are highly trained, have proven extremely qualified in 17 other states, and are committed to physician-led team-based care. He stated as sponsors of this bill, he would be happy to work with staff on desired language and asked for the Board's support if amended position.

Yvonne Choong, CMA, stated they are in support of this bill. They believe it is a pathway towards having an increased number of allied health providers in anesthesiology practicing under a physician team-based model.

***Motion carried. 10 Support, 2 Abstentions (Krauss, Levine), 1 Oppose (Schipske)***

**AB 1306 (Burke)** would remove the physician supervision requirement for CNMs allowing CNMs to manage a full range of primary health services, perform peripartum care, provide emergency care when a physician is not present and perform an episiotomy in all practice settings.

This bill would require a CNM applicant to provide evidence of current advanced level national certification by a certifying body that meets standards established and approved by the Board of Registered Nursing (BRN).

This bill would require the BRN to create and appoint a Nurse-Midwifery Advisory Council (Council), similar to the Board's Midwifery Advisory Council (MAC), which would consist of CNMs in good standing with experience in hospital and non-hospital practice settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the Council to make recommendations to BRN on all matters related to nurse-midwifery practice, education, and other matters specified by BRN, and would require the Council to meet regularly.

This bill would authorize a CNM to manage a full range of primary health care services for women including, but not limited to: primary health care; gynecologic and family planning services; preconception care; care during pregnancy, childbirth, and postpartum period; immediate care of the newborn; and treatment of male partners for sexually transmitted infections. This bill would authorize a CNM to practice in all settings, including, but not limited to, private practice, clinics, hospitals, birth centers, and homes. This bill would authorize a CNM 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 births.

This bill would delete the requirement in existing law that drugs or devices must be furnished or ordered by a CNM in accordance with standardized procedures and protocols.
This bill would authorize a CNM to furnish and order drugs or devices in connection with care rendered in a home. It would authorize a CNM 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 CNM and that are consistent with nurse-midwifery education preparation.

This bill would state that a consultative relationship between a CNM and a physician should not, by itself, provide the basis for finding a physician liable for any act or omission of the CNM.

This bill removes physician supervision for CNMs and allows CNMs to provide a full range of primary health care services for women; this is a significant expansion of the CNM scope of practice. Although the Board was supportive of the bill in 2013 that removed physician supervision for LMs, it was because the bill was very restricted and clear on what types of patients LMs could accept, and required physician consultation and approval for patients that did not meet the requirements. High-risk patients cannot be accepted by an LM. This bill would allow a CNM to accept all patients, as long as they are low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated births. This bill does not define low risk, or uncomplicated birth, so this would be left to the judgement of the CNM. This bill would provide that the practice of nurse-midwifery emphasize informed consent, preventive care and early detection and referral of complication to a physician. However, this bill does not define informed consent or when a CNM has to refer a patient to a physician and for what types of complications. This bill would require CNMs working in a hospital setting to collaboratively care for women with more complex health needs, but does not define collaborative care or complex health needs. Lastly, this bill does not require the Council to have a physician member, which has been important in the Board's experience with the MAC. In addition, it is also unknown how this bill would affect corporate practice, as the bill does not address this issue.

The Board's primary mission is consumer protection and this bill does not currently include parameters on independent CNM practice that would ensure consumer protection. Ms. Simoes recommended that the Board oppose this bill unless it is amended to address the Board's concerns.

***Ms. Yaroslavsky made a motion to oppose this bill unless amended to address Boards' concerns; s/Dr. Bishop.***
Carrie Sparrevohn, L.M., and Chair of the MAC, noted CNMs are not trained in home births and do not have to have attended a home birth to graduate from midwifery school. She feels that is something that needs to be addressed if they are going to be allowed to work without physician supervision in and out-of-hospital settings. She suggested that when working with the author on amendments, to address those concerns.

***Motion carried. 12 Support, 1 Abstention (Schipske)***

**ACR 29 (Frazier)** is a resolution that would make findings and declarations regarding the importance of organ donation. This resolution would proclaim April 20, 2015, as DMV/Donate Life California Day and April 2015 as DMV/Donate Life California month in California. The resolution would encourage all Californians to register with the Donate Life California Registry when applying for or renewing a driver's license or identification card.

The Board had previously voted to be the honorary state sponsor of the specialized license plates in 2013, because the license plate helped to increase awareness and raise money for organ and tissue donation, education and outreach. Ms. Simoes suggested the Board support this bill.

***Dr. Levine made a motion to support this bill; s/Ms. Yaroslavsky. Motion carried unanimously.***

**SB 22 (Roth)** was substantially amended since the last Board Meeting. It would now establish a nonprofit public benefit corporation, the California Medical Residency Training Fund (Fund) to establish and fund residency positions.

This bill would require the Office of Statewide Health Planning and Development (OSHPD) to establish a nonprofit public benefit corporation, the California Medical Residency Training Foundation (Foundation). The Foundation would be required to be governed by a board of trustees (BOT) consisting of 13 members. Seven members would be appointed by the Governor, one would be appointed by the Speaker of the Assembly, one would be appointed by the Senate Committee on Rules, and two members would be members of the Board, appointed by the Board, and two members would be members of the Osteopathic Medical Board of California. All members considered for appointment must have an interest in increasing the number of medical residencies in California, 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 bill. The Governor would appoint the president of the BOT and the members appointed by the Board would serve a four-year term.

This bill would set forth a framework that would allow OSHPD to establish a nonprofit public benefit corporation, the Foundation, which would solicit funding for new residency positions, and

that Foundation to be governed by the BOT, which would include two members appointed by the Board. This bill sets forth criteria for soliciting funding and criteria for establishing new residency positions. This bill would also require public reporting on the funding received, and how it is used. This bill would increase funding for residency programs in California, which will help promote the Board's mission of increasing access to care for consumers. This bill would also allow more physicians to receive residency training and potentially end up practicing in California. Ms. Simoes suggested that the Board change its position from support in concept, to support.

***Ms. Yaroslavsky made a motion to support this bill; s/Dr. Lewis. Motion carried unanimously.***

**SB 277 (Pan)** would eliminate the personal belief exemption from the requirement that children receive specified vaccines for certain infectious disease prior to being admitted to any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home or development center. This bill would expand existing annual notification requirements for school districts to include notification to parents or guardians of the immunization rates for each of the required immunizations for the school in which a student is enrolled. Ensuring that children receive the Advisory Committee Immunization Practices (ACIP) recommended vaccination schedule is the standard of care, unless there is a medical reason that the child should not receive the vaccination; this bill would still allow a medical exemption to address these circumstances. Ms. Simoes suggested that the Board support this bill.

***Ms. Yaroslavsky made a motion to support this bill; s/Dr. Krauss.***

Yvonne Choong, CMA, co-sponsor, stated the recent measles outbreak shows how quickly a disease can have a widespread impact and a person's refusal to vaccinate their children puts their child at risk of catching and spreading vaccine preventable diseases and puts people who cannot vaccinate at risk. Ms. Choong requested the Board support this bill.

Dr. Paul Yost voiced his support of this bill and asked for the Board's support as well.

A concerned parent asked the Board to allow the parents to make their own decisions on whether or not to have the children vaccinated.

***Motion carried. 11 Support, 2 Abstain (Pines and Wright)***

**SB 323 (Hernandez)** would authorize a nurse practitioner (NP) who holds a national certification to practice without physician supervision in specified settings. This bill would require a certified NP to refer a patient to a physician 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 NP. This bill would require a certified NP to maintain professional liability insurance appropriate for the practice setting.

According to the author, this bill would establish independent practice for certified NPs if they work in specified settings. This would enable them to perform all tasks and functions consistent

with their education and training. According to the author, the Institutes of Medicine and the National Council of State Boards of Nursing have recommended full practice for NPs.

This bill significantly expands the scope of practice of a certified NP by establishing independent practice for those certified NPs that work in specified settings. NPs are well qualified to provide medical care when practicing under standardized procedures and physician supervision. The standardized procedures and physician supervision, collaboration, and consultation are in existing law to ensure that the patient care provided by an NP includes physician involvement and oversight, as physicians should be participating in the patient's care in order to ensure consumer protection. In the latest policy committee hearing, the opposition brought up potential oversight of certified NPs by the Board, but it is unclear how the Board could have regulatory authority over a licensee of another regulatory board, the BRN. It is also unknown how this bill would affect corporate practice, as the bill does not address this issue.

This bill would limit independent certified NP practice to specified settings, which may involve other health care providers, including physicians. However, in most circumstances, this bill would not require certified NPs to collaborate, consult, or work with these other health care providers. The Board's primary mission is consumer protection and by expanding the scope of practice for a certified NP, patient care and consumer protection could be compromised. Ms. Simoes recommended the Board take an oppose position on this bill.

***Dr. Lewis made a motion to oppose this bill; s/Dr. Bishop. Motion carried. 12 Support, 1 Oppose (Schipske).***

**SB 337 (Pavley)** would establish alternative means for a supervising physician to ensure adequate supervision of a PA for routine care and the administration, provision, or issuance of a Schedule II drug. While the intent of this bill would be to provide flexibility and allow for a more team-based approach in PA supervision, the option that allows a physician to review cases as the physician deems appropriate is too broad and does not ensure adequate supervision of PAs. There would need to be a base included in the language in this bill related to the required physician review, similar to the medical records review meeting requirement (at least 10 times annually). With the language currently in the bill, a physician could decide that a review of two cases a year would be appropriate, and comply with the statute; however, this would not ensure adequate supervision. In addition, this bill would significantly reduce the physician review of medical records for schedule II drug orders from 100 percent to 20 percent. This would be a significant reduction of supervising physician review for types of opioid medications that are prevalent for abuse. Although this bill would require the PA to receive controlled substances training, this reduction in physician review is substantial. Board staff is suggesting that the Board oppose this bill unless it is amended to address these concerns.

***Ms. Yaroslavsky made a motion to oppose this bill unless amended to address concerns; s/ Dr. Lewis.***

Dr. Bishop stated that as a member of the Physician Assistant Board, he was in attendance of the meeting where this bill was discussed and due to procedural difficulties, the PA Board was not able to ask staff to work with the author to address some concerns. He asked the Board to include

the PA Board's concerns with the Medical Board's concerns when working with the author on this bill. He believes the intent of the bill is good, but it does have some things that need to be worked out.

Dr. GnanaDev supported the oppose unless amended position, but also has some concerns about the prescription drug area of the bill. He wants to be sure consumer protection is there before the Board considers taking any position other than oppose unless amended.
Ms. Kirchmeyer and Ms. Simoes both stated they have concerns about taking the review of medical records for Schedule II drug orders from 100 percent to 20 percent.

Dr. Richard Granese stated that PAs are an extension of the physician that they work with and are an integral part of the medical team and are essential to expanding access to care. He feels this bill does not take into account the experience and the training of the PA.

Teresa Anderson, CAPA, sponsors of the bill, thanked Ms. Kirchmeyer and Ms. Simoes for working with them on this bill. CAPA understands there are some thresholds that need to be looked at and the language enhanced. She stated the bill does not reduce supervision in any way. The physician is still 100% responsible for the care provided by the PA. She noted that CAPA is very willing to work with staff to make this a bill that the Board would support.

Greg Mennie, a practicing PA, stated that chart co-signature remains the law of the land. With today's technology advances, it makes sense to examine some of the outdated areas in regulations and laws. He noted that it makes sense to increase options for documentation and supervision that reflect the advances in team based care. SB 337 only offers a very small change to current law, by updating and recognizing there are other ways to document supervision and ensure adequate and safe team based care. This bill allows team members to design a process that works best for that team and their specific practice as opposed to a one size fits all legal requirement. He asked the Board for its support on this bill.

Jeremy Adler, PA, CAPA, stated SB 337 does not reduce supervision, but allows the physician flexibility on how they choose to document their supervision mandate, balanced with sufficient safeguards to ensure consumer protection.

***Motion carried unanimously.***

**SB 538 (Block)** would expand the scope of practice for a Naturopathic Doctor (ND) and would allow an ND to prescribe certain drugs without physician supervision and perform minor procedures. 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 perform minor procedures and 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 protections and by expanding the scope of practice for an ND, patient care and consumer protection could be compromised.
Ms. Simoes recommended the Board take an oppose position on this bill.

***Dr. Lewis made a motion to take an oppose position on this bill; s/Dr. Levine. Motion carried unanimously.***

**SB 622 (Hernandez)** would expand the scope of practice for optometrists to include the ability to order specified tests, perform laser and minor procedures, and administer vaccines. This bill would specify 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. This bill would require an optometrist to consult with, and if necessary, refer a patient to that physician and surgeon or other appropriate health care provider when a situation or condition occurs that is beyond the optometrist's scope of practice.

This bill would state legislative intent that the OSHPD, 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.

This bill has been significantly amended and narrowed, compared to SB 492 from last year. It would create certification programs for optometrists to perform laser procedures, minor procedures, and specified immunizations. At issue with the opposition is the length of additional training and the number of procedures required. This bill would now require certified optometrists to perform procedures on live patients as part of the required clinical training, which is a step in the right direction. However, this may not be enough training and education to ensure consumer protection. Ms. Simoes suggested the Board oppose this bill unless it is amended to require additional hours of education and training in the various laser and minor procedures.

***Dr. Krauss made a motion to oppose this bill unless amended to require additional hours of education and training in the various laser and minor procedures; s/Dr. Bishop. Motion carried unanimously.***

**SB 738 (Huff)** would provide liability protection for physicians writing standing order prescriptions for epinephrine auto-injectors for school districts, county offices of education, and charter schools. 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's and surgeon's issuance constitutes gross negligence or willful or malicious conduct.

The Board supported bills in the past that provide this type of liability protection for physicians, including AB 635 (Ammiano) in 2013. Ms. Simoes suggested the Board support this bill, since it would help school districts obtain standing order prescriptions.

***Dr. Lewis made a motion to support this bill; s/Dr. GnanaDev. Motion carried unanimously.***

**SJR 7 (Pan)** is a resolution that urges 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. Also, it

encourages lifting the freeze on residency positions funded by Medicare to expand physicians supply and improve access to care, and encourages the development of primary care physician training programs in ambulatory, community, and medically underserved sites through new funding methodologies and incentives. This resolution would encourage increased funding and residency programs in California. It may help more physicians to receive residency training and potentially end up practicing in California. This resolution is in line with the Board's adopted policy compendium. Ms. Simoes recommended the Board take a support position on this resolution.

***Ms. Wright made a motion to support this resolution; s/Dr. GnanaDev. Motion carried unanimously.***

Ms. Kirchmeyer requested the Board return to SB 482. She stated some concerns regarding the original amendment that was voted on and asked that a new amendment be stated to bring some clarity around the Board's vote to ensure that what was discussed and voted on was representative of the Board's will.

Ms. Kirchmeyer stated there were two amendments that the Board wanted added. The first was to put some language and terminology around the completion and acceptance of the CURES program to be sure it is the system that it should be; the second was to add the dispensers back into the bill. Ms. Kirchmeyer had some concerns about having the dispensers as part of the support if amended position of the Board. She asked the Board to move the dispenser piece to something that is encouraged, but not to have it hold up the support position since Pharmacists are not under the Board's jurisdiction.
***Dr. Krauss made a motion to support the revised position to be a support if amended with language clarification on CURES readiness; s/Dr. Bishop. Motion carried unanimously.***

**Agenda Item 6B State of Regulatory Actions**

Ms. Simoes referred the Members to page BRD 6B-1 in their Board packet and asked if the Members had any questions. No questions were presented.

**Agenda Item 7 Discussion and Possible Action on 2016 Proposed Meeting Dates**

Ms. Kirchmeyer referred the Members to page BRD 7-1 in their packet. After receiving notice from a Board Member stating they were unable to meet on the first Thursdays of any month, Ms. Kirchmeyer rearranged some of the meeting dates to try to accommodate the Members request. She asked for a motion to approve May 5-6, 2016; July 28-29, 2016; and October 27-28, 2016 dates and locations.

***Ms. Yaroslavsky made a motion to approve those dates and locations; s/Ms. Wright. Motion carried unanimously.***

Ms. Kirchmeyer then asked for a second motion to approve the January 21-22, 2016 meeting dates with the understanding there may need to be an interim meeting between the January meeting and the May meeting if necessary.

***Dr. Krauss made a motion to approve the January 21-22, 2016 meeting date and location; s/Ms. Yaroslavsky. Motion carried. 12 support (Wright absent from vote)***

**Agenda Item 8 Executive Management Report**

Ms. Kirchmeyer stated she would not be going over the Administrative, Enforcement, or Licensing summaries in detail, but did have some items she would like to point out specifically. She noted that as stated in the Enforcement summary, staff is working on decreasing the amount of time it takes to review the complaints that come into the Central Complaint Unit. Without being able to run the workload reports needed, staff was unable to identify the length of time it takes in the complaint unit. Staff was recently able to run a few reports that still need review and verification, but found that it did indicate that time in this unit needs to be a priority. Ms. Romero has been working with managers in that unit to perform case reviews and overtime has been approved to take action on cases. Staff is meeting with a DCA BreEZe expert on Monday to determine if any business process changes can be made to make processing more efficient. Prior to BreEZe, case review had been the lowest it had been in five years, and staff is working to determine the reason behind this increase. Ms. Kirchmeyer stated she would continue to work with Ms. Romero and the managers in the Central Complaint Unit to identify efficiencies and to improve the length of time for case processing.

Ms. Kirchmeyer noted that an individual from the Department of Consumer Affairs (DCA) is also reviewing the Board's application and licensure process, to determine if any changes could be made in that unit as well.

She announced that the Memorandum of Understanding (MOU) with the California Research Bureau (CRB) regarding physician ethnicity is in its final stages to be approved, at which time it will be sent to the CRB for their review and action.

Ms. Kirchmeyer provided a CURES update, stating the new system is scheduled to be released July 1, 2015; however, the streamlined registration process not will be available until August 2015. Even though the streamlined process will not be available until August, physicians will be able to register on-line, but will still need to provide their notary and documents; however, those can be scanned into the system. There will no longer be a mail-in application option available.

Some of the improvements in the system that should be available as of July 1 will be increased speed of the system, searches should now return within seconds, and the system should not crash when an individual queries a significant size report. In addition, users should be able to save searches, physicians will receive alerts when certain criteria is met regarding physician prescriptions, and physicians who have a pain management contract with a patient that does not allow for prescribing by another physician can ask for an alert.

Ms. Kirchmeyer referred the members to page BRD 8B-4, where there was a synopsis on the recent Supreme Court decision titled: *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. The DCA is working with the Governor's Office on evaluating this decision.

No action was needed at this time and Ms. Kirchmeyer stated she would provide updates to the Members as information is received from the DCA.

Ms. Kirchmeyer then provided an update on the coordination with other state agencies regarding the issue of prescribing psychotropic medicine to foster children. The Board recently finalized and signed the data use agreement with the Department of Health Care Services (DHCS) and the Department of Social Services (DSS). The data requested should be received by the Board within the next two weeks. During the process, it was found that the Board would receive de-identified information. Once that information is received, staff will work with a medical consultant to identify specific cases and will then need to work with DSS in order to obtain patient releases to obtain medical records to investigate the case.

She then asked the Members to turn to page BRD 8E-1 through 8E-19. She stated the DHCS and the DSS established a quality improvement work group that worked together to develop guidelines for the use of psychotropic medication with children and youth in foster care. These guidelines have been placed on the Board's website, an email was sent out to all physicians, and staff tweeted about them as well.

Ms. Kirchmeyer asked for a motion to approve the orders following completion of probation and order for license surrendered during probation.

***Dr. Lewis made a motion to approve the orders; s/Ms. Yaroslavsky. Motion carried unanimously.***

**Agenda Item 9 Update of the Federation of State Medical Boards**

Mr. Serrano Sewell provided a brief update on the Federation of State Medical Boards (FSMB) noting that this year's agenda focused on medical boards and achieving their mission of consumer protection. The meeting provided several forums where Members could learn more about issues concerning medical boards nationwide. The biggest area of discussion included the latest ruling by the Supreme Court, the Interstate Compact, opioid misuse and abuse and what state boards have done, and are doing, to battle this issue along with continuing medical education. Speakers included a health law expert, the new CEO of Accreditation Council for Continuing Medical Education (ACCME) and the Director of White House Office of National Drug Control Policy. On the last day, there were presentations by leaders who focused on physician health. There were also sessions held on working with the team-based care model, accreditation of U.S. and Caribbean medical schools, working with the DEA, working on opioid misuse and abuse. The presentations emphasized how boards can find best practices in order to meet their missions.

Ms. Kirchmeyer congratulated Dr. Lewis for being appointed to the FSMB's Education Committee and Ms. Wright for being appointed to the FSMB's Editorial Committee.

Ms. Kirchmeyer stated that as directed by the Board at the previous Board Meeting, staff went back and summarized comments and questions from the public regarding the Interstate Compact. Once that summary was put together, it was sent to the attorney and staff of the FSMB. Staff received the responses and the responses were included in the packet under tab 9, pages BRD 9A-

1 through 9A-7. Board staff believes responses have addressed the questions. She then provided an update on the compact nationwide. She stated that six states have approved the compact and it is now law in those states. Only one more state is necessary for the commission to be started. Eleven states have legislation introduced and they are going through the process. At this time, it is too far into the Legislative calendar to put the compact into legislation this year. At the last meeting, Board directed staff to work with the legislature to determine if the compact would be of interest in this state. Now that responses to comments have been received, discussions would begin to see if there is any interest for someone to author a bill on the compact.

Julie D'Angelo Fellmeth, Center for Public Interest Law, stated they continue to oppose approval of the FSMB's compact because it has to be accepted as is and cannot be changed even to resolve internal inconsistencies. The fact that its provisions will "supersede" state law and that it superimposes, over all state medical boards, a huge interstate commission that has not yet been created is problematic. The commission will be able to adopt regulations that supersede California laws and this Board will have to rely on other states to perform background checks on licensees that want to practice in California. She feels the biggest reason the Board should not vote to approve this compact occurred on February 25, 2015, when the U.S. Supreme Court issued its decision in the North Carolina Dental Board case.

Lisa McGiffert, Consumer's Union Safe Patient Project noted she agrees with all of the statements that Ms. Fellmeth presented in her comments, but also offered a couple of things to consider if the state were to join into this compact. The first is to insist that the Board's appointee to the commission be a public member. They are concerned about public access to what this commission will be doing, as it will further remove consumers. She urged the Board to work with the FSMB to make sure all of their meetings are publicly accessible across the nation.

**Agenda Item 10 Update on and Implementation of Regulations for Uniform Standards for Substance-Abusing Licensees**

Ms. Kirchmeyer referred the Members to tab 10, pages BRD 10-1 and BRD 10-2. She announced the regulations for the Uniform Standards for Substance-Abusing Licensees were approved by the Office of Administrative Law and will become effective July 1, 2015. She stated that Board staff needs to meet with the Office of Administrative Hearing and the Attorney General's Office to go over the standards and explain the need to adhere to them should they choose one of the conditions listed. These regulations would be posted to the Board's website and interested parties will be notified of the approval along with an article in the Board's July Newsletter.

Julie D'Angelo Fellmeth, Center for Public Interest Law, thanked the Board and staff for their hard and conscientious work on these Uniform Standards.

Lisa McGiffert, Consumers Union Safe Patient Project, thanked the Board and staff for their commitment to getting the regulations done and believes it will make a big difference in the future in protecting consumers.

**Agenda Item 11 Discussion and Possible Action on Midwifery Advisory Council Member Appointments**

Mr. Worden stated the MAC has two positions that are set to expire June 30, 2015. The Board advertised those positions; one as a licensed midwife position and the other as a public member. At the March 26, 2015 MAC meeting, the Board's Licensing Manager presented three application for the midwife position and six applications for the public member position. The MAC members voted to recommend to the Board the reappointment of Ms. Carrie Sparrevohn for the licensed midwife position and Barbara Yaroslavsky for the public member position on the MAC.

Mr. Worden asked for a motion for the reappointment of Ms. Sparrevohn to the licensed midwife position on the MAC.

***Dr. Levine made a motion to reappoint Ms. Sparrevohn to the licensed midwife position on the MAC; s/Ms. Yaroslavsky. Motion carried unanimously.***

Mr. Worden asked for a motion for the reappointment of Barbara Yaroslavsky to the public member position on the MAC.

***Dr. Lewis made a motion to reappoint Ms. Yaroslavsky to the public member position on the MAC; s/Dr. Bholat. Motion carried unanimously.***

**Agenda Item 12 Update and Possible Action on Recommendations from the Midwifery Advisory Council Meeting**

Ms. Sparrevohn began by thanking the Board for her reappointment to the MAC. She noted that her report was in the Board packet for review, but brought one particular item to the Members attention that is an important issue for Licensed Midwives (LM) at this time, which is the creation of regulations dictated by AB 1308. Most importantly is to create a list of conditions for which an LM must refer a client to a physician for evaluation. This regulation is currently stalled over the issue of whether a history of prior cesarean should be on the list. She asked the interested parties to continue to work on a compromise to this impasse.

Ms. Sparrevohn then updated the Board on a national workgroup related to midwifery that she participated in a couple of weeks ago; the United States Midwifery Education Regulation and Association workgroup. It is comprised of seven U.S. national midwifery organizations. This is the third year they have met and the goal of this workgroup is to advance the vision of expanding access to high quality midwifery care and physiological birth for all women in all birth settings in the U.S. The American Congress of Obstetricians and Gynecologists (ACOG) has reported that the U.S. will experience an 8,000-obstetrician shortage by the year 2020. The U.S. rates sixtieth worldwide in maternal mortality behind even low resource nations such as Cuba. She asked the Board to direct the MAC members to create a task force that could look at ways to improve and increase midwifery-training opportunities in California, and make recommendations to improve both consultation with and transfer to physicians from midwives when necessary.

Ms. Sparrevohn asked for a motion to approve the following agenda items for the next MAC meeting: a task force update on the LM annual report data collection tool, an update on

continuing regulatory efforts required by AB 1308, an update on midwife assistant legislation, an update and approval of changes in the LM annual report, an update on the challenge mechanism, and a presentation by Diane Holzer on Home Birth Summit recommendations regarding best practices for home to hospital transfer by midwives.

***Ms. Yaroslavsky made a motion to approve the agenda items for the next MAC meeting; s/Dr. Levine. Motion carried unanimously.***

Jennifer Kamel, spoke in regard to the impact requiring women seeking out-of-hospital vaginal birth after C-section (VBAC) to obtain physician approval. This proves problematic because very few physicians, if any, would be willing to sign off on a home VBAC due to liability concerns. This would virtually cut off VBAC to many women throughout the state since 44% of hospitals ban VBAC and mandate repeat cesareans despite The American Congress of Obstetricians and Gynecologists (ACOG) and the National Institute of Health's (NIH) assurance that VBAC is a safe, reasonable, and appropriate option for most women. In light of the recommendations made by ACOG and NIH, and the realities of increasing morbidity rates in the State of California due to repeat caesarean sections, she feels the objective should be making VBAC more accessible, not less.

Shannon Smith Crowley, ACOG, stated the legislative regulation language was carefully crafted while working with the California Association of Midwives to allow for the home VBAC option, which is something ACOG did not approve of, but they want to make sure women have choices. The law requires a woman to have a physician consult for certain conditions, before having a home birth. She is not confident that an agreement can be reached on VBACS short of legislation.

**Agenda Item 17 Update from the Department of Consumer Affairs**

Ms. Lally, Deputy Director of Boards and Bureaus, DCA began by congratulating the Board's two newest members, Dr. Hawkins and Dr. Bholat.

Ms. Lally then announced that by a vote of 4-0, Mr. Awet Kidane, DCA Director, was confirmed by the Senate Rules Committee. The Committee's action advances Director Kidane's confirmation to the Senate floor for final approval.

She reminded the Members of the required training that is expected of them as appointees. She also reminded the newest Members of training, and forms that are required as new appointees. She stated that the current year 2015 is a mandatory year for sexual harassment training and even if one had taken it last year, it needs to be taken again this year.

Ms. Lally gave a brief BreEZe update noting that the Joint Legislative Budget Committee approved the DCA's Section 11 request for contract amendments to the BreEZe project. With this approval, the project will conclude after the launch of release two. The DCA will address the needs of the remaining 19 Boards and Bureaus, not on the BreEZe system once release two is launched, which is expected to be early next year. After the launch of release two, the DCA will

conduct a cost benefit analysis to ensure that the BreEZe system is the most cost effective solution for the remaining Boards and Bureaus.
The DCA remains focused on assuring that the needs of the release one boards are being met and that the launch of release two is very successful. She stated examples of their commitment to release one and release two are the enforcement reports. The DCA and Board staff have worked together to develop enforcement reports. The first of these reports will be the performance measure reports, and should be available by the end of May 2015. The remaining three reports should be ready at the end of June 2015. She stated that one of the DCA's primary concerns has been to make sure that these reports are complete and accurate. After the time and efforts invested by the DCA and Board staff, they are confident that the goals have been achieved. DCA is also working with the boards, to track licensing workloads.

Ms. Lally gave an update on how the recent U.S. Supreme Court decision would affect the DCA's boards and bureaus. She stated the case involved whether or not the North Carolina Dental Board was immune from Federal Antitrust laws. The court concluded that the North Carolina State Board of Dental Examiners could not be allowed to regulate their own markets free from antitrust accountability. She assured the Board that DCA's legal office is proactively discussing the decision, the impact, and the consequences of the application of the decision with respect to the current composition of DCA's boards. It is carefully deliberating with the DCA's Agency as well as the Governor's Office and the Attorney General's (AG) Office on the direction the DCA would take. Once the direction is concluded, DCA's legal counsel will let the boards know the outcome.

**Agenda Item 14 Update of Physician Assistant Board**

Dr. Bishop noted at the February Physician Assistant Board (PAB) meeting, Chairman Sachs announced that there were two new California PA education programs, one at Marshall B. Ketchum University in Fullerton, and one at California Baptist University in Riverside. With respect to California Code of Regulations, Title 16, citations for unlicensed practice, the PAB's legal counsel stated currently this regulation restricts the Board's Executive Officer to issue citations and orders of abatement and levy fines only in the case of a PA who is practicing without a delinquent license. As currently drafted, the Executive Officer is prevented from issuing citations and fines to those who have never been licensed, and holding themselves out as PAs. Although the citation and fine are a type of civil action, the issuance of a fine would not preclude the Board from pursuing criminal charges for unlicensed practice of medicine. Based on legal counsel's recommendation, the PAB voted to initiate the formal rulemaking process to amend Title 16 to allow the PAB's Executive Officer to issue citations and fines to unlicensed individuals.

Dr. Bishop stated a regulatory hearing was held on February 9, 2015, concerning the proposed language for guidelines for imposing uniform standards regarding substance abusing healing arts licensees. The discussion was to amend or adopt changes to Title 16 of California Code of Regulations, disciplinary guidelines. The PAB's legal counsel presented a summary of additional amendments to the Manual of Disciplinary Guidelines and Model of Disciplinary Orders that she believes would further enhance the document. The PAB voted to approve the additional amendments and directed staff to take all steps necessary to complete the rulemaking process, including preparing modified text and an addendum to the Initial Statement of Reasons for an

additional 15-day comment period. The comment period began on April 27, 2015 and ends May 13, 2015.

The PAB reviewed and adopted the newly revised addition of the PAB's policy manual. The revised manual included a newly adopted professional report requirement section. Additionally, the manual was updated to include technical changes.

Dr. Bishop noted PAB continues an ongoing discussion about the accreditation process for PA training programs. The PAB is concerned the current national accreditation process may not be adequately addressing the need to increase the number of PA training programs that will be needed to meet the health care provider shortage. The Accreditation Review Commission on Education for the Physician Assistant (ARCPA) is no longer an accrediting associate degree physician-training program, which is unfortunate as two of the programs in California are being shut down. The PAB is continuing to investigate what can be done to look for other accrediting bodies to help prevent a shortage of PAs in the state.

Dr. Bishop stated that the implementation of Business and Professions Code section 3518, which mandates personal data collection from PAs, and was effective January 1, 2015, will be discussed at the May PAB meeting, It requires the PAB, the Board of Registered Nursing (BRN), the Board of Vocational Nursing and Psychiatric Technicians, and the Respiratory Care Board to collect data for the OSHPD. The PAB is working with legal counsel, the DCA and other boards to implement the provisions of this bill.

Dr. Bishop then thanked Ms. Kirchmeyer and staff for their assistance to the PAB. The next PAB meeting is scheduled for August 3, 2015.

**Mr. Serrano Sewell adjourned the meeting at 5:10 pm.**

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**Friday, May 8, 2015**

**Members Present:**
David Serrano Sewell, J.D., President
Dev GnanaDev, M.D., Vice President
Denise Pines, Secretary
Michelle Bholat, M.D.
Michael Bishop, M.D.
Randy Hawkins, M.D.
Howard Krauss, M.D.
Sharon Levine, M.D.
Ronald Lewis, M.D.
Gerrie Schipske, R.N.P., J.D,
Jamie Wright, Esq.
Barbara Yaroslavsky
Felix Yip, M.D.

**Members Absent:**
Elwood Lui

**Staff Present:**
Liz Amaral, Deputy Director
Irene Bisson, Inspector III
Sandra Borja, Inspector II
Dianne Dobbs, Department of Consumer Affairs, Legal Counsel
Steven Froberg, Inspector I
Ruben Garcia, Inspector II
Kimberly Kirchmeyer, Executive Director
Armando Melendez, Business Services Officer
Cajetan Onu, Inspector I
Dino Pierini, Business Services Officer
Regina Rao, Associate Governmental Program Analyst
Elizabeth Rojas, Business Services Officer
Paulette Romero, Enforcement Program Manager
Jennifer Simoes, Chief of Legislation
Lisa Toof, Administrative Assistant II
Rachel Wacholz-LaSota, Inspector III
Kerrie Webb, Legal Counsel
Curt Worden, Chief of Licensing

**Members of the Audience:**
Teresa Anderson, Academy of Physician Assistants
Larry Bennett, Investigator
Ken Buscarino, Investigator, Health Quality Investigation Unit
Gloria Castro, Senior Assistant Attorney General's Office
Yvonne Choong, California Medical Association
Genevieve Clavreul
Zennie Coughlin, Kaiser Permanente
Julie D'Angelo Fellmeth, Center for Public Interest Law
Karen Ehrlich, LM, Midwifery Advisory Council
Julie Eschot, Supervising Investigator, Department of Consumer Affairs
Lou Galiano, Videographer, Department of Consumer Affairs
Mike Gomez, Deputy Director, Department of Consumer Affairs
Virginia Herold, Board of Pharmacy
Marion Hollingsworth, Consumer's Union
Khadijah Lang, M.D., Golden State Medical Association
Bernard Lim, Investigator, Health Quality Investigation Unit
Liz McCaman, Board of Pharmacy
Lisa McGiffert, Consumer's Union
Albert Medina, Investigator, Department of Consumer Affairs
Caroline Montgomery, Health Quality Investigation Unit
Ty Moss, Consumer's Union
Robert Pulido, Supervising Investigator, Health Quality Investigation Unit

Sylvia Salcedo, Investigator, Department of Consumer Affairs
Jack Sun, Investigator, Department of Consumer Affairs
Laura Sweet, Deputy Chief, Enforcement, Health Quality Investigation Unit
John Thropay, Beverly Oncology
Stan Weisser, Board of Pharmacy

**Agenda Item 18 Call to Order/Roll Call**

Mr. Serrano Sewell called the meeting of the Medical Board of California (Board) to order on May 8, 2015 at 9:06 a.m. A quorum was present and due notice was provided to all interested parties.

**Closed Session**

**Agenda Item 19 Pursuant to Government Code Section 11126(a)(1)**

The Board went into closed session to conduct the confirmation of the evaluation of the Executive Director.

Mr. Serrano Sewell reconvened the meeting stating the Board confirmed the salary for the Executive Director.

**Agenda Item 20 Public Comments on Items Not on the Agenda**

Genevieve Clavreul asked the Board what kind of responsibility a physician has in a situation where a surgery is continuously postponed for over three years and what can be done about it.

Mr. Serrano Sewell stated if there is a specific issue with a physician, a complaint should be filed with the Board.

**Agenda Item 13 Discussion and Possible Action on Proposed Regulations Updating Disclaimers and Explanatory Information Applicable to Internet Postings**

Ms. Romero directed the Members to pages BRD 13-1 through 13-6 of the packets. She stated those pages refer to California Code of Regulations (CCR), section 1355.35. CCR section 1355.35(a) lists disclaimers and explanatory information the Board may provide with public disclosure information released on the Internet. Amendments to this section are needed to add disclaimers and explanatory information regarding court orders, misdemeanor convictions, licenses issued with the public letter of reprimand, and probationary licenses. Section 1355.35(a)(2) only requires an amendment as it directs the public to contact the Board's central file room at its previous address on Howe Avenue in Sacramento, if they wish to obtain copies of public documents. The amendment will consist of changing the address to the central file room on Evergreen Street in Sacramento. She noted the Board has received communications from physician's attorneys regarding information found on the Board's website related to disciplinary actions. As such, it was found that court ordered public disclosures screen types were needed to

reflect accurate practice restrictions by the courts. Ms. Romero noted that amendments to the chart found in section 1355.35(c) are also necessary. The chart as shown in the Board packet includes descriptions of the license statuses, which is displayed on the website. The amendments would add the status code description and definition for the 150-day temporary license for a family support issue and the status code description and definition for family support suspension.

Ms. Romero asked the Board for a motion to direct staff to begin preparation of the necessary regulatory documents for amending CCR sections 1355.35, 1355.35(a), 1355.35(a)(2) and 1355.35(c) and hold a regulatory hearing at the next meeting.

***Dr. Lewis made a motion to direct staff to prepare necessary documents needed for amending sections 1355.35, 1355.35(a), 1355.35(a)(2) and 1355.35(c) and hold a regulatory hearing; s/Ms. Yaroslavsky.***

Yvonne Choong, CMA, stated one omission they felt the Board should look at when preparing the language for the amendments are suspensions for failing to pay taxes. Ms. Kirchmeyer stated those changes are not needed at this time based upon the way they are posted. The amendments shown in the packets do not include physicians who fail to pay their income tax and suspensions related to that.

***Motion carried unanimously***

**Agenda Item 15 Update of the Health Professions Education Foundation**

Ms. Yaroslavsky stated the Health Professions Education Foundation (HPEF) met in February and is moving forward to expand the ability for the HPEF to give more loan repayment and scholarship dollars to those going into the health profession. The Stephen Thompson Loan Repayment Program (STLRP) has endowed $36.6 million dollars. During the current cycle, the HPEF was able to fund 61 of the 108 applicants and during a new secondary cycle, in which the California Endowment will be funding another $3.5 million dollars, will affect another 30 physicians. The application process begins May 18 and runs through the summer.

Dr. Levine congratulated and thanked Ms. Yaroslavsky and Dr. Yip for their work that has gone into this program as it has had a tremendous impact on many young people.

Dr. Lang, Golden State Medical Association, stated that on behalf of the president and physician members of Charles Drew Medical Society and Golden State Medical Association, she welcomed and congratulated the Board on the two newest Board Members, Dr. Hawkins, and Dr. Bholat.

**Agenda Item 16 Update on Prescribing Task Force**

Ms. Yaroslavsky stated that on April 15, 2015, the Prescribing Task Force held another meeting. The purpose of this meeting was to discuss best practices and look for additional ideas to reduce opioid misuse and abuse. The meeting began with a presentation by a man who had become

addicted to narcotics after an injury at 17 years old. This presentation provided a perspective on issues that he battled and how easy it was for him to receive medications. He spoke about the need for not only appropriate prescribing and education of physicians and patients, but also the need for treatment programs to treat the thousands of individuals who are now addicted to prescription drugs. His story helped the audience to understand why it is so important to do all that can be done to eliminate the inappropriate prescribing of opioids.

Dr. Bishop continued the update stating the task force also heard from Julie Nagasako from the California Department Public Health (CDPH) on the work being done by its prescription opioid misuse and overdose prevention workgroup.

Ms. Yaroslavsky noted the task force also heard from Dr. Das, the Executive Medical Director of the Division of Workers Compensation (DWC). Dr. Das spoke about the DWC's new guidelines that are going through the process of review and completion. It was discussed how important it was for the DWC's guidelines to not conflict with the Board's new guidelines and that everyone needs to work together.

Dr. Bishop stated the task force received a number of good ideas and discovered that much work by multiple parties is already being done in respect to this issue. The task force will continue to put together best practices that will then be placed into the Board's Newsletter and on its website.

Dr. Levine recommended putting together another pain summit to report on progress since the work of this task force began.

Ms. Kirchmeyer agreed and sated this would be a future project.

Virginia Herold, Executive Director, Board of Pharmacy, (BOP) stated the BOP pulled CURES reports to see what the reclassification of hydrocodone meant in terms of the number of prescriptions written during the same period in 2013/2014 and 2014/2015 and found that hydrocodone prescriptions dropped 20%. That time frame included the period where the DEA still allowed refills. That shows that there has been an impact just out of the reclassification.

Genevieve Clavreul stated her concerns about the current CURES system.

Dr. Lang expressed her concerns about how pharmacies in certain areas such as the inner cities will not fill pain medication prescriptions even for those who legitimately need them, have no history of drug use or abuse, and wanted the Board to be aware the CURES system is affecting certain consumers in certain areas.

**Agenda Item 21** **REGULATIONS - PUBLIC HEARING – Continuing Medical Education (CME). Amendment to Sections 1337 and 1338 of Title 16, California Code of Regulations. This proposal would allow approved specialty board CME used for Maintenance of Certification to meet the CME requirements for renewal of a physician's and surgeon's certificate.**

Mr. Serrano Sewell stated this is the time and place set by the Board to conduct a public hearing on the proposed regulation to amend Section 1337 and 1338 of Title 16 of the CCR as described in the notice published in the California Regulatory Notice Register and were sent by mail to those on the Board's mailing list.

He noted the Board was seeking to amend the regulation related to continuing medical education (CME). These proposed amendments would authorize the Board to accept Maintenance of Certification (MOC) CME as meeting the Board's CME requirements for renewal of physician licenses. Further, the proposed amendments would allow the Board to accept MOC CME proof directly from approved specialty boards, thereby streamlining the process for physicians complying with an audit inquiry.

Mr. Serrano Sewell noted the date as Friday, May 8, 2015, and the time as 9:43 a.m., and stated that the purpose of the hearing was to receive oral testimony concerning the regulatory proposals described in the notice.

He announced that all written testimony had to have been submitted by the deadline of April 20, 2015. One written comment was sent in support and one letter of opposition was received.

Dr. Levine stated she needed to recuse herself from this discussion as she was recently appointed to the Board of the Institute for Medical Quality (IMQ) and this issue is one of interest to them.

Yvonne Choong, CMA, testified by stating CMA submitted written comments that are included in the Members' packets, but briefly summarized those comments. She noted that CMA is supportive of making high quality CME available to physicians, and they support facilitating the process by which physicians can complete CME hours that meet the Board's licensing requirement. However, they have concerns that the regulations as proposed could result in physicians participating in CME programs that do not meet accepted standards for quality.

Mr. Serrano Sewell stated since no one else requested to speak, the hearing concerning regulations governing MOC CME was closed at 9:50 a.m.

Ms. Webb stated this proposed amendment came about following a presentation from the American Board of Medical Specialties (ABMS). The options for the Board in light of the testimony received are to either: proceed as is with the current language in the rulemaking file; withdraw the rulemaking file indefinitely, and if the issue comes up again, it could be reintroduced; or the Board can direct staff to re-notice the file with additional information to address the concerns that CMA expressed in their written argument. Ms. Webb stated that the numbers provided by staff were estimates, which was all they had to go on, since there are no solid numbers related to what the cost savings to physicians will be or what the cost to CME providers would be if this amendment were to proceed. She stated that those are the three options for the Board to consider and staff would need a motion and the Board's direction on how they would like staff to proceed.

Dr. Lewis stated that he is to understand from CMA that this program has been pulled back and asked Ms. Webb if it is maybe too premature to proceed on this, and if the Board should hold off on making a decision until the American Board of Internal Medicine (ABIM) rolls out a program they believe is meaningful and can be reviewed properly.

Dr. GnanaDev stated that the ABIM is the only one who feels that there are issues and got this program wrong. Surgery Boards and other Boards are doing MOC.

***Dr. GnanaDev made a motion to re-notice the file requesting additional clarification on the costs of the regulation in the Initial Statement of Reasons; s/Ms. Schipske. Motion carried. (Dr. Levine recused)***

Ms. Webb asked for a motion to dismiss CMA's proposed amendment to require MOC CME to be accredited by those organizations listed in section 1337(a)(1) and (a)(2) or certified by the American Medical Association Physician's Recognition award category 1™ ACOG, or American Osteopathic Association Category 1A.

***Ms. Yaroslavsky made a motion for the Board to reject CMA's proposed amendment; s/Dr. GnanaDev. Motion carried. (Dr. Levine recused)***

Ms. Webb then stated that if the Board re-notices the regulatory package with economic information and there are no negative comments received, she asked for a motion to approve staff to make any non-substantive changes to the rulemaking file and to proceed with presenting it to the Office of Administrative Law (OAL) for approval.

***Dr. Lewis made a motion to allow staff to proceed with presenting the rulemaking file to OAL if no negative comments are received; s/Ms. Yaroslavsky. Motion carried. 11 Support, 1 Oppose (Schipske) (Dr. Levine recused)***

**Agenda Item 22 Discussion and Possible Action on Interim Suspension Orders**

Mr. Serrano Sewell stated that he had requested this agenda item to be added for discussion today. During Legislative Meetings and in meetings with consumer groups there are concerns on the length of time it takes to issue an Interim Suspension Order (ISO) if an individual is deemed a danger to the public. He had asked staff to look into this and to begin the discussion process. He would like the Board to consider adopting a resolution indicating how important these suspension orders are in protecting the public.

Ms. Kirchmeyer referred the Members' to pages BRD 22-1 and 2 in their packets. She stated they would find a memo that outlined the process for obtaining ISOs. This process allows the Board to either suspend or put restrictions on a physician's license prior to disciplinary action being taken for cases where a physician is an imminent danger to the public. However, an issue that is run into is the fact that an Accusation needs to be filed within 30 days of the issuance so the investigation needs to be complete. She noted that Mr. Gomez, Ms. Sweet, and Ms. Castro will speak to their specific roles in the issuance of ISOS further as stated in the memo, ISOS cases will be reviewed to evaluate what factors resulted in the ISOS being issued or denied, and the parties will work together to determine ways to expedite these cases.

Ms. Sweet stated in preparation for this meeting, she reviewed over 10 cases that resulted in ISOs that took longer than one year between assignment and filing. The majority of these cases involved mental or physical impairment, including addiction issues, and overprescribing. Several of the cases involved prosecutions by the federal government. In many of those instances a Penal

Code section 23 (PC 23) was not able to be pursued, which is another mechanism to limit a physician's practice, because they were federal and not state matters. PC 23s can only be sought pursuant to state law. Another issue is that once an ISO is filed, because it is considered extraordinary relief, the AG's Office has to be prepared to file an accusation within 30 days and have a hearing within another 30 days. In cases where a federal conviction is pending, it puts the Board in a position of having to wait. For purposes of what constitutes a record of conviction in federal courts, staff is required to obtain the sentencing documents, which can often take up to one year in the federal system. Ms. Sweet and Ms. Castro met to discuss these issues and will be working together to see if there are any alternatives to proceed with these cases absent the sentencing documents supporting a conviction. Another issue, that has already been addressed, is the problem of when the DEA or another agency was jointly working an overprescribing case with staff. In 2013, the process was changed to where the Board would no longer stand down at the request of an allied law enforcement agency, unless the practitioner's DEA license could be suspended or there were assurances that the case would not languish. Another issue in 2013 had to do with medical records. She noted many overprescribing cases are bogged down because of subpoena enforcement actions, which can add one year to a case. Because prescribing without a legitimate medical purpose is a crime, until proven otherwise, all allegations of overprescribing are also handled in the criminal arena. Therefore, when probable cause is established that conduct is criminal, staff can proceed with a search warrant, rather than engaging the subpoena process, which is significantly faster.

Ms. Sweet noted in other cases more likely to result in the issuance of an ISO, mental and physical impairment cases, several areas have been identified where time frames can be improved. She and Ms. Castro will be working with respective staff to expedite the handling of these cases. Ms. Sweet stated that for the Health Quality Investigation Unit (HQIU), she is prepared to recommend some policy changes in order to be sure investigators are making contact with subjects within a very short time frame when allegations of impairment are set forth. Often times an allegation of mental or physical impairment accompanies a quality of care allegation and the investigator has been directed to work both issues and the AG's Office does not move forward until the case is completed. She and Ms. Castro agreed that from this point forward, the mental and/or physical impairment would be ruled out without waiting for the quality of care component to be resolved. This step would enable them to request the physician be examined, and if they refuse, move forward with a petition to compel an examination if evidence supported. These steps can usually be accomplished within 60 days.

Ms. Sweet noted that there is a huge learning opportunity for investigators and attorneys in merely reviewing these cases and doing postmortem on the investigation and prosecution. It has also been decided that every case involving the request for an ISO be reviewed, whether it is issued or denied.

Ms. Castro added that discussions should also include a better assessment on how to measure how long an ISO took and to look at results. She stated the most serious cases are filed as ex-parte ISOs.

Ms. Castro feels cases that are not successful in obtaining ISOs should be reviewed. She stated it is important to note a case cannot always be identified as an ISO until the case hits a certain part of the process. There needs to be some cooperation between the AG's Office and HQIU to

elevate once routine cases to urgent cases when grounds for an ISO are identified. She feels that supervisors should start attending ISO hearings starting immediately and through October.

***Dr. Lewis made a motion to allow the Executive Director to work with the AG's Office and DCA to identify strategies to expedite cases involving a physician who, if permitted to continue to practice, will endanger the public and to issue an ISO as expeditiously as possible, and also to request a report on these strategies at the October 2015 Board Meeting; s/Ms. Yaroslavsky.***

Yvonne Choong, CMA, applauded the Board for looking into this issue more closely as they have had issues in the past trying to get information on ISOs as well. She stated CMA would like to see the Board look into situations where the Board can consider using other methods of immediate suspension other than ISOs. They would also like to see instances where ISOs should not have been sought and perhaps those resources could have been put to pursue cases that are more viable. In their research, they have found it difficult to get a breakdown of case status, number of days it has been worked on, etc.

***Motion carried unanimously.***

**Agenda Item 23 Investigation and Vertical Enforcement Program Report**

Mr. Gomez stated that HQIU is into its tenth month of the transition and, with the exception of staffing issues, their operations are starting to stabilize. He noted they continue to have challenges that are cyclical with respect to recruitment and retention in the HQIU. The unit currently has 13 vacancies and is projecting additional vacancies. They are in competition with agencies that can offer higher paying positions. He noted, in the last four months, HQIU has focused their recruitment efforts in three areas. They are looking for people who might be interested in starting a second career. They have also looked in academies that have people who are not affiliated with any agency, as well as looking at colleges who have criminal justice programs to recruit those students. He noted they have had some success in getting their policies and procedures into place, but still have some instability in that respect.

He announced they had recently promoted Ken Buscarino, who is a retired Los Angeles Police Department Supervisor, effective May 1, 2015.

He also announced that the DCA and AG's Office have completed the Vertical Enforcement (VE) Protocol Manual draft. It is being reviewed by the AG and they are looking at an implementation date of July 1, 2015.

Ms. Laura Sweet gave a brief presentation and update of statistics of the HQIU including open case age averages, but asked that the Board realize these numbers cannot be verified due to the BreEZe system still being unable to run the reports needed.

Members requested Mr. Serrano Sewell meet with DCA Director Awet Kidane to discuss the transition and the problems with retention.

**Agenda Item 24 Update from the Attorney General's Office**

Ms. Castro announced the VE Protocol Manual draft is being reviewed by the AG and they hope to have it implemented on July 1, 2015. She had discussions with Ms. Sweet about rolling out the manual to HQIU staff in tandem, city by city. She and Mr. Gomez have been discussing the different types of training issues that will need to be done.
The Cloud continues as a pilot project in the Sacramento district office and the headquarters of the Board. Due to BreEZe issues, there have been some delays in the technology contracting process. The hope of the Cloud is to eliminate days of transporting documents between offices and to provide a real time review of cases.

The AG's Office recently promoted former Deputy Attorney General (DAG) and lead prosecutor Alexander Alvarez the supervising DAG in San Diego. They also have two new staff members, Gregory Chambers and Rebecca Smith.

**Agenda Item 25 Discussion and Possible Action on the Adoption of Joint Protocol with the Board of Pharmacy**

Ms. Kirchmeyer referred the Members to pages BRD 25-1 through 25-7. She stated at the January Board meeting, the Members reviewed and approved a protocol under which pharmacists provide Naloxone Hydrochloride to patients or others who may need to reverse an opioid overdose. The BOP's emergency regulations regarding this protocol went into effect April 10, 2015. The BOP is now promulgating this protocol. Since the last meeting, the BOP has made a few changes to the protocol the Board had approved. Therefore, the Board must approve these additional changes so the BOP can continue the regulatory process. These changes were recently approved by the BOP on April 22, 2015, and the specific changes can be found in the Board packet as stated.

***Dr. Lewis made a motion to approve the additional changes made to the BOP protocol regarding Naloxone Hydrochloride; s/Ms. Yaroslavsky. Motion carried. (Dr. Krauss abstained)***

**Agenda Item 26 Discussion and Possible Action on Approval of Multiskilled Medical Certifications Institute, Inc. as a Medical Assistant Certifying Organization**

Mr. Worden referred the Members to pages BRD 26-1 through 26-4 in the Board packets. He stated that the Multiskilled Medical Certifications Institute, Inc. (MMCI) applied to the Board in September 2014 to be approved as a medical assistant certifying agency. The authority for that is through CCR section 1366.31. The application has been reviewed by staff, and it was concluded that the MMCI meets the regulatory requirements in order to be approved as a medical assistant certifying organization.

***Dr. Lewis made a motion to approved the MMCI as a certifying agency with a retroactive date back to the date of application received September 2014; s/Dr. Bishop. Motion carried unanimously.***

**Agenda Item 27** **Discussion and Possible Action on Proposed Regulations to Add the Requirement for the Examination Scores**

Mr. Worden referred the Members to pages BRD 27-1 through 27-3 in the Board packets. He stated Business and Professions Code section 2177(a) states the passing score for each step of a required physician and surgeon licensing examination is established by the Board. The Board has enacted a resolution on this issue on a yearly basis. The proposed regulation, if approved, would provide clarity regarding the minimum passing score for each required licensing examination step and would eliminate the need for a yearly resolution.

Mr. Worden asked for a motion to authorize staff to proceed with the new regulation as proposed on page BRD 27-3 that would specify the passing exam be set by the individuals who create the exams.

***Ms. Wright made a motion to authorize staff to proceed with new regulations; s/Ms. Yaroslavsky. Motion carried unanimously.***

**Agenda Item 28** **Discussion and Possible Action on Proposed Regulations to Update the Outpatient Surgery Settings Standards**

Mr. Worden stated this proposal would allow staff to make amendments to CCR section1313.4 to match the new changes made to the statutes in Health and Safety Code section 1248.15 and 1248.35. He asked for a motion for the Board to authorize staff to proceed with preparing the necessary regulatory documents to amend CCR section 1314.4 and hold a regulatory hearing.

***Ms. Wright made a motion to authorize staff to proceed with the rulemaking process as directed; s/Ms. Yaroslavsky. Motion carried unanimously.***

**Agenda Item 4** **Board Member Communications with Interested Parties**

Mr. Serrano Sewell stated he and Dr. GnanaDev had a breakfast meeting with representatives from CMA to discuss a physician health program. He also met earlier in the year with Consumer Watchdog to discuss the consumer protection efforts including changes to the CURES program.

Dr. Bishop met with the California Society of Anesthesiologists about AB 890 and representatives from CAPA on SB 337. He also met with Speaker Atkins last week as a meet and greet.

Dr. Levine announced her appointment to the Board of IMQ and stated she had attended her first Board meeting for them where they discussed the CME regulations, in which she recused herself from the discussion.

**Agenda Item 29** **Agenda Items for July 2015 Meeting in the Bay Area**

Mr. Serrano Sewell stated a couple of items that could be included in the next Board agenda are a regulatory hearing for disciplinary guidelines, a regulatory hearing on the Board's disclaimers on explanatory information, and a regulatory hearing on outpatient surgery settings standards; a presentation by Janet Coffman from the University of California, San Francisco on their study with the Board on physician participation on medi-cal; a presentation by the FSMB; and a presentation physician health programs.

Ms. Wright requested an update for the Licensing Committee and an update on the ethnicity study.

Ms. Schipske requested an update on the affordable care act, particularly on the mandate for compliance and ethics programs within practices. She also requested an agenda item on physicians notifying patients they are on probation.

Dr. Krauss requested an agenda item on achieving and maintaining uniform standards of care, inviting the FSMB visitor to discuss that issue.

Julie D'Angelo Fellmeth, Center for Public Interest Law, recommended the Board seek from Ms. Webb an explanation of the U.S. Supreme Court decision in the North Carolina Dental Board case and its impact on the Board.

**Agenda Item 30** **Adjournment**

***Mr. Serrano Sewell adjourned the meeting at 11:33 a.m.***

_____ _____
David Serrano Sewell, President Date

_____ _____
Denise Pines, Secretary Date

_____ _____
Kimberly Kirchmeyer, Executive Director Date

The full meeting can be viewed at http://www.mbc.ca.gov/About_Us/Meetings/2015/

# MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 15, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Physician Health Programs
STAFF CONTACT: Letitia Robinson, Research Specialist

REQUESTED ACTION:
This report is intended to provide the Members with information on physician health programs. No action is needed at this time. Members may direct staff to meet with interested parties to discuss any legislation that might be sought regarding a physician health program in California.

BACKGROUND AND ANALYSIS:
The Medical Board of California's (Board) Diversion Program was established to provide public protection by monitoring impaired physicians to prevent them from working while under the influence. Since the elimination of the Diversion Program in 2008, impaired physicians who are issued a probationary order by the Board are required to provide biological fluid testing and remain in compliance with the terms and conditions of probation, including abstaining from drugs and/or alcohol. However, without a formal health physician program in place, an impaired physician must independently seek out additional sobriety activities, such as AA meetings, treatment programs, and group therapy sessions to assist in a successful recovery.

In an effort to assist wellbeing committees, the Board's October 2011 Newsletter included a cover story on an article about the Federation of State Medical Boards (FSMB) Policy on Physician Impairment. This article provided a summary of the policy, guidelines, and other resources that can help support the medical staff of wellbeing committees in addressing physician impairment.

Pursuant to a request from the Members, Board staff invited two speakers to present information on other state's physician health programs. Furthermore, Board staff reviewed the laws and policy information for two California healing arts boards' health programs and other states' physician health programs to gain additional knowledge on how these programs are operated.

**California healing arts boards' health programs**
Pursuant to 2008 legislation from Senate Bill 1441 (Ridley-Thomas, Chapter 548), any program contracted to provide monitoring services to impaired licensees must comply with the uniformed standards set forth pursuant to this legislation. Most California healing arts boards offer some form of assistance for impaired licensees.

For example, the California State Board of Pharmacy and the Physical Therapy Board of California both offer programs through a contract with Maximus, Inc.

The California Pharmacist Recovery Program is offered to any licensed pharmacist or registered intern. The laws pertaining to this program are found in Business and Professions Code Section 4360-4373 (**Appendix 1**). The Program identifies and evaluates the nature and severity of substance abuse and/or mental illness, develops treatment plan contracts, and monitors participation. The program offers confidential self-referrals, as well as Board referrals in lieu of discipline or in addition to discipline. Participants that are unsuccessfully terminated from the Program will be reported to the Board.

The California Physical Therapy Substance Abuse Rehabilitation Program provides assistance to physical therapists and physical therapist assistants whose competency is impaired due to abuse of

dangerous drugs or alcohol. The laws pertaining to this program are found in Business and Professions Code Section 2662-2669 (**Appendix 2**). Participants are required to pay the entire cost of the Program. The program offers confidential self-referrals, as well as Board referrals in addition to discipline. If a participant is unsuccessfully terminated from the Program, the Board will be notified. Further, self-referrals that withdraw will be reported to the Board if the Program determines the participant's practice is too great of a risk to the public health, safety and welfare.

**Other states' physician health programs (PHP)**
The Board staff compiled a chart (**Appendix 6**) containing information from other states' PHPs provided by the Federation of State Physician Health Programs (FSPHP) and additional information received from the state programs. The chart shows: who the program is operated by; the contractual relationship with the State Medical Board; the types of conditions monitored; the primary sources of funding for the program; and any additional information obtained by the State Medical Board.

An overview of PHPs was presented at a joint session of the FSPHP and the FSMB in April 2014. This presentation included information on principles and functions, as well as, 2013 data on referral types, state governance, and funding sources. Early intervention, public protection, anonymous track, use of leverage, and transparency of policies and procedures were discussed. The successful essential core functions of the PHPs are comprised of assessment, referral, monitoring, advocacy/compliance documentation, education, prevention, and support of participants.

The 2013 data indicated that all states' PHPs offer referrals for substance use disorders. Most states' PHPs offer services for mental and behavioral health. About half of the states' PHPs offer referrals for sexual misconduct and physical illness. Of the 45 states' PHPs, 42% are operated by independent entities, 42% are operated by the medical associations, and 16% are operated by the medical boards. Additionally, 62% of the states' PHPs have a contractual relationship with the medical board and more than 82% are non-profit. The PHPs are funded from various sources: 71% are funded by the medical boards, 38% are funded by malpractice insurance companies, 51% are funded by hospitals/private/grants, 56% are funded by participant fees, and 40% are funded by medical associations.

Excerpts from a few states' program laws were extracted to provide detailed information regarding specific characteristics of these programs: **Appendix 3** – Alabama; **Appendix 4** – Arizona; and **Appendix 5** – Colorado.

# Appendix 1

## California Pharmacists Recovery Program

*Business and Professions Code sections 4360-4373:*

4360. The board shall operate a pharmacists recovery program to rehabilitate pharmacists and intern pharmacists whose competency may be impaired due to abuse of alcohol, drug use, or mental illness. The intent of the pharmacists recovery program is to return these pharmacists and intern pharmacists to the practice of pharmacy in a manner that will not endanger the public health and safety.
(Amended by Stats. 2005, Ch. 621, Sec. 63. Effective January 1, 2006.)

4361. (a) "Participant" means a pharmacist or intern pharmacist who has entered the pharmacists recovery program.
(b) "Pharmacists recovery program" means the rehabilitation program created by this article for pharmacists and intern pharmacists.
(Repealed and added by Stats. 2005, Ch. 621, Sec. 65. Effective January 1, 2006.)

4362. (a) A pharmacist or intern pharmacist may enter the pharmacists recovery program if:
(1) The pharmacist or intern pharmacist is referred by the board instead of, or in addition to, other means of disciplinary action.
(2) The pharmacist or intern pharmacist voluntarily elects to enter the pharmacists recovery program.
(b) A pharmacist or intern pharmacist who enters the pharmacists recovery program pursuant to paragraph (2) of subdivision (a) shall not be subject to discipline or other enforcement action by the board solely on his or her entry into the pharmacists recovery program or on information obtained from the pharmacist or intern pharmacist while participating in the program unless the pharmacist or intern pharmacist would pose a threat to the health and safety of the public. However, if the board receives information regarding the conduct of the pharmacist or intern pharmacist, that information may serve as a basis for discipline or other enforcement by the board.
(Repealed and added by Stats. 2005, Ch. 621, Sec. 67. Effective January 1, 2006.)

4364. (a) The board shall establish criteria for the participation of pharmacists and intern pharmacists in the pharmacists recovery program.
(b) The board may deny a pharmacist or intern pharmacist who fails to meet the criteria for participation entry into the pharmacists recovery program.
(c) The establishment of criteria for participation in the pharmacists recovery program shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
(Amended by Stats. 2005, Ch. 621, Sec. 69. Effective January 1, 2006.)

4365. The board shall contract with one or more qualified contractors to administer the pharmacists recovery program.
(Amended by Stats. 2005, Ch. 621, Sec. 70. Effective January 1, 2006.)

4366. The functions of the contractor administering the pharmacists recovery program shall include, but not be limited to, the following:
(a) To evaluate those pharmacists and intern pharmacists who request participation in the program.

(b) To develop a treatment contract with each participant in the pharmacists recovery program.
(c) To monitor the compliance of each participant with their treatment contract.
(d) To prepare reports as required by the board.
(e) To inform each participant of the procedures followed in the program.
(f) To inform each participant of their rights and responsibilities in the program.
(g) To inform each participant of the possible consequences of noncompliance with the program.
(Amended by Stats. 2005, Ch. 621, Sec. 71. Effective January 1, 2006.)

4369. (a) Any failure to comply with the treatment contract, determination that the participant is failing to derive benefit from the program, or other requirements of the pharmacists recovery program may result in the termination of the pharmacist's or intern pharmacist's participation in the pharmacists recovery program. The name and license number of a pharmacist or intern pharmacist who is terminated from the pharmacists recovery program and the basis for the termination shall be reported to the board.
(b) Participation in the pharmacists recovery program shall not be a defense to any disciplinary action that may be taken by the board.
(c) No provision of this article shall preclude the board from commencing disciplinary action against a licensee who is terminated from the pharmacists recovery program.
(Amended by Stats. 2005, Ch. 621, Sec. 74. Effective January 1, 2006.)

4371. (a) The executive officer of the board shall designate a program manager of the pharmacists recovery program. The program manager shall have background experience in dealing with substance abuse issues.
(b) The program manager shall review the pharmacists recovery program on a quarterly basis. As part of this evaluation, the program manager shall review files of all participants in the pharmacists recovery program.
(c) The program manager shall work with the contractor administering the pharmacists recovery program to evaluate participants in the program according to established guidelines and to develop treatment contracts and evaluate participant progress in the program.
(Amended by Stats. 2008, Ch. 548, Sec. 26. Effective January 1, 2009.)

4372. All board records and records of the pharmacists recovery program pertaining to the treatment of a pharmacist or intern pharmacist in the program shall be kept confidential and are not subject to discovery, subpoena, or disclosure pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. However, board records and records of the pharmacists recovery program may be disclosed and testimony provided in connection with participation in the pharmacists recovery program, but only to the extent those records or testimony are relevant to the conduct for which the pharmacist or intern pharmacist was terminated from the pharmacists recovery program.
(Amended by Stats. 2005, Ch. 621, Sec. 77. Effective January 1, 2006.)

4373. No member of the board shall be liable for any civil damages because of acts or omissions that may occur while acting in good faith pursuant to this article.
(Amended by Stats. 2005, Ch. 621, Sec. 78. Effective January 1, 2006.)

## Appendix 2

**California Physical Therapy Substance Abuse Rehabilitation Program**
*Business and Professions Code sections 2662-2669:*

2662. It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physical therapists and physical therapist assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of physical therapy in a manner which will not endanger the public health and safety.
(Amended by Stats. 1996, Ch. 829, Sec. 52. Effective January 1, 1997.)

2663. The board shall establish and administer a substance abuse rehabilitation program, hereafter referred to as the rehabilitation program, for the rehabilitation of physical therapists and physical therapist assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more rehabilitation evaluation committees to assist it in carrying out its duties under this article. Any rehabilitation evaluation committee established by the board shall operate under the direction of the rehabilitation program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.
(Amended by Stats. 2013, Ch. 389, Sec. 63. Effective January 1, 2014.)

2664. (a) Any rehabilitation evaluation committee established by the board shall have at least three members. In making appointments to a rehabilitation evaluation committee, the board shall consider the appointment of persons who are either recovering from substance abuse and have been free from substance abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.
(b) Appointments to a rehabilitation evaluation committee shall be by the affirmative vote of a majority of members appointed to the board. 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 so appointed.
(c) A majority of the members of a rehabilitation evaluation committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each rehabilitation evaluation committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding the Bagley-Keene Open Meeting Act (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 rehabilitation evaluation committee may convene in closed session to consider matters relating to any physical therapist or physical therapist assistant applying for or participating in a rehabilitation program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A rehabilitation evaluation committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a rehabilitation evaluation committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.
(Amended by Stats. 2013, Ch. 389, Sec. 64. Effective January 1, 2014.)

2665. Each rehabilitation evaluation committee has the following duties and responsibilities:
(a) To evaluate physical therapists and physical therapist assistants who request participation in the rehabilitation program and to make recommendations. In making recommendations, the committee shall consider any recommendations from professional consultants on the admission of applicants to the rehabilitation program.
(b) To review and designate treatment facilities to which physical therapists and physical therapist assistants in the rehabilitation program may be referred.
(c) To receive and review information concerning physical therapists and physical therapist assistants participating in the program.
(d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the rehabilitation program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.
(e) To consider whether each participant in the rehabilitation program may with safety continue or resume the practice of physical therapy.
(f) To set forth in writing the terms and conditions of the rehabilitation agreement that is approved by the program manager for each physical therapist and physical therapist assistant participating in the program, including treatment, supervision, and monitoring requirements.
(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the rehabilitation program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the rehabilitation program.
(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a rehabilitation evaluation committee shall be considered a public employee. No board or rehabilitation evaluation committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.
(Amended by Stats. 2013, Ch. 389, Sec. 65. Effective January 1, 2014.)

2666. (a) Criteria for acceptance into the rehabilitation program shall include all of the following:
(1) The applicant shall be licensed as a physical therapist or as a physical therapist assistant by the board and shall be a resident of California.
(2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner that may affect his or her ability to practice physical therapy safely or competently.
(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.
(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.
(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.
(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.
Any applicant may be denied participation in the program if the board, the program manager, or a rehabilitation evaluation committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.
(b) A participant may be terminated from the program for any of the following reasons:
(1) The participant has successfully completed the treatment program.
(2) The participant has failed to comply with the treatment program designated for him or her.

(3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).
(4) It is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare.
Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physical therapist or physical therapy assistant who requests participation in a rehabilitation program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.
The rehabilitation evaluation committee shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physical therapist or physical therapist assistant in the program, and the possible results of noncompliance with the program.
(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.
(Amended by Stats. 2013, Ch. 389, Sec. 66. Effective January 1, 2014.)

2667. All board and rehabilitation evaluation committee records and records of proceedings and participation of a physical therapist or physical therapist assistant in a program shall be confidential and are not subject to discovery or subpoena.
(Amended by Stats. 2013, Ch. 389, Sec. 67. Effective January 1, 2014.)

2668. (a) A fee to cover the actual cost of administering the program shall be charged for participation in the program. If the board contracts with any other entity to carry out this article, at the discretion of the board, the fee may be collected and retained by that entity.
(b) If the board contracts with any other entity to carry out this section, the executive officer of the board, or his or her designee, shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.
(c) Subdivision (a) shall apply to all new participants entering into the board's rehabilitation program on or after January 1, 2007. Subdivision (a) shall apply on and after January 1, 2008, to participants currently enrolled as of December 31, 2007.
(Amended by Stats. 2013, Ch. 389, Sec. 68. Effective January 1, 2014.)

2669. Participation in a rehabilitation program shall not be a defense to any disciplinary action that may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physical therapist or physical therapist assistant who is terminated unsuccessfully from the program. That disciplinary action may not include as evidence any confidential information.
(Amended by Stats. 2013, Ch. 389, Sec. 69. Effective January 1, 2014.)

# Appendix 3

## Alabama Physician Health Program Laws

*Title 34 Professions And Businesse; Chapter 24 Physicians And Other Practitioners Of Healing Arts; Article 9 Rehabilitation of Physicians and Osteopaths. Sections 32-24-400: 34-24-406*

Section 34-24-400 - Identification, treatment, etc., of impaired physicians; Alabama Physician Wellness Committee; funding.

It shall be the duty and obligation of the State Board of Medical Examiners to promote the early identification, intervention, treatment, and rehabilitation of physicians and osteopaths licensed to practice medicine in the State of Alabama who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition. For the purposes of this article the term "impaired" shall mean the inability of a physician or osteopath to practice medicine with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition. In order to carry out this obligation the State Board of Medical Examiners is hereby empowered to contract with any nonprofit corporation or medical professional association for the purpose of creating, supporting, and maintaining a committee of physicians to be designated the Alabama Physician Wellness Committee. The committee shall consist of not less than three nor more than 15 physicians or osteopaths licensed to practice medicine in the State of Alabama and selected in a manner prescribed by the board. The Board of Medical Examiners is authorized to expend such funds as are available to it as the board shall deem necessary to adequately provide for the operational expenses of the Alabama Physician Wellness Committee, including but not limited to the actual cost of travel, office overhead and personnel expense, and compensation for the members of the committee and its staff. The funds provided by the board under this section for the purposes stated herein shall not be subject to any provision of law requiring competitive bidding.

Section 34-24-401 - Authority of board to contract for Physician Wellness Committee to undertake certain functions.

The Board of Medical Examiners shall have the authority to enter into an agreement with a nonprofit corporation or medical professional association for the Alabama Physician Wellness Committee to undertake those functions and responsibilities specified in the agreement. Such functions and responsibilities may include any or all of the following:

(1) Contracting with providers of treatment programs;
(2) Receiving and evaluating reports of suspected impairment from any source;
(3) Intervening in cases of verified impairment;
(4) Referring impaired physicians to treatment programs;
(5) Monitoring the treatment and rehabilitation of impaired physicians;
(6) Providing post-treatment monitoring and support of rehabilitated impaired physicians; and
(7) Performing such other activities as agreed upon by the Board of Medical Examiners and the Alabama Physician Wellness Committee.

Section 34-24-402 Reporting and disclosure by Physician Wellness Committee.

The Alabama Physician Wellness Committee shall develop procedures in consultation with the Board of Medical Examiners for:

(1) Periodic reporting of statistical information regarding impaired physician program activity;
(2) Periodic disclosure and joint review of such information as the Board of Medical Examiners may deem appropriate regarding reports received, contracts or investigations made, and the disposition of each report, provided however, that the committee shall not disclose any personally identifiable information except as provided in Section 34-24-405.

Section 34-24-403 - Liability for actions within scope of committee functions.
Any physician or osteopath licensed to practice medicine in the State of Alabama who shall be duly appointed to serve as a member of the Alabama Physician Wellness Committee and any auxiliary personnel, consultants, attorneys, or other volunteers or employees of the committee taking any action authorized by this chapter, engaging in the performance of any functions or duties on behalf of the committee, or participating in any administrative or judicial proceeding resulting therefrom, shall, in the performance and operation thereof, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any nonprofit corporation or medical professional association or state or county medical association that contracts with or receives funds from the State Board of Medical Examiners for the creation, support, and operation of the Alabama Physician Wellness Committee shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Section 34-24-404 - Confidentiality of information, records, and proceedings.
All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the Alabama Physician Wellness Committee and any findings, conclusions, recommendations, or reports resulting from the investigations, interventions, treatment, or rehabilitation, or other proceedings of such committee are declared to be privileged and confidential. All records and proceedings of such committee shall be confidential and shall be used by such committee and the members thereof only in the exercise of the proper function of the committee and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained herein shall apply to records made in the regular course of business of a physician, osteopath, hospital, or other health care provider, and information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because they were presented or considered during the proceedings of the Alabama Physician Wellness Committee.

Section 34-24-405 - Annual report. (a) It shall be the duty of the Alabama Physician Wellness Committee to render an annual report to the State Board of Medical Examiners concerning the operations and proceedings of the committee for the preceding year.
(b) The committee shall report to the State Board of Medical Examiners any physician or osteopath who in the opinion of the committee is unable to practice medicine or osteopathy with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition when it appears that such physician or osteopath is currently in need of intervention, treatment, or rehabilitation, and such physician or osteopath has failed or refused to participate in programs of treatment or rehabilitation recommended by the committee. In any report to the State Board of Medical Examiners made pursuant to the requirements of this subsection, the committee or its authorized designee may forward to the board any and all reports, evaluations, treatment records, medical records, documents, or information relevant to the physician or osteopath upon whom the report is made, unless specifically prohibited by federal law or regulation, notwithstanding any law or regulation of this state declaring that such evaluations, information, treatment records, medical records, documents, or reports are confidential or privileged. All such information, evaluations, documents, reports, treatment records, or medical records received by the board in a report submitted pursuant to this subsection shall be privileged and confidential and shall not be public records nor available for court subpoena or for discovery proceedings but may be used by the board in the course of its investigations and may be introduced as evidence in administrative hearings conducted by the board or by the Medical Licensure Commission.
(c) A report to the Alabama Physician Wellness Committee shall be deemed to be a report to the State Board of Medical Examiners for the purposes of any mandated reporting of physician impairment otherwise provided for by the statutes of this state.

Section 34-24-406 - Evaluation of physician who is believed to be impaired; report of findings.
If the Board of Medical Examiners has reasonable cause to believe that a physician is impaired, the board may cause an evaluation of such physician to be conducted by the Alabama Physician Wellness Committee for the purpose of determining if there is an impairment. The Alabama Physician Wellness Committee shall report the findings of its evaluation to the Board of Medical Examiners.

# Appendix 4

## Arizona Physician Health Program Laws

*Arizona Revised Statutes Title 32 - Professions and Occupations Sections 32-1452:1452.01*

32-1452. Substance abuse treatment and rehabilitation program; private contract; funding; license restrictions; immunity

A. The board may establish a confidential program for the treatment and rehabilitation of doctors of medicine who are licensed pursuant to this chapter and physician assistants who are licensed pursuant to chapter 25 of this title and who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:
1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Immediate reporting to the board of the name of an impaired doctor or physician assistant who the treating organization believes to be misusing chemical substances.
4. Reports to the board, as soon as possible, of the name of a doctor or physician assistant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed forty dollars from each fee it collects from the biennial renewal of active licenses pursuant to section 32-1436 for the operation of the program established by this section.

D. A doctor of medicine or physician assistant who is impaired by alcohol or drug abuse shall agree to enter into a stipulation order with the board or the doctor or physician assistant shall be placed on probation or shall be subject to other action as provided by law.

E. In order to determine that a doctor of medicine or physician assistant who has been placed on probationary order or who has entered into a stipulation order pursuant to this section is not impaired by drugs or alcohol after that order is no longer in effect, the board or its designee may require the doctor of medicine or physician assistant to submit to body fluid examinations and other examinations known to detect the presence of alcohol or other drugs at any time within five consecutive years following termination of the probationary or stipulated order.

F. A doctor of medicine or physician assistant who is impaired by alcohol or drug abuse and who was under a board stipulation or probationary order that is no longer in effect shall request the board to place the license on inactive status with cause. If the doctor or physician assistant fails to do this, the board shall summarily suspend the license pursuant to section 32-1451, subsection D. In order to reactivate the license, the doctor or physician assistant shall successfully complete a long-term care residential or inpatient hospital treatment program, or both, and shall meet the applicable requirements of section 32-1431, subsection D. After the doctor or physician assistant completes treatment, the board shall determine if it should refer the matter for a formal hearing for the purpose of suspending or revoking the license or to place the licensee on probation for a minimum of five years with restrictions necessary to ensure the public's safety.

G. The board shall revoke the license of a doctor of medicine or physician assistant if that licensee is impaired by alcohol or drug abuse and was previously placed on probation pursuant to subsection D of this section and the probation is no longer in effect. The board may accept the surrender of the license if the licensee admits in writing to being impaired by alcohol or drug abuse.

H. An evaluator, teacher, supervisor or volunteer in the board's substance abuse treatment and rehabilitation program who acts in good faith within the scope of that program is not subject to civil liability, including malpractice liability, for the actions of a doctor or physician assistant who is attending the program pursuant to board action.

32-1452.01. Mental, behavioral and physical health evaluation and treatment program; private contract; immunity
A. The board may establish a confidential program for the evaluation, treatment and monitoring of persons licensed pursuant to this chapter and chapter 25 of this title who have medical, psychiatric, psychological or behavioral health disorders that may impact their ability to safely practice medicine or perform healthcare tasks. The program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. A licensee who has a medical, psychiatric, psychological or behavioral health disorder described in subsection A, who voluntarily reports that disorder to that licensee's board and who has not committed a statutory violation under this chapter or chapter 25 of this title may agree to enter into a confidential consent agreement for participation in a program established pursuant to this section.

C. A licensee who has a medical, psychiatric, psychological or behavioral health disorder described in subsection A, who is reported to that licensee's board by a peer review committee, hospital medical staff, health plan or other health care practitioner or health care entity and who has not committed a statutory violation under this chapter or chapter 25 of this title may agree to enter into a confidential consent agreement for participation in a program established pursuant to this section.

D. The board may contract with other organizations to operate a program established pursuant to this section. A contract with a private organization must include the following requirements:
1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Immediate reporting to the Arizona medical board of the name of a licensee who the treating organization believes is incapable of safely practicing medicine or performing healthcare tasks. If the licensee is a physician assistant, the Arizona medical board shall immediately report this information to the Arizona regulatory board of physician assistants.

E. An evaluator, teacher, supervisor or volunteer in a program established pursuant to this section who acts in good faith within the scope of that program is not subject to civil liability, including malpractice liability, for the actions of a licensee who is attending the program pursuant to board action.

# Appendix 5

## Colorado Physician Health Program Laws

*Colorado Revised Statutes - Title 12. Professions And Occupations*
*Health Care - Article 36. Medical Practice - Part 1. General Provisions; 12-36-123.5 (2014)*

12-36-123.5. Physicians', physician assistants', and anesthesiologist assistants' peer health assistance program
(1) to (3) Repealed.

(3.5) (a) (Deleted by amendment, L. 95, p. 1068, § 17, effective July 1, 1995.)

(b) (I) As a condition of physician, physician assistant, and anesthesiologist assistant licensure and renewal in this state, every applicant shall pay, pursuant to paragraph (e) of this subsection (3.5), an amount set by the board, not to exceed sixty-one dollars per year, which maximum amount may be adjusted on January 1, 2011, and annually thereafter by the board to reflect:

(A) Changes in the United States bureau of labor statistics consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers, all goods, or its successor index;

(B) Overall utilization of the program; and

(C) Differences in program utilization by physicians, physician assistants, and anesthesiologist assistants.

(II) Based on differences in utilization rates between physicians, physician assistants, and anesthesiologist assistants, the board may establish different fee amounts for physicians, physician assistants, and anesthesiologist assistants.

(III) The fee imposed pursuant to this paragraph (b) is to support designated providers that have been selected by the board to provide assistance to physicians, physician assistants, and anesthesiologist assistants needing help in dealing with physical, emotional, or psychological problems that may be detrimental to their ability to practice medicine, practice as a physician assistant, or practice as an anesthesiologist assistant, as applicable.

(c) The board shall select one or more peer health assistance programs as designated providers. To be eligible for designation by the board, a peer health assistance program must:

(I) Provide for the education of physicians, physician assistants, and anesthesiologist assistants with respect to the recognition and prevention of physical, emotional, and psychological problems and provide for intervention when necessary or under circumstances that may be established by rules promulgated by the board;

(II) Offer assistance to a physician, physician assistant, or anesthesiologist assistant in identifying physical, emotional, or psychological problems;

(III) Evaluate the extent of physical, emotional, or psychological problems and refer the physician, physician assistant, or anesthesiologist assistant for appropriate treatment;

(IV) Monitor the status of a physician, physician assistant, or anesthesiologist assistant who has been referred for treatment;

(V) Provide counseling and support for the physician, physician assistant, or anesthesiologist assistant and for the family of any physician, physician assistant, or anesthesiologist assistant referred for treatment;

(VI) Agree to receive referrals from the board;

(VII) Agree to make their services available to all licensed Colorado physicians, licensed Colorado physician assistants, and licensed Colorado anesthesiologist assistants.

(d) The administering entity shall be a qualified, nonprofit private foundation that is qualified under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, and shall be dedicated to providing support for charitable, benevolent, educational, and scientific purposes that are related to medicine, medical education, medical research and science, and other medical charitable purposes.

(e) The responsibilities of the administering entity are:

(I) To collect the required annual payments, either directly or through the board pursuant to paragraph (e.5) of this subsection (3.5);

(II) To verify to the board, in a manner acceptable to the board, the names of all physician, physician assistant, and anesthesiologist assistant applicants who have paid the fee set by the board;

(III) To distribute the moneys collected, less expenses, to the approved designated provider, as directed by the board;

(IV) To provide an annual accounting to the board of all amounts collected, expenses incurred, and amounts disbursed; and

(V) To post a surety performance bond in an amount specified by the board to secure performance under the requirements of this section. The administering entity may recover the actual administrative costs incurred in performing its duties under this section in an amount not to exceed ten percent of the total amount collected.

(e.5) The board may collect the required annual payments payable to the administering entity for the benefit of the administering entity and shall transfer all such payments to the administering entity. All required annual payments collected by or due to the board for each fiscal year are custodial funds that are not subject to appropriation by the general assembly, and the distribution of the payments to the administering entity or expenditure of the payments by the administering entity does not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

(f) No later than June 30, 1994, the board shall transfer the balance in the fund, if any, to the administering entity chosen by the board pursuant to paragraphs (d) and (e) of this subsection (3.5).

(4) (Deleted by amendment, L. 95, p. 1068, § 17, effective July 1, 1995.)

(5) Nothing in this section creates any liability on the board or the state of Colorado for the actions of the board in making grants to peer assistance programs, and no civil action may be brought or maintained against the board or the state for an injury alleged to have been the result of the activities of any state-funded peer assistance program or the result of an act or omission of a physician, physician assistant, or anesthesiologist assistant participating in or referred by a state-funded peer assistance program.

(6) Repealed.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information [1/] |
|---|---|---|---|---|---|
| Alabama | Medical Association | Yes. Board contracts with Medical Association of the State of Alabama. | Chemical dependence as well as other psychiatric disorders; Professional Sexual Misconduct; Physical illness; Neurologic Disorders, and other problems related to physician health and wellbeing; Disruptive Behavior. | State licensing agency; Malpractice insurance companies; Hospitals and private contributions; Participant fees. | Board allows confidential referrals, and only "Level III" Relapses (i.e. relapses in the context of medical practice) are reported to the board. |
| Alaska | Medical Association | Yes. Alaska State Medical Association has a formal Memorandum of Agreement with the Alaska State Medical Board | Chemical dependency with psychiatric morbidities; Physical illness; Neurologic Disorders with problems related to physical health and wellbeing. | Unknown. | N/A |
| Arizona | Independent | Yes | Substance use disorders; Mental health; Professional Sexual Misconduct; Medical issues; Chronic pain. | Participant fees | The Board is aware of all participants whether confidential or public. The Board is notified immediately if there is a relapse or the Program believes the individual is unsafe to practice. Communicate daily/weekly with the program liaisons, investigators, the Executive Director and/or the Assistant Attorney Generals. |
| Arkansas | Medical Association | No. Arkansas Medical Foundation in association with Arkansas Medical Society | Substance use disorders; Boundary violations; Psychiatric conditions. | State licensing agency: $25.00 licensure fee from all physicians up to $200,000 annually; Malpractice insurance companies: $30,000; Participant fees: annual fee, non-refundable $480 to $1,200; State licensing agency now gives $5.00 per licensees (LRCP, OT, PA) per year. | N/A |
| California | No program | N/A | N/A | N/A | N/A |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| Colorado | Independent | Yes. The Colorado Medical Practice Act establishes the scope of services and funding mechanism for a "physician peer health assistance" provider. The Colorado Medical Board (CMB) selects the provider based on competitive bids (five year cycle) and authorizes an annual funding level. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness Malpractice litigation; Stress management; Other: Life stage/development issues; career transition; family issues. | State licensing agency (74%); hospital and private contributions (11%); Participant fees: fees are charged to physicians who do not hold a Colorado license (3%); Training Program Contracts (5%); Other: Reports, Chart Copies, Interest,; Presentation Fees (7%). | Allows confidential referrals. If under a stipulation, notify the Board of concerns regarding safety to practice immediately verbally and within 24 hours in writing. If not known to the Board but program deems the physician unsafe to practice, the Board is notified. Provides quarterly reports on progress/compliance of Board referred participants. Peer health assistance fees are collected from physicians at the biannual license renewal. |
| Connecticut | Independent | No. Relationship by law. | Substance use disorders; Mental health; Behavioral health problems; Physical illness. | Malpractice insurance companies; Hospital and private contributions; Participant fees. | Non-profit corporation. |
| Delaware | Independent | Yes. Administered by Department of Professional Regulation and services are provided by Reliant Behavioral Health (RBH), an independent behavioral health services organization. | Substance use and/or mental health issues. | Unknown. | Allows voluntarily self-refer. |
| Florida | Independent | Yes. Consultant to the Department of Health and the Department of Business and Professional Regulation on matters of impairment. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Stress management; Other: HIV Monitoring Program; Cognitive. | State medical society (5% in-kind services); State licensing agency (85%); Malpractice insurance companies (5%); Hospital and private contributions (5%) | Allows confidential referrals. Reports incidents of material noncompliance. Provides quarterly, detailed reports on probationers and routine, monthly reports with participant status data. Attends Board meeting and provide specific case information for enforcement cases. Non-profit corporation operated by a board. |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| Georgia | Independent | Yes | Substance use disorders. | Participant fees: 100% with strong fund raising development arm. | Non-profit corporation. |
| Hawaii | Independent | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Stress management; Other: Disruptive behavior. | Hospital and private contributors; Participant fees. | Non-profit corporation. |
| Idaho | Medical Board and Medical Association | Yes. Contract with Medical Board for partial funding - Board and medical association have joint oversight authority. | Substance use disorders; Mental illness. | State licensing agency (80%); Participant fees (20%). | The Executive Director of the Board is aware of all participants informally. Case by case report on non-compliance participants based on severity. Meets with Board staff monthly to discuss Board referred participants. Annual educational presentation to the Board. |
| Illinois | Independent | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Stress management; Disruptive behavior. | Malpractice insurance companies; Participant fees: $150 per month. | Non-profit organization. |
| Indiana | Medical Association | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Other: Available for referrals for marital, stress, etc. | State medical society; Hospital and private contributions; Participant fees: $75 per month for members, $125 per month for non-members. | N/A |
| Iowa | Medical Board | Yes. Operated by Medical Board. | Substance use disorders; Mental health; Physical illness. | State licensing agency. | Allows confidential referrals. Reports incidents of noncompliance. Provides updates at board meeting. |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| Kansas | Medical Association | Yes | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness. | State medical society; State licensing agency; Participant fees: Monitoring fee screens paid by participants. | N/A |
| Kentucky | Independent | Yes. Policy level written. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness. | State licensing agency; Malpractice insurance companies; Hospitals; Participant fees; Private and voluntary contributions. | Communicates compliance status with the Board. No confidentiality. Completely transparent. Policy states that all licensees must report concerns of impaired physicians to the Board. Non-profit corporation. |
| Louisiana | Independent | Yes: Professional Services Contract with the Medical Board, which defines the parameters within which the program operates. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness. | State licensing agency. | N/A |
| Maine | Medical Association | Yes | Substance use disorders; Behavioral disorders. | Funding comes from all professional associations and boards served, as well as medical staff contributions and private contributions. | N/A |
| Maryland | Medical Association | Yes. Administratively under the Center for a Healthy Maryland. The Program is operated via a contract with the Medical Board. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Malpractice litigation; Stress-related illness; Other: Cognitive impairment. | Funded through a contract with the Maryland State Board of Physicians. | Non-profit entity that is affiliated with the state medical association. |
| Massachusetts | Medical Association | No | Substance use disorders; Mental disorders; Problematic workplace behavior; Physical illness; Stress, burnout and other occupational health problems; Malpractice litigation (support). | State medical society; Malpractice insurance companies; Other: 1. Random screens and individual therapy paid by participants; 2. Able to receive charitable contributions. | N/A |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information [1/] |
|---|---|---|---|---|---|
| Michigan | Independent | Yes. Administered through a contract with the Department of Licensing and Regulatory Affairs/Bureau of Health Care Services. | Substance Use Disorders; Mental Health; Behavioral Health Problems; Physical illness; Neurologic Disorders, and other problems related to physician health and wellbeing. | State licensing agencies. | N/A |
| Minnesota | Medical Board | Yes. Operated by Medical Board. | Substance use disorders; Mental health; Physical illness. | State licensing boards. | Encourage confidential enrollment. Relapses are reported. Missing one screen would not be reported unless the Board referred the individual to the program under a disciplinary order. Regular communication with Board staff and provide an annual report and presentation to the entire Board. |
| Mississippi | Medical Association | Yes. Memorandum of Understanding. | Substance use disorders; Mental health; Behavioral health issues; Sexual misconduct and/or boundary violations; Physical illness; Neurologic disorders, and other issues related to physician health and wellbeing. | Medical board; State medical society; State licensing agency; Hospital and private contributions; Participant fees. | Reports to Board based on categories; Level 1- not participating may contact the board to meet with the participant; Level 2&3 within 24 hours/ immediately; Educate the Board on the program. |
| Missouri | Medical Association | Yes. Memorandum of Understanding. | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Stress management; Physical illness; Licensure issues. | State medical society; Hospital and private contributions; Participant fees: Required to pay monthly fee. | N/A |
| Montana | Independent | Yes | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Stress management; Disruptive behavior. | State licensing agency: 80% Board of Medical Examiners, 20% Board of Dentistry; Participant fees; Montana hospitals; Private donors. | Allows confidential referrals. Relapses are reported in real time based on reporting rules. Meets regularly with staff and provides statistical data. |
| Nebraska | No program | N/A | N/A | N/A | N/A |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| Nevada | Independent | Yes | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Stress management. | Hospital and private contributions; Participant fees; Nevada State Board of Medical Examiners; Nevada State Board of Osteopathic Medicine Medical Examiners. | Allow confidential referrals. If a participant, known to the board, becomes non-compliant the Board is notified. If the program has any reason to believe that any licensee is unsafe to practice, the board is notified. Provides monthly reports to the Board on licensees that are mandated to participate in the program. |
| New Hampshire | Independent | Yes | Substance use disorders; Mental health; Behavioral issues. | State licensing agency; Malpractice insurance companies; Hospital and private contributions. | Non-profit corporation. |
| New Jersey | Independent | Yes | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Malpractice litigation; Stress management; Other: Anger management: "hospital authorized party" (JACHO mandate); medical review officer services. | Unknown. | Allows confidential referrals. Reports non-compliant or relapse immediately. Provides routine reports, quarterly status reports. Private, Non-profit corporation. |
| New Mexico | Independent | Yes | Substance use disorders; Mental health; Employment issues; Behavioral health issues. | Medical Board; Board of Pharmacy; Board of Dental Health Care; Participants pay for treatment services. | N/A |
| New York | Medical Association | Yes. Contract renewed every five years by legislative action. | Substance use disorders; Mental health; Behavioral health. | State licensing agency; Malpractice insurance companies. | N/A |
| North Carolina | Independent | Yes | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations. | State medical society (4%); State licensing agency (44%); Malpractice insurance companies (5%); Hospital and private contributions (25%); Participant fees (16%); Other (8%). | N/A |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| North Dakota | Independent | Yes | Substance use disorders; Mental health. | Unknown. | Non-profit corporation. |
| Ohio | Independent | No | Substance use disorders; Mental health; Behavioral health; Sexual misconduct and/or boundary violations; Physical Illness. | Grants: Ohio Medical Quality Foundation; Participant fees; Hospital and medical staffs; Individual contributions; Supporting professional associations. | Allows confidential referrals.<br>Required to report any relapse or failure to complete treatment or aftercare requirements as outlined in the Ohio Revised Code. No regular reports are provided on confidential participants to the Board. Reports are communicated based upon specific inquiry. Non-profit corporation. |
| Oklahoma | Medical Association | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations | Malpractice insurance companies; Malpractice Insurance; Boards; Associations; Hospitals | N/A |
| Oregon | Medical Board | Yes. Administered by Oregon Health Authority and operated by Reliant Behavioral Health | Substance use disorders (including dual diagnosis); Mental health disorders. | Participating Boards through Oregon Health Authority assessment. | Allow confidential referrals. Reports of noncompliant events are reported to the Board.<br>Meets with Board as needed and at quarterly meetings. Provides weekly enrollment data, biannual satisfaction survey results, and an annual report. |
| Pennsylvania | Medical Association | Yes. Monitor any physician that is reported to the State Board for a monthly fee per annual contract with the Commonwealth. | Substance use disorders; Mental health; Behavioral health assessment; Other: Cognitive deficits, assessment. | State medical society; State licensing agency; Hospital and private contributions; Participant fees: We charge an initial "case initiation fee," monthly monitoring fees and fees for advocacy letters. | Allow confidential referrals.<br>Provides quarterly reports on physicians known to the Board and reports to the Board any participant that may pose harm to patients and not cooperating with the program. Communicates with the Board on a case-by-case basis at least daily/weekly about participants who have agreements and are being monitoring. |
| Rhode Island | Medical Association | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness. | Malpractice insurance companies; Hospital and private contributions. | Allows confidential referrals. The Program notifies the Board of participant's compliance issues only if there is a subsequent concern about patient safety that would require a board action. The Program communicates with the Board quarterly. |

1/ Additonal information received from the state program.

**Appendix 6**

# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| South Carolina | Medical Board | Yes. Operates under a contract between LRADAC and the South Carolina Department of Labor, Licensing and Regulation. | Alcohol and other drug dependency; Dual diagnosis of addiction and mental illness. | Unknown. | N/A |
| South Dakota | Independent | Yes | Substance use disorders; Mental health; Behavioral health. | Participating Licensing Boards; Participant Fees; Donations. | N/A |
| Tennessee | Independent | Yes | Substance use disorders; Mental health; Behavioral health problems; Physical illness; Malpractice litigation; Stress management; Other: Overprescribing. | State medical society; Malpractice insurance companies; Hospital and private contributions; Other: Voluntary contributions. | Non-profit corporation. |
| Texas | Medical Association | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness; Stress management (support); Cognitive impairment; Physician health and well-being. | State medical association. | N/A |
| Utah | Medical Board | Yes. Operated by Medical Board. | Substance use disorders; Mental health; Other: General misconduct problems. | State medical society; State licensing agency. | The Board Manager is aware of all referrals, but the full board does not know about them. The Board Manager is notified if there are any egregious issues, or if there are three instances of non-compliance within a 3 month period of time. A decision about consequences is made in conjunction with the Board Manager under those circumstances. Usually, the individual participant is allowed to remain in diversion unless further incidents arise. |
| Vermont | Medical Association | Yes | Substance use disorders. | State medical society; State licensing agency; Malpractice carriers | N/A |

1/ Additonal information received from the state program.

**Appendix 6**

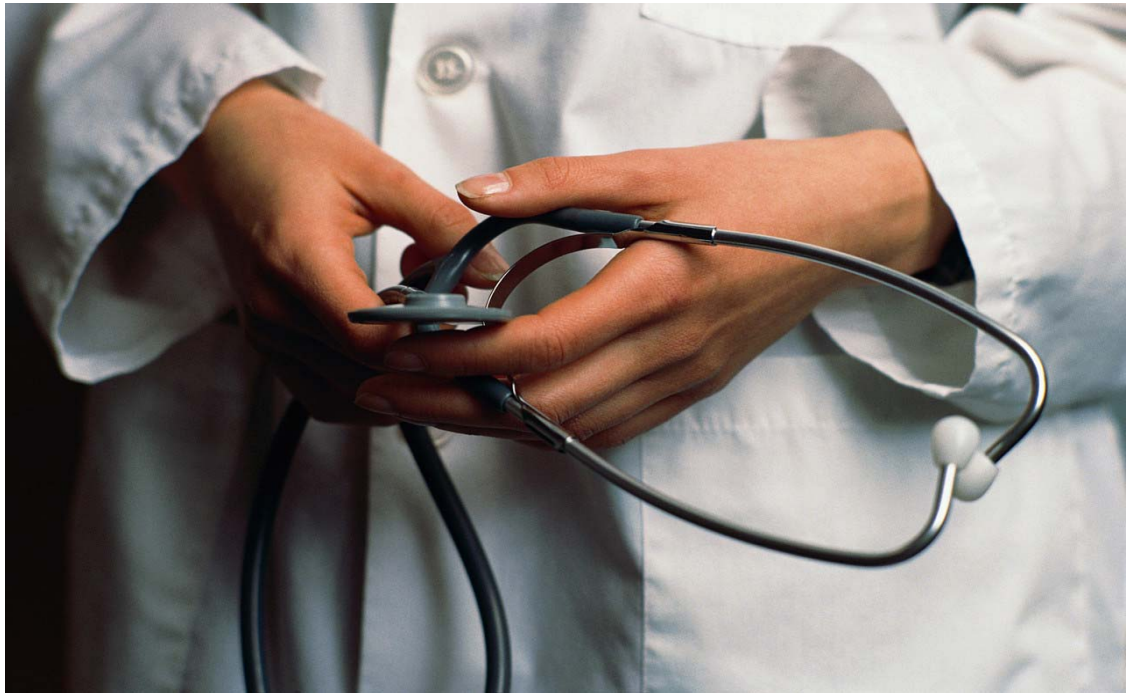
# State Physician Health Programs

*(Data from the Federation of State Physician Health Program)*

| STATE | Operated by | Contractual Relationship with the Medical Board? | Types of Conditions Monitored | Primary Sources of Funding | Additional Information 1/ |
|---|---|---|---|---|---|
| Virginia | Independent | Yes. Contract with Department of Health Professions. | Substance use disorders; Mental health; Physical illness. | State licensing agency | Operated by Virginia Commonwealth University, Department of Psychiatry. |
| Washington | Independent | Yes. Contract allows for program to capture surcharge funding and mirrors governing statutes. | Substance use disorders; Mental health; Physical illness; Stress management; Behavioral health problems; Active wellness support. | Annual license renewal fees; Participant fees; We solicit charitable donations. | Roughly 90% of participates in the program confidentially and their participation and illnesses remain unknown to their licensing board or commission. Board of Directors approved by Washington State Medical Association. |
| Washington, D.C. | Medical Association | No | Substance use disorders; Mental health; Behavioral health problems; Sexual misconduct and/or boundary violations; Physical illness. | State medical society; Malpractice insurance companies. | N/A |
| West Virginia | Independent | Yes | Substance use disorders; Mental illness. | Participant fees; Malpractice insurance company; Licensure fees; Hospital association. | Allow confidential referrals. Provides an initial anonymous report by case number only of new participants. Reports non-compliance issues immediately. Provides quarterly compliance reports on board referred participants. Reports as needed for Board meetings and provides statistical data twice during the year. Non-profit corporation. |
| Wisconsin | No program | N/A | N/A | N/A | N/A |
| Wyoming | Independent | Yes | Substance use disorders; Mental and behavioral health. | State medical society; State licensing agency; Malpractice insurance companies; Hospital and private contributions; Participant fees; State bar; Judiciary; Hospitals. | Allows confidential referrals. Notify the Board of participant's failure, problems, and/or issues. The Program provides quarterly reports detailing the compliance of participants that are known to the board. |

1/ Additonal information received from the state program.

# Colorado Physician Health Program: Physicians Helping Physicians



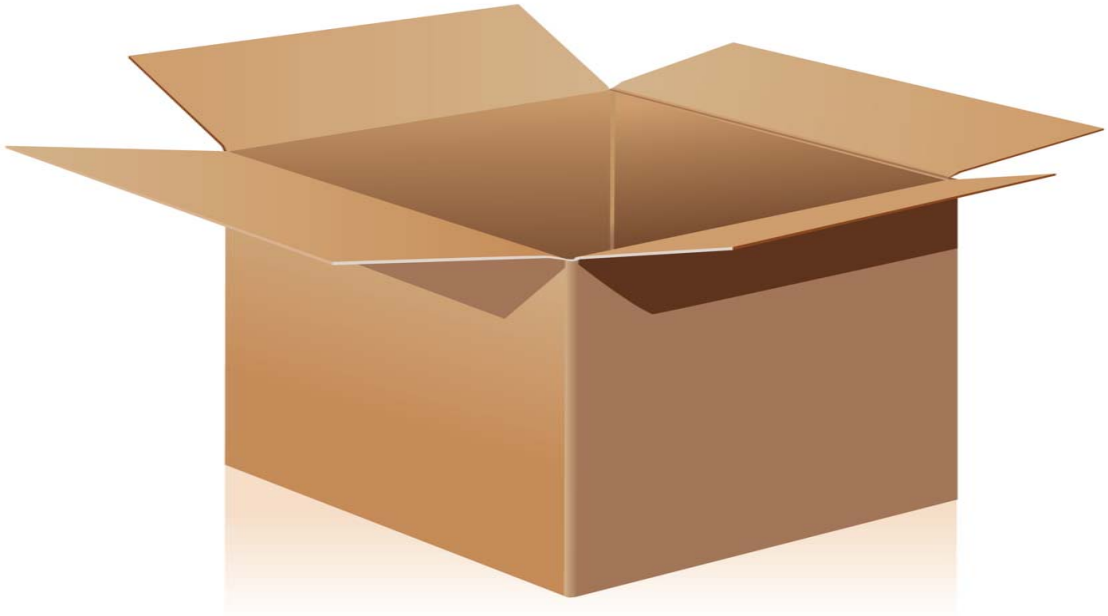
Doris C. Gundersen MD

July 30, 2015

The Medical Board of California

# Speaker Disclosure Statement

NOTHING TO DISCLOSE



# Presentation Objectives

- CPHP's mission statement
- CPHP's program development
- Describe CPHP's funding history
- Describe  CPHP's relationship with the Medical Board (CMB)
- Review CPHP's executive and clinical structure
- Review CPHP services
- Review research activities and future endeavors

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# COLORADO PHYSICIAN HEALTH PROGRAM

## Our Mission

The mission of Colorado Physician Health Program is to promote the health and well-being of physicians and physician assistants through evaluation, treatment referral, support, education and research.

## Our Vision

The vision of the Colorado Physician Health Program is a healthy Colorado through the well-being of Colorado physicians and physician assistants.

*Serving the Medical Community Since 1986*

CPHP
COLORADO PHYSICIAN HEALTH PROGRAM

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# CPHP History
## Celebrating 29 years of Service

- Developed in collaboration with:
  - Denver County Medical Society
  - Colorado Medical Society
- Inception: 1986
- Peer assistance program created through statute - Medical Practice Act
  - License Surcharge Established 2005 – could not exceed $50/year
  - Contractual Agreement with the Colorado Medical Board (CMB)
  - Request for Proposal every 5 years

# COPIC
# Colorado Physicians Insurance Company

Importance of separate holding of funds with 3rd party (COPIC)

## Administering Entity

- All funds collected by the CMB are custodial funds NOT subject to appropriations by the General Assembly
- The distribution of payments to the administering entity does not constitute state fiscal year spending for purposes of Section 20 of Article X of the state constitution

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# CPHP Funding History

## 2005 to 2010

- Each applicant pays a surcharge not to exceed $50/yr
- Amount adjusted by CMB annually to reflect changes in US bureau of labor statistics, CPI, etc.
- Fee shall be used to support designated providers selected by the CMB to provide peer assistance (e.g. CPHP)
- Cost of living adjustments available

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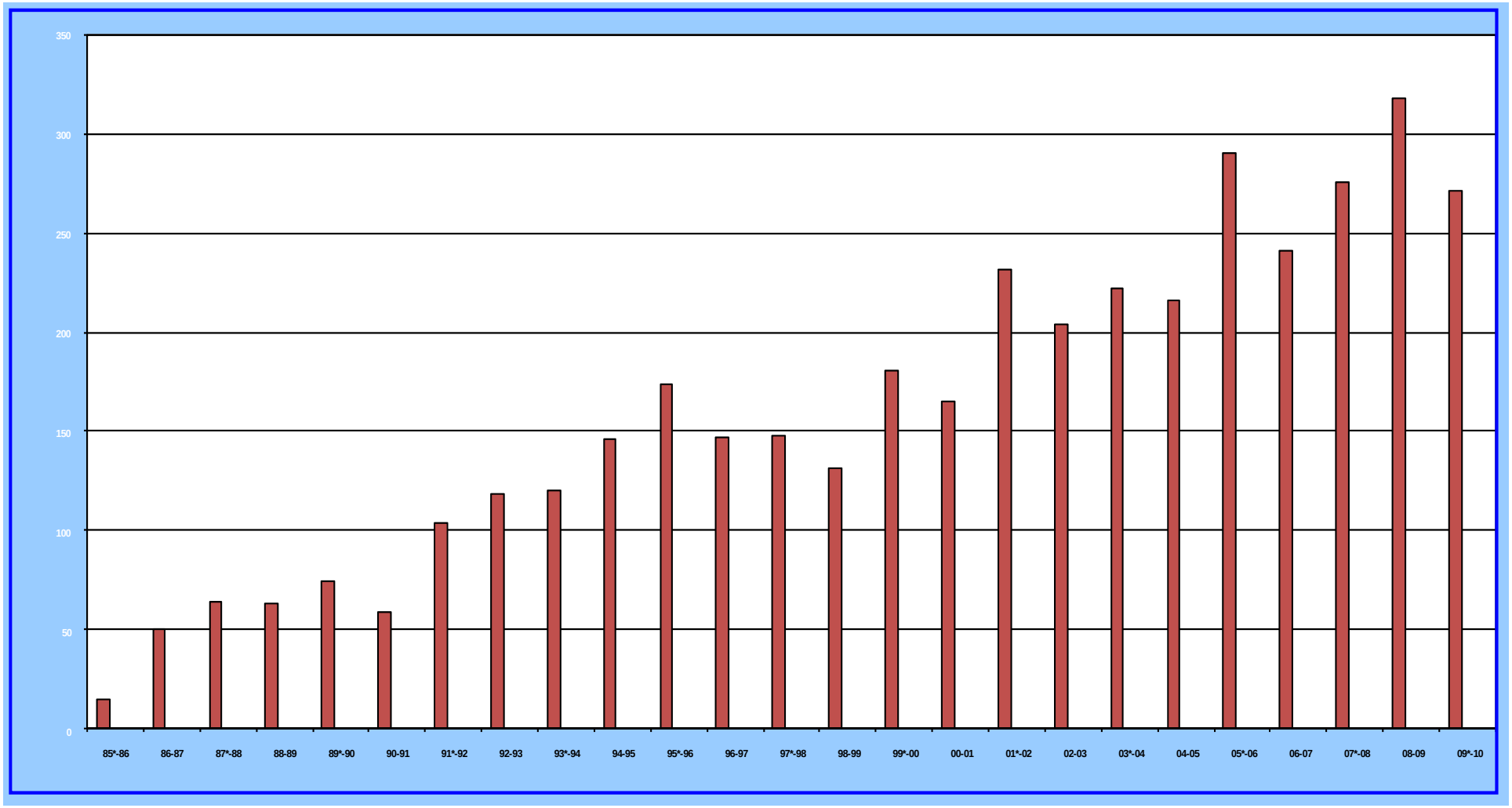
# Annual Number of New Referrals
# Program History
# 1986 – 2010




*** = CMB License Renewal Years**

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# A Decade of Growth and Success

| | History of Growth at CPHP | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1999-2000 | 2000-2001 | 2001-2002 | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 | Average Annual Growth | Growth over ten years |
| AVERAGE ACTIVE CASELOAD | 273 | 290 | 340 | 356 | 365 | 373 | 403 | 433 | 457 | 465 | 6% | 70% |
| NUMBER OF NEW REFERRALS | 168 | 163 | 232 | 190 | 223 | 215 | 290 | 240 | 276 | 318 | 8% | 89% |
| EDUCATION | 62 | 61 | 66 | 77 | 73 | 88 | 93 | 127 | 121 | 115 | 7% | 85% |

# Colorado Physician Health Program

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# Programmatic Funding Increases

| DATE | ACTUAL ALLOTMENTS |
|---|---|
| 2000 to 2001 | $696,528.00 |
| 2001 to 2002 | $774, 996.00 |
| 2002 to 2003 | $840,000.00 |
| 2003 to 2004 | $840,000.00 |
| 2004 to 2005 | $900,000.00 |
| 2005 to 2006 | $1,020,000.00 |
| 2006 to 2007 | $1,200,000.00 |
| 2007 to 2008 | $1,200,000.00 |
| 2008 to 2009 | $1,200,000.00 |
| 2009 to 2010 | $1,200,000.00 |
| 2010 to 2011 | $1,200,000.00 |

# CPHP Funding History

- Sunset process – MPA is open for revision by legislation
- Last sunset process was 2000
- 2010 sunset occurred with new CPHP leadership (MD and ED)

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# CPHP Recommendations MPA Sunset 2010:

- Preserve statute language to maintain a peer assistance program for Colorado
- Surcharge amount not to exceed $61/year
- Surcharge may be adjusted annually by CMB
- Revise funding mechanism:
  - To accommodate for growth of program
  - To allow different surcharge for MD vs PA
  - Allow CMB to determine when surcharge changes are warranted
    - Remove it from MPA sunset process
    - Changes in US Bureau of Labor statistics and CPI
    - Overall utilization of the program and
    - Differences in program utilization by MDs vs PAs

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# MPA: 2010 Statute Revisions

- In CPHP's favor:
  - Creation (continuance) of a peer assistance program
  - A Safe Haven Agreement
  - An unanticipated Surprise:
    Creation of "Confidential Agreements"
  - One disappointment:
    - SUDs excluded from confidential agreements

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# Changes to CPHP Funding as of 2011

**Budget requests will now correspond directly to the license renewal cycle so that growth rate comparisons are more realistic**

# Safe Haven

- Confidentiality
- Ability to apply/reapply for a license Colorado without disclosing personal health history
- Most states require full disclosure
- Recognition that punishing ill physicians does not make them well or protect the public
- Recognizing early intervention protects the public and the physician

# Relationship To The Colorado Medical Board (CMB)

- Contractual Agent of the CMB
  - CPHP is an independent 501(c)3
  - CPHP does not have immunity
- CMB Makes Referrals to CPHP
  - Applications for licensure
  - Renewal applications
  - Complaints
- CPHP Provides "Treatment Monitoring" for individuals with license stipulations
- Approximately 20% of CPHP cases are known to the CMB
- Approximately 80% of CPHP cases are "Safe Haven"

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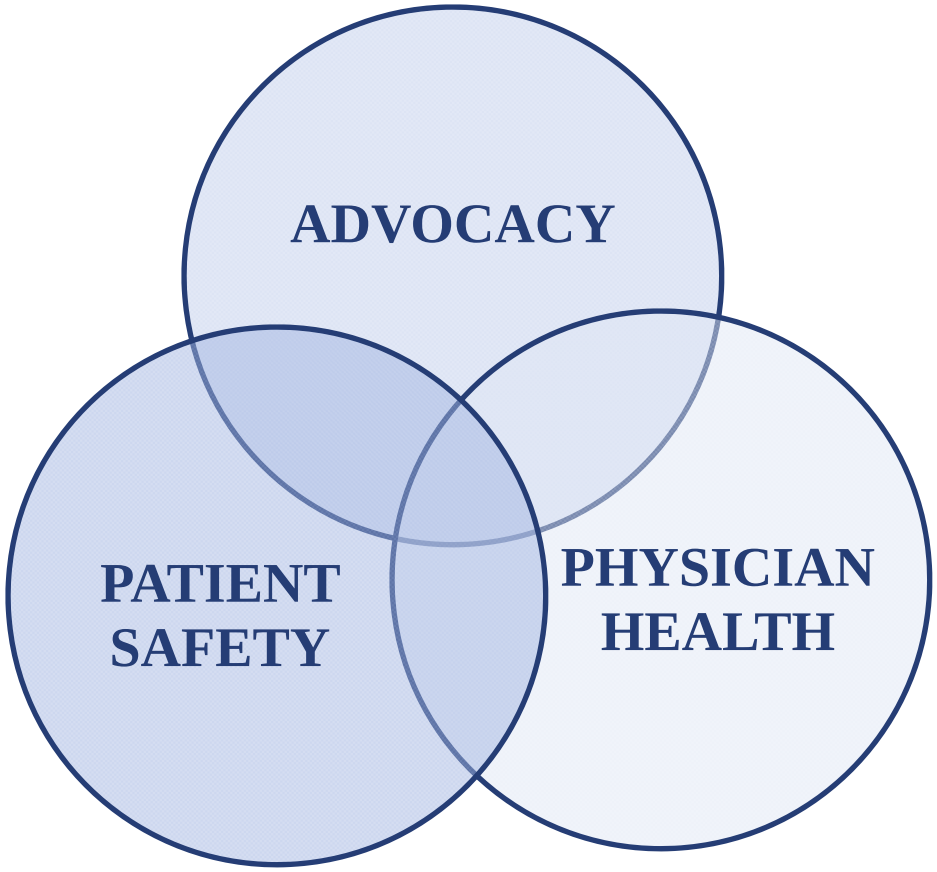
# Medical Boards and Physician Health Programs

## OVERLAPPING MISSIONS

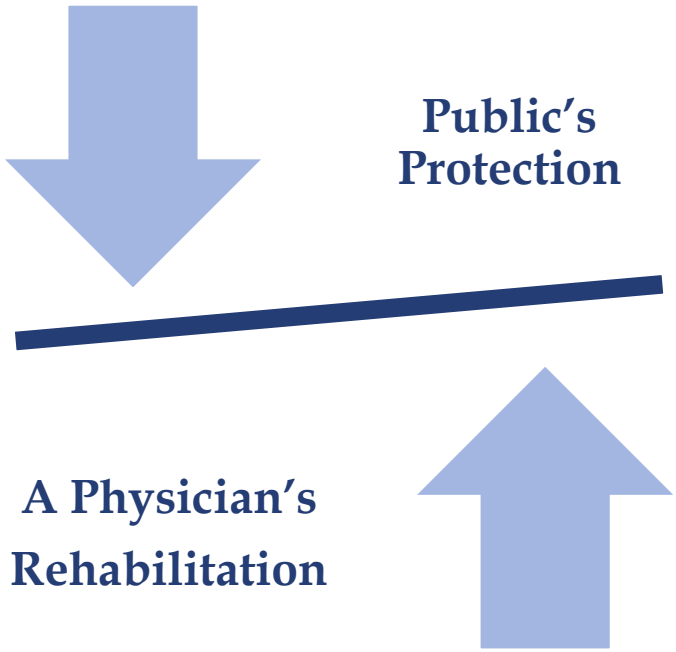


# COMMON GOALS

- Patient safety
- Healthy physicians promote healthy practices to their patients (Erica Franks MD)
- A large "healthy physician" population improves access for the public
- Physician health/rehabilitation
  - Preserve an important societal resource
  - Physician shortages pose risks too

# TENSIONS ARE RELATED TO:

- Differing alliances
- Differing priorities
- Differing "perceptions"




PHP: Medical Boards are too punitive

Medical Boards: PHPs are hiding "bad" doctors

# Differing Alliances

- Medical Board ⟷ Attorneys General
- Physician ⟷ Defense Attorney
- PHP ⟷ Physician
- PHP ⟷ Medical Board
- PHP ⟷ Physician ⟷ Medical Board

# Differing Priorities

| Disability (Legal) | VS | Disease (Clinical) |
|---|---|---|
| Patient safety based on legal case development | VS | Patient Safety through evaluation and treatment of illness |
| Public protection | VS | Public protection with return to practice based on recovery from illness |

# Impairment

Illness is not synonymous with impairment

Impairment can be dynamic:

A migraine headache

Impairment can be static and permanent:

Dementia

# Medical Boards and PHPs: We Need Each Other

- PHP achieves early intervention

- Medical Board provides leverage

# Medical Boards and PHPs
## Fostering a Professional Relationship

- Frequent liaison meetings to address tensions
- Regularly scheduled task force meetings to solve problems
- PHP accessible to medical boards as they review cases
- PHP Executive Director/Medical Director meetings with Medical Board Director

# CPHP's Organizational Structure

- **Board of Directors**
- **Executive Director & Medical Director**
- **Clinical Team:**
  - **6 Associate Medical Directors – Independent Contractors**
  - **Director of Clinical Services**
    - **4 Masters level Licensed Clinicians**
  - **Compliance Coordinator**
  - **Part-time Researcher**
- **Administrative Team:**
  - **Finance Manager**
  - **Public Affairs**
  - **Executive Assistant**
  - **Administrative Assistants**

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CPHP
COLORADO PHYSICIAN HEALTH PROGRAM

# Programs Served

- **All Licensed Physicians in the State of Colorado**
- **All Licensed Physician Assistants in the State of Colorado**
- **Residency Programs**
  - University of Colorado at Denver Graduate Medical Education
  - St. Joseph Hospital Residency Program
  - St. Anthony Family Medicine Residency Program
  - Southern Colorado Family Medicine Residency Program
  - St. Mary's Family Practice Residency Program
  - Colorado Health Foundation Transitional Residency Program at Presbyterian/St. Luke's Hospital
  - Denver Health Emergency Medicine Residency Program
  - Fort Collins Family Practice Residency Program
  - Northern Colorado Family Practice Residency Program in Greeley
  - Sky Ridge Family Medicine Residency Program
  - Parkview Family Medicine Residency Program

- **Physician Assistant Training Programs**
  - University of Colorado at Denver Child Health Association and Physician Assistant Program
  - Red Rocks Community College Physician Assistant Program
  - University of Colorado at Denver Anesthesiology Assistant Program

- **Medical Schools**
  - University of Colorado at Denver School of Medicine
  - Rocky Vista University

- **Physicians in states lacking PHP Services**

# CPHP Referral Sources

Majority of physicians self refer to CPHP

Others may recommend CPHP as a resource

- Medical School
- Residency Programs
- Family members
- Colleagues
- Attorneys
- Hospital Administration
- Colorado Medical Board
- Malpractice Carriers

# CPHP Services

- CPHP's direct services are free to Colorado licensed physicians and physician assistants:
- Participants are responsible for costs of any additional evaluations and treatment if those services are necessary
  - Laboratory evaluation
  - Physical examination
  - Neuropsychological testing
- Peer Assistance Funds are not used for applicants, re-applicants or research activities.
- CPHP has contracts to serve many Colorado residents, medical students and physician assistant students.

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# CPHP Program Services

Confidential and Free Health Assessments
Treatment Recommendations and Referrals
Support and Monitoring of Physicians' Health
Documentation
Family Services
Interface with Workplace
- Accommodations
- Return to work recommendations
- Needed reports and documentation
- Critical Incident Debriefing

Physician Education
Research
Consultation

# Team Consultation Model
# CPHP

Six Psychiatrists with Varying Expertise and Ages

- General Psychiatry
- Forensic Psychiatry
- Addiction Psychiatry
- Psychoanalytic Psychiatry

Four Masters Level Clinicians

Executive Director

Executive Committee (Anonymous Consultation)

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# Team Consultation Model

## Clinical Staff Meetings

Weekly full team meetings

Review/discussion of new cases
Review/discussion of difficult cases
Determination of:

- Diagnostic clarity
- Additional Assessment Needs
- Treatment Plan Development/Modification
- Treatment Referrals
- Risk assessments

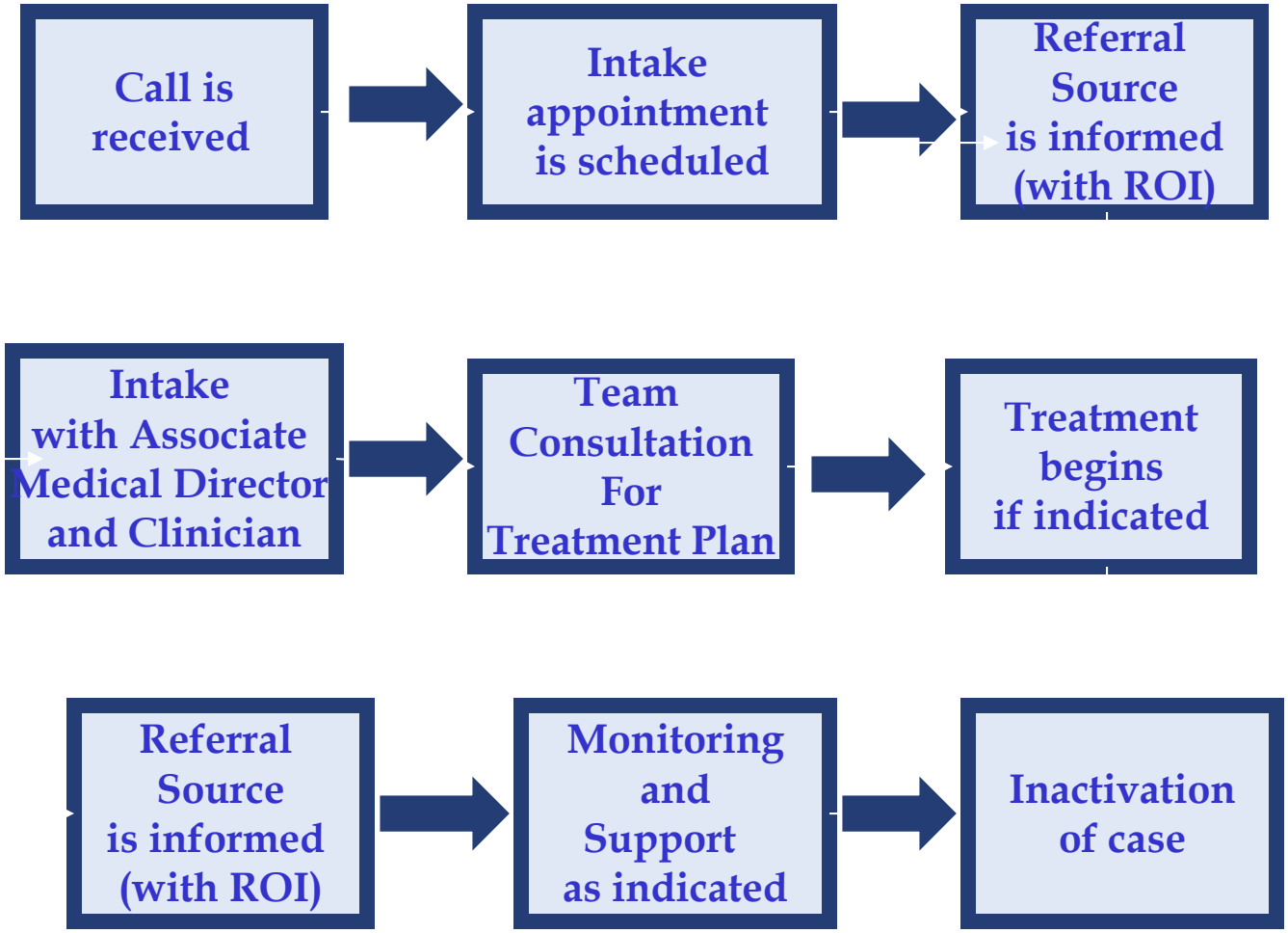
# CPHP Patient Safety Committee

- Ed Dauer, Esq
  - Colorado Patient Safety Coalition
- Judy Ham, CEO
  - Cerebral Palsey of Colorado
- Patty Skolnik, Director
  - Colorado Citizens for Accountability

# Quality Assurance Advisor

-special projects
-clinical audits
-training
-back up for clinicians

# Summary of CPHP Services



# The Occupational Hazards Facing Physicians

High Degree of Work Stress
Depression
Suicide
Addiction
Burnout
Poor Physical Health
Unhealthy interpersonal relationships
Professional Boundary Violations
Disruptive Behavior
Vicarious Trauma (?PTSD)
Phase of life issues (entry and exit)
Bad Outcomes
Malpractice Stress
The transition to employee: loss of autonomy
Social Media hiccups

# Other CPHP Activities

## Education/Presentations

- CPHP Services Orientation
- Physician stress and stress management
- Substance abuse, addiction
- Professional boundaries
- Self-care and Wellness
- Disruptive physician management
- Women in medicine
- Physicians in relationships and families
- Physician depression and suicide
- Occupational hazards of physicians
- Medical Marijuana-Pros and Cons: What Doctors Need to Know
- Aging Physicians

# Consultation with the Attorney General's Office

# Physicians Using MMJ

- **The Colorado Physician Health Program Policy**

  Physicians suffering from a debilitating condition requiring "treatment" with marijuana will be considered unsafe to practice medicine with reasonable skill and safety.

  This is due to significant cognitive impairment associated with the use of MJ

  This is also due to the fact that it is virtually impossible to establish a stable dose/serum level due to variable concentrations of THC

  No case law exists regarding this issue

# Professionalism:

*Practicing medicine is a privilege, not a right.*

# CPHP Research

**Research**

- Comparing CPHP success rates of monitoring substance use disorders to other Physician Health Programs
- Tobacco use by physicians
- Physician professional boundary issues
- Physician prescribing personal medical care
- Gender differences among physicians seen at CPHP
- Understanding clients who reactivate with CPHP
- Physician suicide
- Aging Physicians and Cognitive Health
- Malpractice Risk

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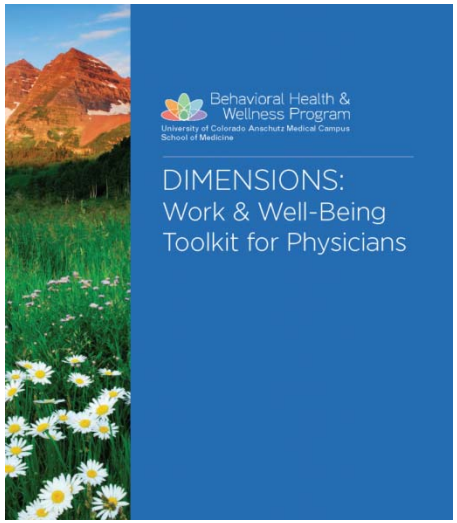
# Physician Health Matters! Why Spend the Time and Energy?

- Investing in physician health and well-being is the best investment in the longevity and quality of their career.
- May also be the best investment in the longevity of their patients and the quality of care that they receive!
- Erica Franks, MD research findings

# Other Endeavors

## Wellness Advisor to Medical Societies

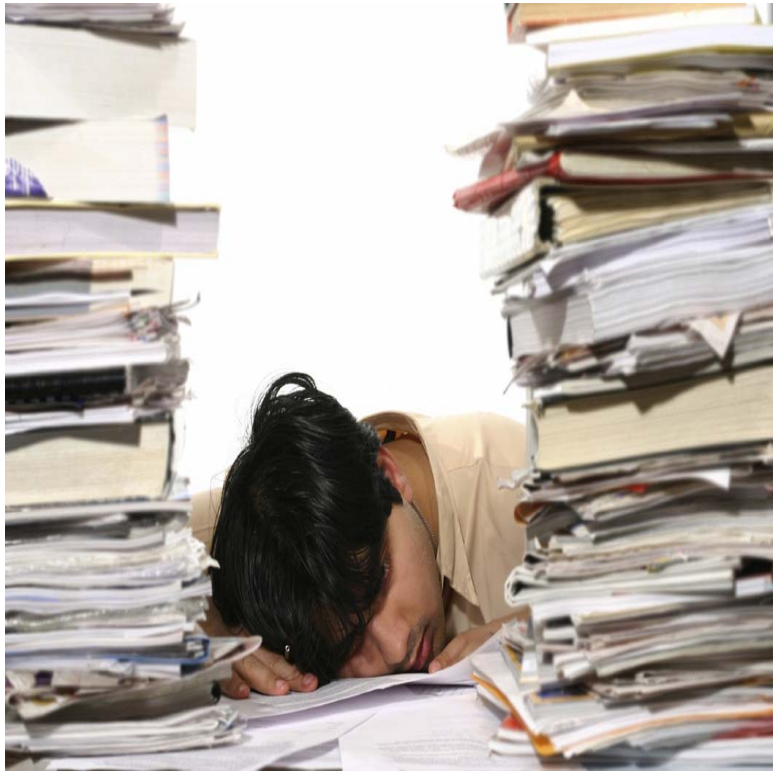
http://www.bhwellness.org/toolkits/Work-and-Well-Being-Toolkit-for-Physicians.pdf



# Disincentives for Retirement

- Baby boomers face financial pressures and will want to continue to work past traditional retirement age

- In some professions this will be supported due to shortages of physicians



# Future Endeavors

## Aging Physicians

# Contacting CPHP

**CPHP may be reached at:**

**303-860-0122 or 800-927-0122**

**Office Hours:**

**8:30 a.m.- 4:30 p.m.**

**Monday – Friday**

**After Hours Clinical Emergencies:**

**Pager: 303-437-2138**

**Visit us online: www.CPHP.org**

**MICHEL A. SUCHER, MD FASAM FACEP**

Dr. Sucher was educated at Wayne State University where he received a Bachelor of Science Degree in 1968 and a Medical Degree in 1972. Dr. Sucher's internship was at Sinai Hospital of Detroit in Detroit, Michigan and he underwent residency training at Indiana University Medical Center in Indianapolis, Indiana. From 1974 through 1994, Dr. Sucher practiced emergency medicine and served as emergency department director at both Scottsdale Healthcare Hospital facilities. He served as President of the Medical Staff of Scottsdale Healthcare Osborn during 1994.

He practices addiction medicine and serves as the medical director of the monitored aftercare programs for the Arizona Medical Board and the Arizona State Board of Dental Examiners. He is also President of the California Physicians Health Program. Additionally, he serves a consultant in addiction medicine to most other healthcare regulatory agencies and boards in Arizona.

He recently served as the Acting Medical Director of the Division of Behavioral Health at the Department of Health Services, State of Arizona. He currently serves as the medical director for Community Bridges, which is a community substance abuse and mental health treatment program in the greater Phoenix area and throughout the state of Arizona. He also serves as the medical director for Community Medical Services, which is the largest opiate treatment program in Arizona and Montana.

Dr. Sucher is a member of the medical staffs of the three Scottsdale Healthcare Hospitals and Banner Behavior Health Hospital all in Scottsdale, Arizona. He is the medical director of physician health for Scottsdale Healthcare and the consultant for physician health for the Banner Health system. He holds teaching positions throughout the greater Phoenix metropolitan area.

Dr. Sucher is a Fellow of the American College of Emergency Physicians and a Fellow of the American Society of Addiction Medicine. He was granted Diplomate Status by the American Board of Addiction Medicine in 2009. He is also certified as a Medical Review Officer by ASAM. Additionally, he is a Past President of the Arizona Society of Addiction Medicine. He is a nationally known speaker on addiction medicine and professional health issues.

From January, 1995 through July, 2001 Dr. Sucher served as Senior Vice President and Chief Medical Officer of Rural/Metro Corporation. He currently serves as the corporate medical review officer and as Chief Medical Officer of the corporation. Rural/Metro Corporation is a $ 500+ Million revenue national ambulance and fire protection company based in Scottsdale, Arizona.

# Overview Of The Arizona Medical Board Physician Health Program (PHP)

Presentation to the

Medical Board of California

Michel A Sucher MD FASAM

July 30, 2015

# PHP Overview

- Purpose
- History of Program
- PHP Oversight and Operations
- MAP Entry Pathways
- MAP Elements and Terms
- Compliance and Non-Compliance Tracks
- PHP Tracks (other than MAP portion)
- PHP Accomplishments
- MAP and PHP Statistics
- MAP and PHP Enhancements and future plans

# PHP and MAP Purpose

- Ensures protection of public health and safety through education, intervention, post-treatment monitoring and support and relapse prevention for licensees impaired by alcohol and/or drug abuse. PHP adds impairment by mental health, medical or psychological disorders
- Authorized by ARS 32-1452, 32-1452.01 and 32-1405

# History Of MAP/PHP

- Pre-1986
  - Board Operated
  - Informal
- 1986-1992
  - Operated by Arizona Medical Association
  - Also included other health care boards
- 1992-Present, PHP functions added 2009
  - Private for profit, independent contractor
  - Close relationship with Medical Board

# PHP Oversight and Operations

- Arizona Medical Board and PA Board
  - Executive Director-Pat McSorley
  - MAP/PHP Manager – Elle Steger, Kathleen Muller
  - Contractor (Greenberg & Sucher, PC)
  - Medical Directors
    - Michel A. Sucher, MD, FASAM (Contract Manager)
    - David G. Greenberg, MD MPH
  - Professional Case Managers
    - Brenda Garrett, LPC
    - Hal Nevitt, LCSW
    - Rural Case Managers

Physician/Psychologist Consultants
Relapse Prevention Group Therapists

# PHP Oversight and Operations

- The AZ PHP has been audited by the Auditor General of the State of AZ multiple times over the past 20 years
- The program has passed all audits with full compliance in all areas
- The program remains subject to periodic auditing

# Relationship between PHP and Arizona Medical Board

- Close relationship historically
- Work very closely with Executive Director, Deputy Director, PHP Staff and Investigative and Licensing Staff
- We see ourselves as partners with the Medical Board
- We attend all board meetings to be available as a resource

# Relationship between PHP and the Arizona Medical Board

- The PHP's primary mission is public safety protection
- Physician advocacy is our secondary mission
- The PHP routinely works with medical board investigators and assistant attorney generals regarding case findings

# MAP/PHP Entry Process

- Self Referral
- Complaint
  - Hospital/Medical Staff
  - Colleague/Partner/Employee
  - Patient
  - Family Member/Friend
- Arrest Report

# Health Assessments

- Initial health assessment performed by medical director which includes drug testing and review of available collateral information
- May recommend:
  - No action (dismissal)
  - Referral to Abuse Track
  - Referral to Comprehensive Evaluation
  - Referral to Substance Use DisorderTreatment followed by PHP participation
  - Referral for/continuation of Medical/Psychiatric Treatment

# AMB Staff Role

- Reviews post Health Assessment recommendations
- Makes final recommendations
- Reviews any patient care issues and any other potential statute violations and makes appropriate recommendations and takes appropriate actions

# Comprehensive Evaluations

- 2-7 Day Process at approved evaluation centers
- Evaluation Includes:
  - Medical, Addiction and Psychiatric Evaluations
  - Psychological Evaluation and Psych Testing
  - Drug Testing
  - Collateral information
  - Medical Polygraph and/or Neuropsychiatric evaluation when indicated
- Outcome of Evaluation
  - Diagnosis(es)
  - Treatment Recommendations
  - Safety to Practice Determinations

# Evaluation Outcomes

- Diagnosis(es)
  - Substance Abuse (SUD-mild) vs. Dependence (SUD-moderate or severe)
  - Psychiatric, Medical or Behavioral Diagnoses
- Treatment Recommendations
  - Diagnostic Monitoring, Education
  - Specific Treatment recommendations
- Safety to Practice (Fitness for Duty)

# MAP Tracks

- Substance Abuse Track
  - Does not reach threshold of dependence
  - Monitoring and Education
  - No Treatment Required
  - Confidential
- Substance Dependence Track
  - Confidential, non disciplinary SRA
  - Public probation MAP Participation

# Substance Abuse Track

- Diagnosis does not reach threshold of Substance Dependence
- Involves Two Year confidential agreement for diagnostic random drug/alcohol testing and substance abuse education
- Completion of Abuse Track
  - Successful-problem correctly diagnosed
  - Unsuccessful-diagnosis now Substance Dependence and referred to SUD Treatment and Substance Dependence Track for post treatment monitoring

# Confidential MAP Dependence Track Entry

- Identification Through Direct Referral, Self-Report, abuse track failure or as result of comprehensive evaluation
- Diagnosis of Substance Dependence (SUD moderate or severe)
- Post 28+ Day Inpatient Treatment at Approved Treatment Center
- Signed SRA (Stipulated Rehabilitation Agreement)
- Non Disciplinary (No report to FSMB, NPDB and not on AMB website)

# Disciplinary Track Entry

- Identification
  - Criminal, Statute Violations Or Patient Care Issues
  - Post Relapse
    - While On SRA
    - While On Probationary Order
    - Prior MAP Participant (by statute)
- Requires Additional Treatment
- Probationary Agreement
- May Also Require Additional Discipline (i.e. decree of censure, letter of reprimand)

# Impairment in the Workplace

- If physician/PA is identified by impairment in the hospital, office or other practice setting they are placed on practice restriction until assessment and/or evaluation is completed, diagnosis is made, treatment plan is developed and fitness for duty determination made and recommended to the board

# Dependence Track Elements and Terms

- Abstinence From Alcohol and Mood Altering Drugs
- Random Drug and Alcohol Testing
- Weekly Relapse Prevention Group Therapy
- Case Management By Contractor
- Documented Self Help Meeting Attendance
- Board Approved PCP
- Prescribed Only Medications

# Dependence Track Elements and Terms

- No Alcohol/Poppy Seeds
- Obtain Requested Psych/Other Evaluations
- Worksite Monitor when indicated
- Obey All Federal, State, Local Laws
- Inform Program of Out-Of-State Travel
- Report Relapse
- Pay All Fees
- 5-Year Term

# Non-Compliance With Terms

- Positive Drug Screen
- Missed Drug Screens
- 2 Or More Low Specific Gravity/Untestable Specimens Without Medical Explanation
- Miss Over 9 Groups Per Year (excused only absences)
- Miss Any Self Help Meetings
- No Approved Primary Care Physician

# Non-Compliance With Terms

- No Self Medication
- No Medication Log
- Not Notifying Program of Out-of-State Travel
- Failure To Pay Program Fees
- Failure To Provide Required Reports
- Relapse

# SRA Dependence Track Completion

- Complies With All MAP Terms
- Completes 5 Years of Monitoring Successfully
- Agreement terminates on five year anniversary
- Credit for time served if initially on an interim agreement

# Non-Compliance with Substance Dependence Track requirements

- Non-Relapse
  - Evaluation By Contractor
  - Referral for Probation Recommendation to AMB
  - Other Disciplinary Action Including Stayed Discipline
- Relapse
  - Sign practice restriction or Inactivate License (agreement not to practice)
  - Additional Treatment
  - Termination From MAP (during treatment)

# Reentry to MAP following Relapse

- First Relapse (Second Strike)
  - Agreement not to practice and to complete additional treatment (usually 90 days of residential treatment)
  - Complete Treatment
  - Consent Agreement/Order for Probation for additional Five Years of MAP Participation

# Reentry to MAP following Relapse

- Second Relapse (Third Strike) by statute
  - Voluntary surrender of License
  - Revocation of License
  - Referral to Hearing for Revocation of License
  - Any of the above result in inability to reapply for licensure for five years and must document competence and safety

# MAP Accomplishments

- Significantly Reduced Full Board Time Requirements To Hear MAP Cases
- Compliance Standards In Place With Proven Effectiveness
- Increase In Number of Referrals and Participants
  - Increased Confidentiality
  - Increased Awareness of Program

# MAP Statistics

- Participants – Total 116
- Breakdown
  - 83% are MDs
  - 17% are PAs
  - 76% male, 24% female
  - 67% confidential, 33% public
- New Participants-20 to 25 per year
- Successful Completion-18 per year
- Success Rate-85+% (In line with national peer reviewed data)

# MAP Statistics

- No known incidences of patient harm caused by our participants in 23+ years
- Most Common Specialties
  - Psychiatry
  - Emergency Medicine
  - Anesthesia
- Most Common Drugs Of Abuse
  - Alcohol
  - Hydrocodone/oxycodone
  - Fentanyl

# MAP Statistics

- Dual Diagnosis (Chemical Dependency Plus Other Psychiatric Disorders
  - Approximately 50% Of MAP Participants
  - Common Comorbid Conditions
    - Major Depression
    - Generalized Anxiety Disorder
    - Bipolar Disorder
    - Attention Deficit Hyperactivity Disorder (ADHD)
    - Post Traumatic Stress Disorder (PTSD)

# PHP

- Addresses conditions other than substance use disorders and includes:
  - Psychiatric disorders
  - Disruptive Behavior
  - Sexual misconduct and boundary issues
  - Chronic Pain
  - Aging, Neurologic Disorders and other potentially impairing Medical conditions

# PHP

- Confidential Program to support physicians/PA's with medical, psychiatric and behavioral issues
- Evaluates individual licensee and requires recommended/required treatment and monitoring of care provided by licensee's current caregivers

# PHP

- May require additional consultations and/or evaluations depending on issues present when comes to PHP attention
- Assures compliance with necessary treatment, safety to practice and protects dignity of physician/PA

# PHP Models

- AZ-private contractor by competitive bid
- Board operated
- State Medical Association Model
- Non profit Foundation Model
- Hybrids
- Relationship with medical boards varies from very close (like in AZ) to very distant and in some cases, antagonistic

# PHP Funding

- Full Subsidy
  - Generally by licensing board; may include medical associations, malpractice carriers, hospitals or voluntary contributions
- Partial Subsidy-same sources as above
- Participant Pays for Services
- Participants pay directly for drug testing, counseling, group in most if not all states

# Program Enhancements

- Increased Role Of Contractor
- Establishment of Confidential MAP and PHP Program
- Addition of Substance Abuse Track
- Advancements In Treatment and Monitoring
- Drug Testing Program Enhancements
  - Hair/Nail Testing, Markers For Alcohol Use
  - Time Of Day/Day Of Week Random Testing

# Program Enhancements

- Appropriate Utilization Of Comprehensive Evaluations
- Development, Evaluation And Implementation Of New Monitoring Modalities
- Implementation Of Private Monitoring Program For Ineligible Participants (unlicensed physicians in AZ, medical students, etc.) To Document Recovery
- Increasing Recognition Of Quality, Strength and Experience of Arizona's Monitored Aftercare Program and Physician Health Program Nationally

# Greenberg & Sucher, PC

- Private Contractor to AMB since 1992
- Also provides monitoring and consulting services to:
  - Arizona State Board of Dental Examiners
  - Arizona Board of Osteopathic Examiners in Medicine and Surgery
  - Most other healthcare regulatory boards in AZ
  - Most other hospitals and healthcare systems in AZ
  - Many medical group practices
  - All medical schools in Arizona (allopathic and osteopathic), all PA schools in Arizona

# Greenberg & Sucher, PC


- Michel A Sucher, MD FASAM
- David G Greenberg, MD MPH
- 8541 E. Anderson Drive, Suite 105; Scottsdale, AZ 85255
- 480-990-3111; FAX 480-990-3114
- Website: www.greenbergandsucher.com

# California Physicians Health Program

- Established in 2008 to fill void left by closure of MBC Diversion Program
- Primarily works with Hospital Systems, Medical Groups and Practitioners
- State wide services available including drug testing, case management, relapse prevention groups
- 1441 Compliant

# CAPHP

- Michel A Sucher, MD FASAM
- David G Greenberg MD MPH
- 31872 S. Coast Hwy, 4th Floor; Laguna Beach, CA 92651
- 877-457-3111
- www.caphp.net

# Professionals Treatment and Evaluation Programs

- Mission Hospital Laguna Beach
- Mission Pacific Coast Recovery
- 31872 South Coast Highway Laguna Beach, CA 92651
- 949-499-7142
- Full Evaluation and Treatment Services for Health and other Professionals

# Summary

- Thanks for your time and attention
- Questions?
- Comments?

**State of California**
**Business, Consumer Services and Housing Agency**

## MEDICAL BOARD OF CALIFORNIA

## Board Meeting

## July 30-31, 2015

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

# 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<br>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<br>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**

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Passed the Assembly April 16, 2015

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*Chief Clerk of the Assembly*

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Passed the Senate July 6, 2015

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*Secretary of the Senate*

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This bill was received by the Governor this _____ day of _____, 2015, at _____ o'clock ____M.

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*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

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*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.

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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.

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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.~~

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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**

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Passed the Senate May 18, 2015

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*Secretary of the Senate*

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Passed the Assembly July 6, 2015

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this _____ day of _____, 2015, at _____ o'clock ____M.

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*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 |

# MEDICAL BOARD OF CALIFORNIA
## Status of Pending Regulations

| Subject | Current Status | Date Approved by Board | Date Notice Published by OAL | Date of Public Hearing | Date of Final Adoption by Board | Date to DCA (and other control agencies) for Final Review * | Date to OAL for Review ** | Date to Sec. of State*** |
|---|---|---|---|---|---|---|---|---|
| Issuance of Citations | Pending review at DOF. Once approved, file will be returned to staff to finish and submit to OAL; staff will request this rulemaking to take effect immediately | 7/25/14 | 8/08/14 | 9/24/14; continued to 10/14/14 | 7/25/14 | To DCA 5/6/15 To Agency 6/11/15 To DOF 6/19/15 | | |
| CME Requirements | Public Hearing held 5/8/15 | 10/24/14 | 3/6/15 | 5/8/2015 | | | | |
| Physician & Surgeon Licensing Examinations Minimum Passing Scores | Public Hearing to be held 7/31/15 | 5/8/15 | 6/5/15 | 7/31/15 | | | | |
| Outpatient Surgery Setting Accreditation Agency Standards | Public Hearing to be held 7/31/15 | 5/8/15 | 6/5/15 | 7/31/15 | | | | |
| Disclaimers and Explanatory Information Applicable to Internet Postings | Public Hearing to be held 7/31/15 | 5/8/15 | 6/5/15 | 7/31/15 | | | | |
| Disciplinary Guidelines | Now that SB 1441 regulations have become effective, staff is working to draft this language | 7/25/14 | | | | | | |

Prepared by Kevin A. Schunke
Updated on July 15, 2015
For questions, call (916) 263-2368

* **DCA** is allowed 30 calendar days for review.
** **OAL** is allowed 30 working days for review.
*** **Rulemakings** become effective on a quarterly basis, unless otherwise specified.

114TH CONGRESS
1ST SESSION

# H. R. 3081

To amend title XVIII of the Social Security Act to permit certain Medicare providers licensed in a State to provide telemedicine services to certain Medicare beneficiaries in a different State.

IN THE HOUSE OF REPRESENTATIVES
JULY 15, 2015

Mr. NUNES (for himself, Mr. PALLONE, Mr. CARTWRIGHT, Mr. PETERS, Mr. RUSH, Mr. SARBANES, Mrs. WAGNER, Mr. YOUNG of Indiana, Mr. MARCHANT, Mr. TIBERI, Mr. COLLINS of New York, Mr. KELLY of Pennsylvania, Mr. PEARCE, Mr. PETERSON, Mr. CALVERT, Mr. HOLDING, Mr. ROE of Tennessee, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To amend title XVIII of the Social Security Act to permit certain Medicare providers licensed in a State to provide telemedicine services to certain Medicare beneficiaries in a different State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "TELEmedicine for MEDicare Act of 2015" or as the "TELE-MED Act of 2015".

**SEC. 2. PERMITTING CERTAIN MEDICARE PROVIDERS LICENSED IN A STATE TO PROVIDE TELEMEDICINE SERVICES TO CERTAIN MEDICARE BENEFICIARIES IN A DIFFERENT STATE.**

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

**"SEC. 1899B. PERMITTING CERTAIN MEDICARE PROVIDERS LICENSED IN A STATE TO PROVIDE TELEMEDICINE SERVICES TO CERTAIN MEDICARE BENEFICIARIES IN A DIFFERENT STATE.**

"(a) IN GENERAL.—In the case of a Medicare participating physician or practitioner who is licensed or otherwise legally authorized to provide a health care service in a State, such physician or practitioner may provide such a service as a telemedicine service to a Medicare beneficiary who is in a different State, and any requirement that such physician or practitioner obtain a comparable license or other comparable legal authorization from such different State with respect to the provision of such health care service by such physician or practitioner to such beneficiary shall not apply.

"(b) ENFORCEMENT.—With respect to the provision of a service pursuant to this section, the licensing or authorizing State has jurisdiction to enforce the licensure or other legal authorization requirements of such primary State, including through disciplinary actions used by such State as of the day before the date of the enactment of this section.

"(c) PROCESS TO ESTABLISH TELEMEDICINE SERVICE DEFINITION.—Not later than 9 months after the date of the enactment of this section, the Secretary shall issue guidance to the States for developing a definition of the term 'telemedicine services' for purposes of applying this section. For purposes of issuing such guidance, the Secretary shall solicit input from relevant stakeholders, including patients, health care providers, State government officials, health technology developers, insurers, employers, licensing boards, community health organizations, and other Federal agencies.

"(d) REPORT.—Not later than 12 months after the date of the enactment of this section, the Secretary shall submit to Congress a report on the plans to develop and expand the use of current and emerging Internet and communications technologies to expand access of Medicare beneficiaries to health programs.

"(e) DEFINITIONS.—For purposes of this section:

"(1) MEDICARE BENEFICIARY.—The term 'Medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B.

"(2) QUALIFYING PHYSICIAN OR PRACTITIONER.—The term 'Medicare participating physician or practitioner' means the following:

"(A) A physician (as defined in section 1861(r)) who is a participating physician or supplier (as defined in section 1842(h)(1)).

"(B) A practitioner (as defined in section 1842(b)(18)(C)) who is a participating physician or supplier (as defined in section 1842(h)(1)).

"(f) CONSTRUCTION.—Nothing in this section may be construed to remove, limit, or otherwise affect any obligation of a covered health care professional under the Controlled Substances Act (21 U.S.C. 801 et seq.).".

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114TH CONGRESS
1ST SESSION

# S. 1778

To amend title XVIII of the Social Security Act to permit certain Medicare providers licensed in a State to provide telemedicine services to certain Medicare beneficiaries in a different State.

IN THE SENATE OF THE UNITED STATES
JULY 15, 2015

Ms. HIRONO (for herself and Mrs. ERNST) introduced the following bill; which was read twice and referred to the Committee on Finance

# A BILL

To amend title XVIII of the Social Security Act to permit certain Medicare providers licensed in a State to provide telemedicine services to certain Medicare beneficiaries in a different State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "TELEmedicine for MEDicare Act of 2015" or the "TELE-MED Act of 2015".

**SEC. 2. PERMITTING CERTAIN MEDICARE PROVIDERS LICENSED IN A STATE TO PROVIDE TELEMEDICINE SERVICES TO CERTAIN MEDICARE BENEFICIARIES IN A DIFFERENT STATE.**

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

**"SEC. 1899C. PERMITTING CERTAIN MEDICARE PROVIDERS LICENSED IN A STATE TO PROVIDE TELEMEDICINE SERVICES TO CERTAIN MEDICARE BENEFICIARIES IN A DIFFERENT STATE.**

"(a) IN GENERAL.—In the case of a Medicare participating physician or practitioner who is licensed or otherwise legally authorized to provide a health care service in a State, such physician or practitioner may provide such a service as a telemedicine service to a Medicare beneficiary who is in a different State, and any requirement that such physician or practitioner obtain a comparable license or other comparable legal authorization from such different State with respect to the provision of such health care service by such physician or practitioner to such beneficiary shall not apply.

"(b) ENFORCEMENT.—With respect to the provision of a service pursuant to this section, the licensing or authorizing State has jurisdiction to enforce the licensure or other legal authorization requirements of such primary State, including through disciplinary actions used by such State as of the day before the date of the enactment of this section.

"(c) PROCESS TO ESTABLISH TELEMEDICINE SERVICE DEFINITION.—Not later than 12 months after the date of the enactment of this section, the Secretary shall issue guidance to the States for developing a definition of the term 'telemedicine services' for purposes of applying this section. For purposes of issuing such guidance, the Secretary shall solicit input from relevant stakeholders, including patients, health care providers, State government officials, health technology developers, insurers, employers, licensing boards, community health organizations, and other Federal agencies.

"(d) REPORT.—Not later than 12 months after the date of the enactment of this section, the Secretary shall submit to Congress a report on the plans to develop and expand the use of current and emerging Internet and communications technologies to expand access of Medicare beneficiaries to health programs.

"(e) DEFINITIONS.—For purposes of this section:

"(1) MEDICARE BENEFICIARY.—The term 'Medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B.

"(2) QUALIFYING PHYSICIAN OR PRACTITIONER.—The term 'Medicare participating physician or practitioner' means the following:

"(A) A physician (as defined in section 1861(r)) who is a participating physician or supplier (as defined in section 1842(h)(1)).

"(B) A practitioner (as defined in section 1842(b)(18)(C)) who is a participating physician or supplier (as defined in section 1842(h)(1)).

"(f) CONSTRUCTION RELATING TO CONTROLLED SUBSTANCES ACT.—Nothing in this section may be construed to remove, limit, or otherwise affect any obligation of a covered health care professional under the Controlled Substances Act (21 U.S.C. 801 et seq.).

"(g) NO EFFECT ON STATE MALPRACTICE LAWS OR JURISDICTION TO HEAR CIVIL CLAIMS.—Nothing in this section may be construed to—

"(1) replace or supersede any State law regarding negligence or medical malpractice; or

"(2) divest any court of its jurisdiction to hear civil claims arising from a physician's provision of telemedicine services.".

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***Standing Committees, Task Forces & Councils***
***of the Medical Board of California***
***July 2015***

| *Committee* | *Members* |
|---|---|
| **Executive Committee** | **David Serrano Sewell, President**<br>Dev GnanaDev, M.D., Vice President<br>Michael Bishop, M.D., Licensing Committee Chair<br>Sharon Levine, M.D., Immediate Past President<br>Ronald Lewis, M.D., Enforcement Committee Chair<br>Denise Pines, Secretary<br>Barbara Yaroslavsky, Education and Wellness Committee Chair |
| **Licensing Committee** | **Michael Bishop, M.D., Chair**<br>Dev GnanaDev, M.D.<br>Denise Pines<br>Gerrie Schipske, R.N.P., J.D.<br>Jamie Wright, Esq. |
| **Enforcement Committee** | **Ronald Lewis, M.D., Chair**<br>Howard Krauss, M.D.<br>Gerrie Schipske, R.N.P., J.D.<br>David Serrano Sewell, J.D.<br>Barbara Yaroslavsky<br>Felix Yip, M.D. |
| **Application Review & Special Programs Committee** | **Gerrie Schipske, R.N.P., J.D., Chair**<br>Ronald Lewis, M.D. |
| **Special Faculty Permit Review Committee** | **Felix Yip, M.D., Chair**<br>Neal Cohen, M.D. (UCSF)<br>Daniel Giang, M.D. (LLU)<br>John A. Heydt, M.D. (UCR)<br>Jonathan Hiatt, M.D. (UCLA)<br>Laurence Katznelson, M.D. (Stanford)<br>James Nuovo, M.D. (UCD)<br>Andrew Ries, M.D. (UCSD)<br>Frank Sinatra, M.D. (USC)<br>Julianne Toohey, M.D. (UCI)<br>Barbara Yaroslavsky |
| **Education & Wellness Committee** | **Barbara Yaroslavsky, Chair**<br>Howard Krauss, M.D.<br>Denise Pines<br>Gerrie Schipske, R.N.P., J.D. |
| **Midwifery Advisory Council** | **Carrie Sparrevohn, L.M., Chair**<br>James Byrne, M.D.<br>Karen Ehrlich, L.M.<br>Tosi Marceline, L.M.<br>Monique Webster<br>Barbara Yaroslavsky |

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|---|---|
| **Panel A** | **Jamie Wright, Esq., Chair**<br>Ronald Lewis, M.D., Vice Chair<br>Michael Bishop, M.D.<br>Randy Hawkins, M.D.<br>David Serrano Sewell, J.D.<br>Barbara Yaroslavsky<br>Felix Yip, M.D. |
| **Panel B** | **Dev GnanaDev, M.D., Chair**<br>Howard Krauss, M.D., Vice Chair<br>Michelle Bholat, M.D.<br>Sharon Levine, M.D.<br>Denise Pines<br>Gerrie Schipske, R.N.P., J.D. |
| **Prescribing Task Force** | Michael Bishop, M.D.<br>Barbara Yaroslavsky |
| **Editorial Committee** | Sharon Levine, M.D.<br>Denise Pines |

***Members of Executive Committee include: President, Vice President, Secretary, Immediate Past President, and the Chairs of the Licensing, Enforcement, and Education and Wellness Committees.***



***Revised: July 2015***

# TITLE 16. MEDICAL BOARD OF CALIFORNIA

**NOTICE IS HEREBY GIVEN** that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at San Francisco Airport Marriott Waterfront, 1800 Old Bayshore Hwy, Burlingame, CA 94010, at 9:00 a.m., on July 31, 2015.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 20, 2015, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific section 2177 of said Code, the Board is considering adding to Division 13 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST

### A. Informative Digest

This rulemaking proposes to add Title 16, Division 13, Chapter 1, Article 8, California Code of Regulations (CCR) section 1328.1 to further define Business and Professions Code (BPC) section 2177 regarding the minimum passing score of a licensing examination and to eliminate the need for the Board to pass a resolution every year regarding the minimum passing examination score.

### B. Policy Statement Overview/Anticipated Benefits of Proposal

The proposed CCR section 1328.1 defines the minimum passing examination score the Board will accept, to be the minimum passing score as determined by the licensing examination organizations that are approved by the Board. This will provide clarity regarding the minimum passing score for each required licensing examination(s) steps.

### C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses, since the proposed CCR section 1328.1 only will further define BPC section 2177 and eliminate the need for the Board to make a yearly resolution regarding what the Board will accept as passing scores.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The benefit of adding CCR section 1328.1 is to further define BPC section 2177 regarding the minimum passing score of a licensing examination and to eliminate the need for the Board to pass a resolution every year regarding the minimum passing examination score. This will leave the determination of the minimum passing score to the approved licensing examination organizations that already ensure the examinations content is relevant, is psychometerically valid, and is conducted in secure testing environments. This regulatory action furthers the goal of the board, which is to protect health care consumers through the proper licensing and regulation of health care professionals as well enforcing the Medical Practice Act.

CONSIDERATION OF ALTERNATIVES

The Board determined that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:


| | |
|---|---|
| Name: | Curtis Worden |
| Address: | Medical Board of California<br>2005 Evergreen St., Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 274-2986 |
| Fax No.: | (916) 263-2387 |
| E-Mail Address: | regulations@mbc.ca.gov |


The backup contact person is:


| | |
|---|---|
| Name: | Kevin A Schunke, Regulations Manager |
| Address: | Medical Board of California<br>2005 Evergreen St, Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 263-2368 |
| Fax No.: | (916) 263-8936 |
| E-Mail Address: | regulations@mbc.ca.gov |


Website Access Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

# MEDICAL BOARD OF BOARD

# INITIAL STATEMENT OF REASONS

**Hearing Date**: July 31, 2015

**Subject Matter of Proposed Regulations**: Physician's and Surgeon's Licensing Examinations Minimum Passing Scores

**Section(s) Affected**: Division 13, Title 16, Chapter 1, Article 8, California Code of Regulations (CCR) section 1328.1

**Specific Purpose of each adoption, amendment, or repeal**:

1. Problem being addressed:

   The purpose of this proposed rulemaking is to further define Business and Professions Code (BPC) section 2177 by regulation and to eliminate the need for the Board to pass a resolution yearly regarding what the Board will accept as the minimum passing examination score.

2. Anticipated benefits from this regulatory action:

   This will provide clarity regarding the minimum passing score for each required licensing examination(s) steps.

3. Specific Purpose of Each Amendment:

   The Board's last resolution specified the minimum passing score would be determined by the licensing examination organizations approved by the Board. The proposed regulation, if approved, would eliminate the need for a new resolution every year and provide the applicants clarification regarding the minimum passing score for each step of the approved licensing examinations.

**Factual Basis/Rationale**

The Board has enacted a resolution on a yearly basis to address the minimum passing examination score. The proposed new regulation will clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score, by specifying the Board will accept the minimum passing score as determined by the examination agency approved by the Board.

**Underlying Data**

Staff prepared a report for the May 8, 2015, Medical Board of California meeting (agenda item 27) regarding the need to add CCR section 1328.1. A copy of the staff report is included in this rulemaking file.

At that same meeting, the Board adopted a motion, directing staff to begin the regulatory process to add CCR section 1328.1 to further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

**Business Impact**

The addition of CCR section 1328.1 will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony: the proposed addition of CCR section 1328.2 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score, by accepting the minimum passing score that the approved licensing examination organizations have already determined as the minimum passing score.

**Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- It will not create new business or eliminate existing businesses within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- It will not affect the expansion of businesses currently doing business within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

  This regulatory proposal does benefit the health and welfare of California residents because the addition of CCR section 1328.1 further clarifies BPC section 2177 and eliminates the need for the Board to pass a yearly resolution regarding the minimum passing score. This regulatory action furthers the goal of the board, which is to protect health care consumers through the proper licensing and regulation of health care professionals as well enforcing the Medical Practice Act.

- This regulatory proposal does not affect worker safety because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- This regulatory proposal does not affect the state's environment because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

**Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Do not seek a change. This alternative was rejected because BPC section 2177 would not be further defined in regulation and the Board would continue to need to make a yearly resolution concerning minimum passing scores for licensing examinations.

2. Adopt the proposed new regulation. This alternative was determined to be the most appropriate because this would clarify what is accepted by the Board as a minimum licensing examination passing score and would eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score for licensing examinations.

**MEDICAL BOARD OF CALIFORNIA**
**LICENSING EXAMINATION MINIMUM PASSING SCORE**
**Specific Language of Proposed Changes**

Legend

Underlined Indicates new proposed regulation

Add Section 1328.1 in Article 8, of Chapter 1, Division 13, of Title 16 of the California Code of Regulations to read as follows:

Section 1328.1 Licensing Examination Minimum Passing Score

The board accepts the minimum passing score for each step of the required national physician and surgeon licensing examinations, as determined by the National Board of Medical Examiners (NBME), the United States Medical License Examination (USMLE), the Educational Commission for Foreign Medical Graduates (ECFMG), the Federation of State of Medical Boards (FSMB), and the Licentiate of the Medical Council of Canada (LMCC).

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2176 and 2177, Business and Professions Code.

# TITLE 16. MEDICAL BOARD OF CALIFORNIA

**NOTICE IS HEREBY GIVEN** that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held a San Francisco Airport Marriott Waterfront, 1800 Old Bayshore Hwy, Burlingame, CA 94010, at 9:05 a.m., on July 31, 2015

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 20, 2015, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific sections 1248.15 and 1248.35 of Health and Safety Code, the Board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST

### A. Informative Digest

Current Health and Safety Code (HSC) section 1248.15 requires that an outpatient surgery setting regulated by the Board with multiple locations must have all of its sites inspected.

In regards to the site inspections, the Board's current regulations allow the actual sample size to be determined by the accreditation agency.

The Board is amending its regulations by deleting 16 CCR 1313.4(a)(3), thereby allowing the statute to dictate that all sites must be inspected.

In addition, HSC section 1248.35 now requires an accreditation agency to report to the Board additional violations issued against outpatient surgery settings and requires the accreditation agency to report some violations to the Board within 24 hours.

At present, 1313.4(c) specifies that denials and revocations must be reported to the Board.

The Board is amending that section to add reprimands, probations, and

suspension as additional events that have to be reported, in order to be consistent with statutes.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This proposed rulemaking would benefit public health and safety by the increased scope of inspections on outpatient surgery settings, as well as the additional reporting requirements and the requirement that some of the violations must be reported to the Board within 24 hours.

In addition, the rulemaking is being proposed in order to maintain consistency in language between HSC section 1248.15 and 1248.35 and CCR section 1313.4.The consistency will eliminate conflicts within the HSC and CCR sections.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. The amendments proposed in this rulemaking will make the Board's regulations consistent with HSC 1248.15 and 1248.35.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would affect small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents, worker safety, and state's environment by ensuring that outpatient settings with multiple locations shall have all sites inspected. Further, an accreditation agency shall, within 24 hours, report to the Board when it has issued a reprimand, suspended, placed on probation, or revoked any outpatient setting.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the

information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

| | |
|---|---|
| Name: | Curtis Worden |
| Address: | Medical Board of California<br>2005 Evergreen St., Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 274-2986 |
| Fax No.: | (916) 263-2387 |
| E-Mail Address: | regulations@mbc.ca.gov |

The backup contact person is:

| | |
|---|---|
| Name: | Kevin A Schunke, Regulations Manager |
| Address: | Medical Board of California<br>2005 Evergreen St, Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 263-2368 |
| Fax No.: | (916) 263-8936 |
| E-Mail Address: | regulations@mbc.ca.gov |

Website Access Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

# MEDICAL BOARD OF BOARD
# INITIAL STATEMENT OF REASONS

**Hearing Date**: July 31, 2015

**Subject Matter of Proposed Regulations**:
To amend regulations for Outpatient Surgery Setting Accreditation Agency Standards.

**Section(s) Affected**:
Title 16, Division 13, Chapter 1, Article 3.5, California Code of Regulations (CCR) section 1313.4.

**Specific Purpose of each adoption, amendment, or repeal**:

1. Problem being addressed:

   Due to recent amendments to Health and Safety Code (HSC) sections 1248.15 and 1248.35, staff has identified the need to amend the language in CCR section 1313.4 to make it consistent with HSC sections 1248.15 and 1248.35.

2. Anticipated benefits from this regulatory action:

   The rulemaking is being proposed in order to maintain consistency in language between HSC section 1248.15 and 1248.35 and CCR section 1313.4. The consistency will eliminate conflicts within the HSC and CCR sections.

3. Specific Purpose of Each Amendment:

   One the of the amendments will require outpatient settings regulated by this chapter with multiple locations to have all of the sites inspected.

   The second amendment requires an accreditation agency, within 24 hours, to report to the Board when it has issued a reprimand, suspended, placed on probation, or revoked any outpatient setting.

**Factual Basis/Rationale**

HSC section 1248.15 states the Board shall adopt standards for accreditation and that outpatient settings regulated by this chapter with multiple locations shall have all of the sites inspected. CCR section 1313.4 currently says the actual sample size shall be determined by the accreditation agency. This is in conflict with HSC section 1248.15(a)(7) and must be deleted.

HSC section 1248.35 states an accreditation agency shall, within 24 hours, report to the Board when it has issued a reprimand, suspended, placed on probation, or revoked any

outpatient setting. Currently CCR section 1314.4 only specifies that denials and revocations must be reported to the Board. Therefore, reports of reprimands, placement on probation and suspensions must be added.

**Underlying Data**

Staff prepared a report for the May 8, 2015, Medical Board of California meeting (agenda item 28) regarding the need for the amendment to CCR section 1313.4. A copy of the staff report is included in this rulemaking file.

At the same meeting, the Board adopted a motion directing staff to begin the regulatory process to amend CCR section 1313.4 to be consistent with HSC sections 1248.15 and 1248.5.

**Business Impact**

The amendment to CCR section 1313.4 will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony: the proposed amendments are necessary to make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

**Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the only amendments to CCR section 1313.4 are already required pursuant to HSC sections 1248.15 and 1248.35, and these amendments will make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

- It will not create new business or eliminate existing businesses within the State of California because the only amendments to CCR section 1313.4 are already required pursuant to HSC sections 1248.15 and 1248.35, and these amendments will make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

- It will not affect the expansion of businesses currently doing business within the State of California because the only amendments to CCR section 1313.4 are already required pursuant to HSC sections 1248.15 and 1248.35, and these amendments will make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

- This regulatory proposal benefits the health and welfare of California residents because the amendments to CCR section 1313.4 will make this section consistent with HSC sections 1248.15 and 1248.35.

- This regulatory proposal benefits does not affect worker safety because the only amendments to CCR section 1313.4 are already required pursuant to HSC sections 1248.15 and 1248.35, and these amendments will make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

- This regulatory proposal does not affect the state's environment because the only amendments to CCR section 1313.4 are already required pursuant to HSC sections 1248.15 and 1248.35 and these amendments will make CCR section 1313.4 consistent with HSC sections 1248.5 and 1248.35.

**Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Do not seek a change. This alternative was rejected because language in CCR 1313.4 would remain inconsistent with HSC sections 1248.15 and 1248.35.

2. Adopt the proposed regulatory amendments. This alternative was determined to be the most appropriate since these amendments will make CCR section 1313.4 consistent with HSC sections 1248.15 and 1248.35.

**MEDICAL BOARD OF CALIFORNIA**
**OUTPATIENT SURGERY SETTING ACCREDITATION AGENCY STANDARDS**
**Specific Language of Proposed Changes**

Legend

| | |
|---|---|
| Underlined | Indicates proposed amendments or additions to the existing regulation |
| ~~Strikeout~~ | Indicates proposed deletions to the existing regulation |

Amend Section 1313.4 in Article 3.5, of Chapter 1, Division 13, of Title 16 of the California Code of Regulations to read as follows:

**§1313.4. Standards**.

(a) An accreditation agency shall meet the standards set forth in sections 1248.15, 1248.35 and 1248.4 of the Health and Safety Code.

(1) With respect to section 1248.15(a)(2)(C)(i), a written transfer agreement shall include a mechanism for patient transport; a plan for transfer of the patient's records; policies defining the role of each person in handling an emergency; and a plan for continuity of the patient's care upon transfer of that care.

(2) With respect to section 1248.15(a)(6), the required system for quality assessment and improvement shall include, in addition to chart review, actions that utilize information derived through quality assessment to improve systems to maximize patient protection.

~~(3) With respect to section 1248.15(a)(7), the actual sample size shall be determined by the accreditation agency.~~

(b) An accreditation agency shall send to the division any change in its accreditation standards within 30 calendar days after making the change.

(c) An accreditation agency shall, within fourteen calendar days after issuance, provide to the ~~division~~ board a copy of any certificates of accreditation it issues and, within 24 hours, a copy of any reprimand, placement on probation, suspension, denial or revocation of a certificate of accreditation. For each setting whose accreditation it reprimands, places on probation, suspends, denies or revokes, the accreditation agency shall also provide to the ~~division~~ board in writing the reasons for its action.

Note: Authority cited: Sections 2018 and 2217, Business and Professions Code; and section 1248.15, Health and Safety Code. Reference: Sections 1248.15, 1248.35 and 1248.4, Health and safety Code.

HISTORY

1. New section filed on 1-18-1996; operative 2-17-1996 (Register 96, No.3).

2. New subsection (a)(1), subsection renumbering, amendment of subsection (c) and amendment of Note filed 12-5-2000; operative 1-4-2001 (Register 2000, No.49).

This database is current through 3-27-2105 Register 2015, No. 13.

16 CCR § 1313.4, 16 CA ADC § 1313.4

# TITLE 16. MEDICAL BOARD OF CALIFORNIA

**NOTICE IS HEREBY GIVEN** that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at San Francisco Airport Marriott Waterfront, 1800 Old Bayshore Hwy, Burlingame, CA 94010, at 9:10 a.m., on July 31, 2015

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 20, 2015, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific section(s) 803.1 and 2027 of said Code, the Board is considering changes to Section 1355.35 Division 13 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST

### A. Informative Digest

Business and Professions Code section 803.1 requires the Board to disclose to the public information regarding any enforcement actions taken against a licensee, including a former licensee, by the Board or by another state or jurisdiction. Additionally, pursuant to Business and Professions Code section 2027, the Board is required to post on the internet information on the current status of the license for all current and former licensees. Under the existing regulation, Title 16 of the California Code of Regulations (CCR), section 1355.35(a), there are no definitions or explanatory information regarding court orders, misdemeanor convictions, licenses issued with a Public Letter of Reprimand, or probationary licenses.

Existing law under section 1355.35(a)(2) lists the address for the Board's Central File Room as 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.

Existing law under section 1355.35(c) provides a chart that defines the terms related to the status of a license for purposes of information released about a license. Currently, there are no descriptions for temporary licenses issued for noncompliance with a judgement or order for family support, or for a suspended license due to noncompliance with a judgement or order for family support.

This rulemaking proposes to amend Title 16 CCR section 1355.35(a) to bring current the list of disclaimers and explanatory information provided with public disclosure information released on the internet to include court orders, misdemeanor convictions, licenses issued with a Public Letter of Reprimand, and probationary licenses. It will also amend section 1355.35(a)(2) to provide the public with the current address for the Board's Central File Room, 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815. Further, it will amend Section 1355.35(c) to add public disclosure screen types for court orders related to family support issues.

This proposal was reviewed and considered at the Board's Quarterly Board Meeting in May 2015 and the members voted to direct staff to notice the proposed regulatory language and hold a hearing to amend these regulations.

This rulemaking will enable the Board to provide healthcare consumers with more complete information regarding definitions and explanatory information related to license status codes and administrative disciplinary action taken against physicians' licenses. It will also reduce timeframes experienced by the public when submitting requests to the Board's Central File Room for public documents related to administrative disciplinary action taken against physicians' licenses.

B. Policy Statement Overview/Anticipated Benefits of Proposal

An anticipated benefit of this proposal will be the public's ability to retrieve more thorough information from the Board's website regarding license disclaimers and administrative disciplinary actions. An anticipated benefit of updating the address of the Board's Central File Room is a decrease in the timeframe experienced by the public when seeking copies of public documents.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses as it will only add needed license status information to the Board's website.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents, worker safety, and state's environment by providing them with more thorough information regarding definitions and explanatory information related to license status codes and administrative disciplinary action taken against physicians' licenses. It will also reduce timeframes experienced by the public when submitting requests to the Board's Central File Room for public documents related to administrative disciplinary action taken against physicians' licenses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considers to the regulation or that is otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

| | |
|---|---|
| Name: | Paulette Romero, Enforcement Program Manager |
| Address: | 2005 Evergreen St, Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 263-2437 |
| Fax No.: | (916) 263-2435 |
| E-Mail Address: | paulette.romero@mbc.ca.gov |

The backup contact person is:

| | |
|---|---|
| Name: | Kevin A Schunke, Regulations Manager |
| Address: | Medical Board of California<br>2005 Evergreen St, Ste. 1200<br>Sacramento, CA 95815 |
| Telephone No.: | (916) 263-2368 |
| Fax No.: | (916) 263-8936 |
| E-Mail Address: | regulations@mbc.ca.gov |

Website Access Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

# MEDICAL BOARD OF BOARD
# INITIAL STATEMENT OF REASONS

**Hearing Date**: July 31, 2015

**Subject Matter of Proposed Regulations**: Disclaimers and Explanatory Information Applicable to Internet Postings

**Section(s) Affected**: CCR, Title 16, Division 13, Chapter 2, Article 1, Section 1355.35

**Specific purpose of each adoption, amendment, or repeal**:

1. Problem being addressed:

   Section 1355.35(a) lists disclaimers and explanatory information the Board may provide with public disclosure information released on the Internet. Amendments to this section are needed to add disclaimers and explanatory information regarding court orders, misdemeanor convictions, licenses issued with a Public Letter of Reprimand, and probationary licenses.

   Section 1355.35(a)(2) directs the public to contact the Board's Central File Room at its previous address on Howe Avenue in Sacramento to obtain a copy of public documents. An amendment is needed to include the current address of the Central File Room.

   Additionally, the Board has received communications from physician attorneys regarding information found on its website related to administrative disciplinary actions. As such, it was determined court-ordered public disclosure screen types were needed to accurately reflect practice restrictions by the courts. Therefore, amendments to the chart found in section 1355.35(c) are necessary. This chart includes descriptions of the license status which is displayed on the Board's website and the public definition of the status code. Amendments are needed to add the status code description and definition for a 150-day temporary license for a Family Support issue, and the status code description and definition for a Family Support Suspension.

2. Anticipated benefits from this regulatory action:

   An anticipated benefit from this regulatory action is the public's ability to retrieve more thorough information from the Board's website regarding license disclaimers and administrative disciplinary actions. An anticipated benefit of updating the address of the Board's Central File Room is a decrease in the timeframe experienced by the public when seeking copies of public documents.

3. Specific Purpose of Each Amendment:

   The purpose of the amendment to section 1355.35(a) is to bring current the list of disclaimers and explanatory information provided with public disclosure information released on the internet. The amendment to section 1355.35(a)(2) is needed to provide the public with a correct address for the Board's Central File Room. Finally, an amendment to section 1355.35(c) is necessary in order to add public disclosure screen types for court orders related to family support issues.

**Factual Basis/Rationale**

Section 1355.35(a) pertains to license status definitions and lists disclaimers and explanatory information the Board may provide with information released on the internet. The current list of license status definitions does not include the following:

1. a disclaimer for court orders and explanatory information indicating a physician's practice has been temporarily restricted or suspended pursuant to a court order and directing the public to contact the Central File Room to obtain a copy of the public documents;

2. a disclaimer for misdemeanor convictions and explanatory information indicating California Business and Professions Code section 2027(A)(7) states effective January 1, 2007, any misdemeanor conviction that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed shall be posted on the Internet;

3. a disclaimer for licenses issued with a Public Letter of Reprimand and explanatory information indicating the Board has concurrently issued the licensee a medical license and a Public Letter of Reprimand for a minor violation that does not require probationary status or warrant denial of licensure, and that the issuance of a Public Letter of Reprimand is not considered disciplinary action and is not reported to the National Practitioner Databank or the Federation of State Medical Boards; and

4. a disclaimer for probationary licenses and explanatory information indicating the license was issued on a probationary basis subject to terms and conditions and practice is permitted unless otherwise specified or the license expires.

Section 1355.35(a)(2) provides explanatory information related to Administrative Disciplinary Action and directs the public to contact the Central File Room at 1426 Howe Avenue, Suite 54, Sacramento, CA 95825 to obtain a copy of public documents. However, the Central File Room is no longer located at this address. Thus, section 1355.35(a)(2) needs to be amended to include the current address for the Central File Room, now located at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815.

Section 1355.35(c) provides a chart that defines the terms related to the status of a license for purposes of information released about a licensee. This chart does not include status code descriptions and definitions for the following:

1. Status Code "150 Day Temporary License-Family Support," and a definition indicating the licensee was issued a temporary 150-day license for noncompliance with a judgment or order for support, practice is permitted until the license expiration date, and directing questions to the Department of Consumer Affairs' Family Support Unit; and

2. "Family Support Suspension," and a definition indicating the license was suspended for noncompliance with a judgment or order for support, no practice is permitted, and directing questions to the Department of Consumer Affairs' Family Support Unit.

**Underlying Data**

These proposed amendments to update the Board's central file room address and to add disclaimers and explanatory information applicable to internet postings were presented in a staff report at the Board's Quarterly Board Meeting on May 8, 2015. A copy of the staff report is included in this rulemaking file.

At that same meeting, the Board adopted a motion, directing staff to begin the regulatory process to amend CCR section 1355.35.

**Business Impact**

The proposed amendments to this regulation will not have a significant adverse economic impact on businesses, because they only will add needed license status information to the Board's website, and update the Board's central file room address.

**Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it only will update the Board's central file room address and require the addition of needed license status information to the Board's website, a task which is already carried out by existing Board staff.

- It will not create new business or eliminate existing businesses within the State of California because it only will update the Board's central file room address and require the addition of needed license status information on the Board's website.

- It will not affect the expansion of businesses currently doing business within the State of California because it only will update the Board's central file room address and require the addition of needed license status information on the Board's website.

- This regulatory proposal benefits the health and welfare of California residents because it provides the public with more thorough information about license disclaimers and administrative disciplinary actions regarding physicians, and it updates the Board's central file room address to which to send requests for public documents.

- This regulatory proposal does not affect worker safety because it will only require the addition of needed license status information on the Board's website, and it updates the Board's central file room address to which to send requests for public documents.

- This regulatory proposal does not affect the state's environment because it will only require the addition of needed license status information on the Board's website, and it updates the Board's central file room address to which to send requests for public documents.

**Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Do not seek a change. This alternative was rejected because it would limit the information made available to the public with respect to administrative disciplinary action taken against physicians' licenses. It would also cause an unnecessary delay for those individuals submitting requests for public documents to the Board's Central File Room if they are not provided with the current address for the Central File Room.

2. Adopt the proposed regulatory amendments. This alternative was determined to be the most appropriate because it allows the Board to provide healthcare consumers with more thorough information regarding definitions and

explanatory information related to license status codes and administrative disciplinary action taken against physicians' licenses. It will also reduce timeframes experienced by the public when submitting requests to the Board's Central File Room for public documents related to administrative disciplinary action taken against physicians' licenses.

**MEDICAL BOARD OF CALIFORNIA**

**DISCLAIMERS AND EXPLANATORY INFORMATION APPLICABLE TO INTERNET POSTINGS**

**Specific Language of Proposed Changes**

Legend

| | |
|---|---|
| Underlined | Indicates proposed amendments or additions to the existing regulation |
| ~~Strikeout~~ | Indicates proposed deletions to the existing regulation. |

(1) Amend Section 1355.35 of Article 1, Chapter 2, Division 13, of Title 16 of the California Code of Regulations to read as follows:

**Section 1355.35. Disclaimers and Explanatory Information Applicable to Internet Postings.**

License Status Definitions.

(a) In addition to the disclaimer required by Section 803.1(c) of the code, the following disclaimers and explanatory information, as appropriate, shall be provided with information released on the Internet:

(1) Administrative Citation Issued:
A citation and/or fine has been issued for a minor violation of the law. This is not considered disciplinary action under California law but is an administrative action. Payment of the fine amount represents satisfactory resolution of this matter.

(2) Administrative Disciplinary Action:
The Medical Board's public disclosure screens are updated periodically as new information becomes available. Please contact the Central File Room at (916) 263-2525 or at ~~1426 Howe Avenue, Suite 54, Sacramento, CA 95825~~ 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815, to obtain a copy of public documents at a minimal charge.

(3) Arbitration Award:
An arbitration award is a payment for damages and does not necessarily reflect that the physician's medical competence is below the standard of care. The Medical Board reviews all such reported arbitration awards and action is taken only if it is determined that a violation of the Medical Practice Act occurred. The Medical Board is prohibited by law from releasing a copy of the arbitration award report or any other information concerning the award.

(4) Administrative Action Taken by Other State or Federal Government:
This information is provided by another state/federal government agency. The Medical Board of California may take administrative action based on the action imposed by

another state/federal government agency. For more information or verification, contact the agency listed below that imposed the action.

(5) Felony Conviction:
The information provided only includes felony convictions that are known to the Board. All felony convictions known to the Board are reviewed and administrative action is taken only if it is determined that a violation of the Medical Practice Act occurred. For more information regarding felony convictions, contact the court of jurisdiction listed below.

(6) Hospital Disciplinary Action:
The action taken by this healthcare facility against this physician's staff privileges to provide healthcare services at this facility was for a medical disciplinary cause or reason. The Medical Board is authorized by law to disclose only revocations and terminations of staff privileges. The Medical Board is prohibited from releasing a copy of the actual report or any other information.

(7) Malpractice Judgment:
A malpractice judgment is a payment for damages and does not necessarily reflect that the physician's medical competence is below the standard of care. The Medical Board reviews all such reported judgments and action is taken only if it is determined that a violation of the Medical Practice Act occurred. The Medical Board is prohibited by law from releasing a copy of the judgment report or any other information concerning the judgment. For more information contact the court of jurisdiction listed below.

(8) Malpractice Settlements:
A settlement entered into by the licensee is a resolution of a claim for damages for death or personal injury caused by the licensee's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The Medical Board is required by law to disclose certain information related to the existence of multiple settlements made on or after January 1, 2003 in an amount of $30,000 or more.

(9) Court Order:
This information would be provided if a physician’s practice has been temporarily restricted or suspended pursuant to a court order. Please contact the Central File Room at (916) 263-2525 or at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815, to obtain a copy of the public documents.

(10) Misdemeanor Conviction:
California Business and Professions Code section 2027(A)(7) states effective January 1, 2007, any misdemeanor conviction that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed shall be posted on the Internet.

(11) License Issued with Public Letter of Reprimand:
The Medical Board of California has concurrently issued the licensee a medical license and a Public Letter of Reprimand for a minor violation that does not require probationary status or warrant denial of licensure. The issuance of a Public Letter of Reprimand is not considered disciplinary action and is not reported to the National Practitioner Databank or the Federation of State Medical Boards.

(12) Probationary License:

License issued on a probationary basis subject to terms and conditions. Practice is permitted unless otherwise specified or license expires.

(b) Information released on the Internet shall be accompanied by a listing of the types of information available from the board on the Internet about physicians licensed by the board and a listing of the types of information that is confidential and not available from the board.

(c) The chart below defined the terms related to the status of a license for purposes of information released about a licensee.

| Description Displayed on Web Site | Public Definition of Status Code |
|---|---|
| License Canceled | License has been voluntarily canceled, or the license has been expired for at least five years and has not been reviewed. No practice is permitted. |
| License Deceased | Licensee is deceased. |
| License Delinquent | License renewal fee has not been paid. No practice is permitted. |
| License Revoked | License has been revoked as a result of disciplinary action rendered by the Board. No practice is permitted. |
| License Suspended | Licensee has been suspended. No practice is permitted. |
| License Denied – Family Support | License denied for noncompliance with a judgment or order for support. No practice is permitted. Questions should be directed to the Department of Consumer Affairs' Family Support Unit at (916) 574-8018. |
| 150 Day Temporary License-Family Support | Licensee issued a temporary 150-day license for noncompliance with a judgment or order for support. Practice is permitted until the license expiration date. Questions should be directed to the Department of Consumer Affairs' Family Support Unit at (916) 574-8018. |
| License Suspended – Family Support | License suspended for noncompliance with a judgment or order for support. No practice is permitted. Questions should be directed to the Department of Consumer Affairs' Family Support Unit at (916) 574-8018. |
| Licensee in Military | Practice is limited to military service including military dependents. |
| License Inactive | Licensee is required to pay the full renewal fee but is exempt from complying with the continuing medical education requirements. No practice is permitted. |
| License Renewed & Current | Licensee meets requirements for the practice of medicine in California. |

| | |
|---|---|
| License Renewal Pending | Licensee failed to certify compliance with the continuing medical education requirements and/or failed to certify that he or she disclosed the names of those health-related facilities in which the licensee and/or family may have a financial interest. Practice is permitted unless license expires. |
| License Retired | License is in retired status and the licensee is exempt from payment of the renewal fee. No practice is permitted. |
| License Surrendered | Licensee has surrendered his or her license to resolve a disciplinary action. No practice is permitted. |
| License in Voluntary Service | License is in voluntary service status with no payment allowed for medical services. |
| License Disabled | Licensee is unable to practice due to a disability. No practice is permitted. |
| Voluntary Surrender of License | Licensee has voluntarily surrendered the license and the surrender has been accepted by the Board. No disciplinary action was involved. No practice is permitted. |
| Voluntary Limitations on Practice | Licensee has signed an agreement in which licensee will limit his or her practice in a manner prescribed by the reviewing physician. |

Note: Authority cited: Sections 803.1, 2018 and 2027, Business and Professions Code. Reference: Sections 803.1 and 2027, Business and Professions Code.

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 14, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Proposed Changes to the Manual of Model Disciplinary Orders and Disciplinary Guidelines
FROM: Paulette Romero, Enforcement Program Manager

REQUESTED ACTION:
After review and consideration of the attached proposed amendments to the Manual of Model Disciplinary Orders and Disciplinary Guidelines (Disciplinary Guidelines), make a motion to direct staff to notice the amended regulatory language and hold a hearing at the October 2015 Board meeting after the 45- day public comment period.

BACKGROUND AND DISCUSSION:

At the July 2014 Medical Board of California (Board) meeting, staff presented a regulatory proposal containing a number of amendments to the Disciplinary Guidelines. These amendments were needed to be consistent with current practices. Staff identified non-substantive changes which were addressed in the regulatory proposal as well. At the July 2014 Board Meeting the Members approved the amendments and directed staff to notice the amended regulatory language. At the meeting, it was discussed that these changes to the Disciplinary Guidelines may not be able to be noticed for hearing until the regulations pertaining to the Uniform Standards for Substance Abusing Licensees (Uniform Standards) were approved. The regulations for Uniform Standards were approved in March 2015, and the Board is now able to move forward on the regulations for the Disciplinary Guideline amendments.

Since the July 2014 Board Meeting, where initial proposed changes to the Disciplinary Guidelines were approved, additional program changes related to current practices have been identified and necessitate further amendments to the Disciplinary Guidelines. Accordingly, staff is seeking approval of these additional proposed amendments prior to noticing the language, and holding a regulatory hearing.

The proposed amendments that were previously approved by the Board (in red), as well as the new proposed amendments (in blue) can be found on pages 4 – 18. The suggested modifications are identified with underlined text for new language and ~~strikethrough text~~ for deleted language. The new amendments pertain to the time frames for processing a decision after a cease practice order has been issued and also removing the language that is specific to the Physician Assessment and Clinical Education (PACE) Program. In addition, staff has also identified some other non-substantive amendments.

The following outlines the individual recent amendments and their reasoning:

- The Disciplinary Guidelines related to the abstention from the use of alcohol and controlled substances and biological fluid testing (Conditions 9, 10 and 11) authorize the Board to issue a

cease practice order to a physician who has a confirmed positive biological fluid test or a physician who fails to cooperate in a random biological fluid testing program within the specified time frame. The Board must then file an accusation and/or petition to revoke probation within 30 days. A respondent may request a hearing on the accusation and/or petition to revoke probation and the Board is to provide the respondent with a hearing within 30 days of the request unless the respondent stipulates to a later hearing. The current Disciplinary Guidelines provide for a decision to be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. Amendments to these conditions are required in order to clarify the timelines by which a proposed decision will be submitted to the Board by the Administrative Law Judge, and by which the Board must issue its decision. The intention of the original regulations was that the Administrative Law Judge and the Board would each have 15 days to issue a decision. However, the way it is currently written, it could be interpreted to state that a decision must be issued by the Board within 15 days of the hearing. Therefore, this must be clarified. In addition, the amendments will also define good cause for the delay in issuing a decision.

- Certain conditions within the Disciplinary Guidelines (Conditions 14, 15, 17, and 18) outline the requirements for respondents to take courses in Prescribing Practices, Medical Record Keeping, Professional Boundaries, or a Clinical Competence Assessment Training Program. Additionally, Condition 23 allows a respondent to participate in a professional enhancement program in lieu of a practice or billing monitor. These conditions specify that the courses are to be equivalent to the courses at the PACE Program at the University of California, San Diego School of Medicine. To eliminate the appearance of endorsing one program's courses over others that are also recognized, amendments to these conditions are needed to remove reference to the PACE program and state only that the course be approved in advance by the Board or its designee.

- In the July 2014 proposed changes, Condition 28 was amended to prohibit respondents from supervising advanced practice nurses while on probation. An amendment to the heading of this condition is needed to include advanced practice nurses.

- Other non-substantive amendments are needed to the cover page and introductory page to denote the Agency name change from State and Consumer Services Agency to Business, Consumer Services, and Housing Agency; and to update the edition number and year of the Disciplinary Guidelines. In addition, the hyperlink listed for viewing the document is no longer active. An amendment is needed to remove the language for requesting copies of the manual in writing and to update the hyperlink for viewing the document.

- In prior versions of the Disciplinary Guidelines an extensive listing of all the changes was included in the beginning of the document. Members of the public may request a copy of the Initial Statement of Reasons if they wish to view a summary of the changes made to the Disciplinary Guidelines. Therefore, an amendment is needed to remove the summary of changes from the document.

STAFF RECOMMENDATION:

It is recommended that the Board approve the requested changes and authorize staff to proceed with noticing the amended regulatory language and holding a hearing at the October 2015 Board meeting after the 45-day public comment period.

California Code of Regulations
Title 16, Division 13, Chapter 2, Article 4.
Section 1361. Disciplinary Guidelines

The following edits (page 4 – 18) would be made to The Manual of Model Disciplinary Orders and Disciplinary Guidelines and then incorporated by reference into section 1361 of Title 16 of the California Code of Regulations.

**1361. Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees.**

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.), the Medical Board of California shall consider the disciplinary guidelines entitled "Manual of Model Disciplinary Orders and Disciplinary Guidelines" (~~11th~~12th Edition/2015~~1~~) which are hereby incorporated by reference. Deviation from these orders and guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines by adoption of a proposed decision or stipulation that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the Uniform Standards for Substance-Abusing Licensees as provided in section 1361.5, without deviation, for each individual determined to be a substance-abusing licensee.

(c) Nothing in this section or section 1361.5 shall be construed as a limitation on the Board's authority to seek an interim suspension order against a licensee pursuant to section 11529 of the Government Code.

**State of California**

~~**State and Consumer Services Agency**~~
**Business, Consumer Services, and Housing Agency**

# MEDICAL BOARD OF CALIFORNIA

# MANUAL OF MODEL DISCIPLINARY ORDERS AND DISCIPLINARY GUIDELINES

~~11th~~ 12th Edition
~~2011~~ 2015

STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA

**State of California**
**~~State and Consumer Services Agency~~**
**Business, Consumer Services, and Housing Agency**
**MEDICAL BOARD OF CALIFORNIA**
**MANUAL OF MODEL DISCIPLINARY ORDERS**
**AND DISCIPLINARY GUIDELINES**
**~~11th~~ 12th Edition**
**~~2011~~ 2015**
**STATE OF CALIFORNIA**
**MEDICAL BOARD OF CALIFORNIA**

The Board produced this Manual of Model Disciplinary Orders and Disciplinary Guidelines, ~~11~~ 12th Edition for the intended use of those involved in the physician disciplinary process: Administrative Law Judges, defense attorneys, physician~~s~~-respondents, trial attorneys from the Office of the Attorney General, and the Board's disciplinary panel members who review proposed decisions and stipulations and make final decisions. These guidelines are not binding standards.

The Federation of State Medical Boards and other state medical boards have requested and received this manual. All are welcome to use and copy any part of this material for their own work.

To view this document visit http://www.mbc.ca.gov/Enforcement/disciplinary_guide.pdf
~~For additional copies of this manual, please write to the address below or visit http://www.medbd.ca.gov/publications/disciplinary_guide.pdf:~~

~~Medical Board of California~~
~~2005 Evergreen Street, Suite 1200~~
~~Sacramento, CA 95815~~
~~Phone (916) 263-2466~~

Revisions to the Manual of Model Disciplinary Orders and Disciplinary Guidelines are made periodically. ~~Listed below are the most recent changes included in the 11th edition approved by the Board following open discussion at a public meeting.~~

~~**Summary of Changes**~~

~~The former "Disciplinary Guidelines – Index" printed after the last "Standard Conditions" has been moved to the Table of Contents (a formatting change only) and has been renamed the "Recommended Range of Penalties for Violations" for clarity.~~

~~Model Condition Number:~~

~~**9. Controlled Substances – Abstain from Use**~~

~~Amended the timeframe required for filing an accusation/petition to revoke probation after a cease practice order is issued to 30 days. Other non-substantive additions for clarity.~~

**~~10. Alcohol – Abstain from Use~~**
~~Amended the timeframe required for filing an accusation/petition to revoke probation after a cease practice order is issued to 30 days. Other non-substantive additions for clarity.~~

**~~11. Biological Fluid Testing~~**
~~Amended the timeframe required for filing an accusation/petition to revoke probation after a cease practice order is issued to 30 days. Other non-substantive additions for clarity.~~

**~~18. Clinical Training Program~~**
~~Amended the language describing the Comprehensive Assessment Program to reflect changes made to the Program by the University of California - San Diego School of Medicine.~~

**~~19. Oral or Written Examination~~**
~~Amended the language to remove the option to order an oral examination.~~

**~~25. Third Party Chaperone~~**
~~Amended the language to require replacement of a chaperone within 30 calendar days.~~

**~~28. Supervision of Physician Assistants~~**
~~Amended the language to prohibit supervision of advance practice nurses in addition to physician assistants.~~

**~~31. General Probation Requirements~~**
~~Eliminated the requirement in this section that all terms and conditions of probation must be complied with to remove conflict with condition 33.~~

**~~33. Non-Practice While on Probation~~**
~~Clarified requirement that physician residing in California are expected to comply with all conditions of probation.~~

**STATE OF CALIFORNIA**
**MEDICAL BOARD OF CALIFORNIA**
**MANUAL OF MODEL DISCIPLINARY ORDERS AND DISCIPLINARY GUIDELINES**

Business and Professions Code section 2229 mandates protection of the public shall be the highest priority for the Medical Board and for the Administrative Law Judges of the Medical Quality Hearing Panel. Section 2229 further specifies that, to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of licensees. To implement the mandates of section 2229, the Board has adopted the Manual of Model Disciplinary Orders and Disciplinary Guidelines (guidelines), ~~11~~ 12th Edition. Consistent with the mandates of section 2229, these guidelines set forth the discipline the Board finds appropriate and necessary for the identified violations. In addition to protecting the public and, where not inconsistent, rehabilitating the licensee, the Board finds that imposition of the discipline set forth in the guidelines will promote uniformity, certainty and fairness, and deterrence, and, in turn, further public protection.

The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board- ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

The Model Disciplinary Orders contain three sections: three (3) Disciplinary Orders; twenty-three (23) Optional Conditions whose use depends on the nature and circumstances of the particular case; and eleven (11) Standard Conditions that generally appear in all probation cases. All orders should place the Disciplinary Order(s) first, Optional Condition(s) second, and Standard Condition(s) third.

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**9. Controlled Substances - Abstain From Use**

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within ~~15~~ 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. ~~A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay.~~ Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within ~~15~~ 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

**10. Alcohol - Abstain From Use**

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The

respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within ~~15~~ 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. ~~A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay.~~ Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within ~~15~~ 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

**11. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and respondent.

If respondent fails to cooperate in a random biological fluid testing program within the specified time frame, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within ~~15~~ 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. ~~A decision shall be received from the Administrative Law Judge or the Board within 15~~

~~days unless good cause can be shown for the delay.~~ Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within ~~15~~ 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

**14. Prescribing Practices Course**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices ~~equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program),~~ approved in advance by the Board or its designee. Respondent shall provide the ~~program~~ approved course provider with any information and documents that the ~~Program~~ approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course no~~t~~ later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

**15. Medical Record Keeping Course**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in medical record keeping ~~equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program),~~ approved in advance by the Board or its designee. Respondent shall provide the ~~program~~ approved course provider with any information and documents that the ~~Program~~ approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course no~~t~~ later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

**17. Professional Boundaries Program**

Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program ~~equivalent to the Professional Boundaries Program offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("Program")~~ approved in advance by the Board or its designee. Respondent, at the ~~P~~program's discretion, shall undergo and complete the ~~P~~program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The ~~P~~program shall evaluate respondent at the end of the training and the ~~P~~program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire ~~P~~program no~~t~~ later than six (6) months after respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on respondent's performance in and evaluations from the assessment, education, and training, the ~~P~~program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with ~~P~~program recommendations. At the completion of the ~~P~~program, respondent shall submit to a final evaluation. The ~~P~~program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The ~~P~~program has the authority to determine whether or not respondent successfully completed the ~~P~~program.

A professional boundaries course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

**(Option # 1: Condition Precedent)**
Respondent shall not practice medicine until respondent has successfully completed the ~~P~~program and has been so notified by the Board or its designee in writing.

**(Option # 2: Condition Subsequent)**
If respondent fails to complete the ~~P~~program within the designated time period, respondent shall cease the practice of medicine within three (3) calendar days after being notified by the Board or its designee that respondent failed to complete the ~~P~~program.

**18. Clinical Competence Assessment ~~Training~~ Program**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a clinical competence assessment ~~training or educational~~ program ~~equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program")~~ approved in advance by the Board or its designee. Respondent shall successfully complete the ~~P~~program no~~t~~ later than six (6) months after respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The ~~P~~program shall consist of a Comprehensive Assessment ~~program comprised of an two-day assessment~~ of respondent's physical and mental health; ~~basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment~~ and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to respondent's current or intended area of practice ~~in which respondent was alleged to be deficient, and at minimum, a 40 hour a program of clinical education in the respondent's area of practice in which respondent was alleged to be deficient and~~ . The program shall ~~which~~ take~~s~~ into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require respondent's on-site participation for a minimum of 3 to 5 days as determined by the program for the assessment and clinical education evaluation.

At the end of the evaluation, the program will submit a report to ~~Based on respondent's performance and test results in the assessment and clinical education, the Program will advise~~ the Board or its designee which unequivocally states whether the respondent has demonstrated the ability to practice safely and independently. Based on respondent's performance on the Clinical Competence Assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition~~, treatment for any~~ or psychological condition, or anything else affecting respondent's practice of medicine. Respondent shall comply with the ~~P~~program's recommendations.

~~At the completion of any additional educational or clinical training, respondent shall submit to and pass an examination.~~ Determination as to whether respondent successfully completed ~~the examination or successfully completed~~ the clinical competence assessment program is solely within the program's jurisdiction.

[Note: The following language shall be included in this condition unless Option #1 is included: If respondent fails to enroll, participate in, or successfully complete the clinical competence assessment ~~training~~ program within the designated time period, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so

notified. The respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment ~~training~~ program have been completed. If the respondent did not successfully complete the clinical competence assessment ~~training~~ program, the respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.]

(Option #1: Condition Precedent)
Respondent shall not practice medicine until respondent has successfully completed the ~~P~~program and has been so notified by the Board or its designee in writing~~, except that respondent may practice in a clinical training program approved by the Board or its designee~~. ~~Respondent's practice of medicine shall be restricted only to that which is required by the approved training program.~~

(Option #2)
Within 60 days after respondent has successfully completed the clinical competence assessment ~~training~~ program, respondent shall participate in a professional enhancement program ~~equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine~~ approved in advance by the Board or its designee, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary.

**19. ~~Oral and/or~~ Written Examination**

[**NOTE:** This condition should **only** be used where a clinical training program is not appropriate.]

Within 60 calendar days of the effective date of this Decision, respondent shall take and pass ~~an oral and/or a written examination, administered by the Board or its designee. The Board or its designee shall designate a subject matter and administer the oral and/or written.~~

~~If the examination is an oral examination, it shall be conducted in accordance with section 2293(a) and (b) of the Code.~~
~~If respondent is required to take and pass a written exam, that examination shall be either~~ the Special Purpose Examination (SPEX) or an equivalent examination as determined by the Board or its designee.

~~If respondent fails the first examination, respondent shall be allowed to take and pass a second examination.~~

Failure to pass the required ~~oral and/or~~ written examination within 180 calendar days after the effective date of this Decision is a violation of probation. Respondent shall pay the costs of all examinations.

[**Note:** The following language shall be included in this condition unless Option #1 is included: If respondent fails to pass the ~~first~~ written examination, respondent shall receive a notification from the

Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not practice medicine until respondent successfully passes the examination, as evidenced by written notice to respondent from the Board or its designee.]

**(Option 1: Condition Precedent)**
Respondent shall not practice medicine until respondent has passed the required examination and has been so notified by the Board or its designee in writing. This prohibition shall not bar respondent from practicing in a clinical training program approved by the Board or its designee. Respondent's practice of medicine shall be restricted only to that which is required by the approved training program.
Note: The condition precedent option is particularly recommended in cases where respondent has been found to be incompetent, repeatedly negligent, or grossly negligent.

**23. Monitoring - Practice/Billing**

Within 30 calendar days of the effective date of this Decision, if the respondent is providing direct patient care, the respondent shall submit to the Board or its designee for prior approval as a _____[**insert:** practice, billing, or practice and billing] monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's _____ [**insert:** practice, billing, or practice and billing] shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the

standard~~s~~ of practice of _____[**insert:** medicine or billing, or both], and whether respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, respondent may participate in a professional enhancement program ~~equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine~~ approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

**25. Third Party Chaperone**

During probation, respondent shall have a third party chaperone present while consulting, examining or treating _____[**insert:** male, female, or minor] patients. Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

If respondent fails to obtain approval of a third party chaperone within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility. Each third party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third party chaperone solely because that person provided information as required to the Board or its designee.

If the third party chaperone resigns or is no longer available, respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third party chaperone. If respondent fails to obtain approval of a replacement chaperone within 30 ~~60~~ calendar days of the resignation or unavailability of the chaperone, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

**(Option)**

Respondent shall provide written notification to respondent's patients that a third party chaperone shall be present during all consultations, examination, or treatment with [**insert:** male, female or minor] patients. Respondent shall maintain in the patient's file a copy of the written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the notification for the entire term of probation.

**28. Supervision of Physician Assistants and Advanced Practice Nurses**

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

**31. General Probation Requirements**

Compliance with Probation Unit
Respondent shall comply with the Board's probation unit. ~~and all terms and conditions of this Decision.~~

Address Changes
Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice
Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal
Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California
Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

**33. Non-practice While on Probation**

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine ~~in California~~ as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve respondent from complying with all the terms and conditions of probation.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination ~~a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines"~~ prior to resuming the practice of medicine. Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice for a respondent residing outside of California, will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; ~~and~~ General Probation Requirements, Quarterly Declarations, Abstain from the Use of alcohol and/or controlled substances and Biological Fluid Testing.

Protecting
Advocating
Serving

# The FSMB: At Your Service

Jacqueline A. Watson, DO, MBA
Board Member, Federation of State Medical Boards

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Chief Information Officer & SR VP Operations, Federation of State Medical Boards

**Medical Board of California**
July 31, 2015

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# Topics today

- **Background - who we are**
- **Services and Educational Offerings**
- **Advocacy Update**
  - Policy Initiatives 2015
  - Team-based Regulation/ Scope of Practice
  - License Portability / Interstate Medical Licensure Compact
  - Opioid Prescribing



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# Background - who we are



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# Greetings from the FSMB Board of Directors

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# FSMB Offices in Euless, TX and Washington DC

- **FSMB established in 1912**
- **Non-profit 501c6 organization with approximately 185+staff**



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# FSMB Vision and Mission 2015-2020

## Vision

The FSMB is an innovative leader, helping state medical boards shape the future of medical regulation by protecting the public and promoting quality health care.

## Mission

The FSMB serves as the voice for state medical boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices.



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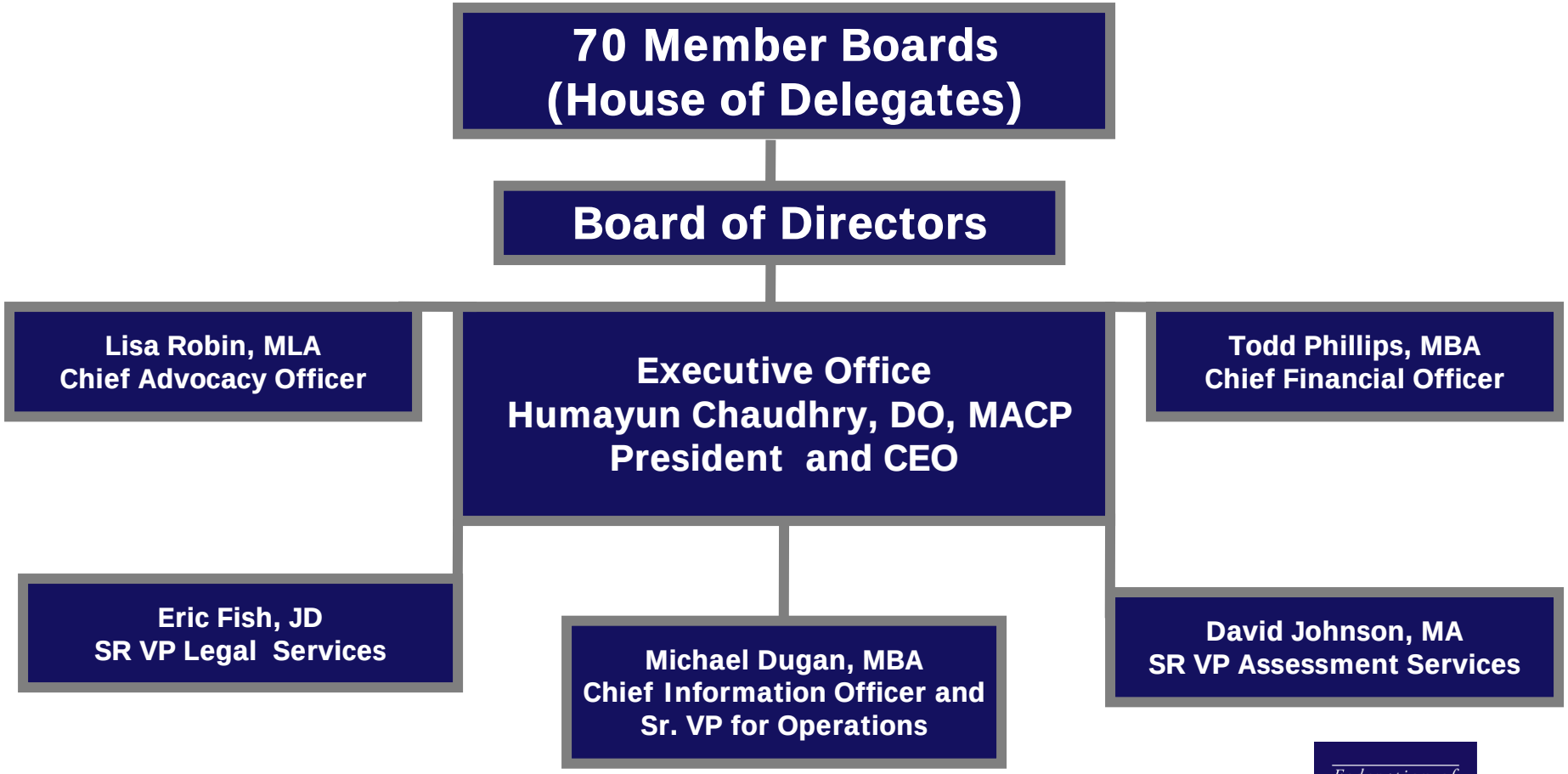
# FSMB Organizational Chart



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# New Five-Year Strategic Plan

- Approved by the 2015 House of Delegates as presented in the Report of the Special Committee on Strategic Positioning
- Committee was made up of highly qualified and visionary individuals who contributed their time and expertise to review the continued relevance of the 2010-2015 Strategic Plan and help us map out the future direction of the FSMB
- Members included representatives from the FSMB BOD, Member Boards, AIM, AMA, AOA, NBME and NCCPA



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## 2015-2020 Strategic Goals

**State Medical Board Support:**
Serve state medical boards by promoting best practices and providing policies, advocacy, and other resources that add to their effectiveness.

**Data and Research Services:**
Expand the FSMB's data-sharing and research capabilities while providing valuable information to state medical boards, the public and other stakeholders.

**Advocacy and Policy Leadership:**
Strengthen the viability of state-based medical regulation in a changing, globally-connected health care environment.

**Organizational Strength and Excellence:**
Enhance the FSMB's organizational vitality and adaptability in an environment of change and strengthen its financial resources in support of its mission.

**Education:**
Provide educational tools and resources that enhance the quality of medical regulation and raise public awareness of the vital role of state medical boards.

**Collaboration:**
Strengthen participation and engagement among state medical boards and expand collaborative relationships with national and international organizations.



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# 2014 Physician Census

- **There are roughly 916,264 physicians with an active state medical license**
  - This is a net increase of 38,070 (4%) from 2012
- **A net of 12,168 physicians were added to the nation's physician roster each year**
- **Average age is now older and predominantly male, but increasingly female at entry level**
- **IMGs numbers, particularly from the Caribbean are growing at a rapid rate**



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# Services and Educational Offerings



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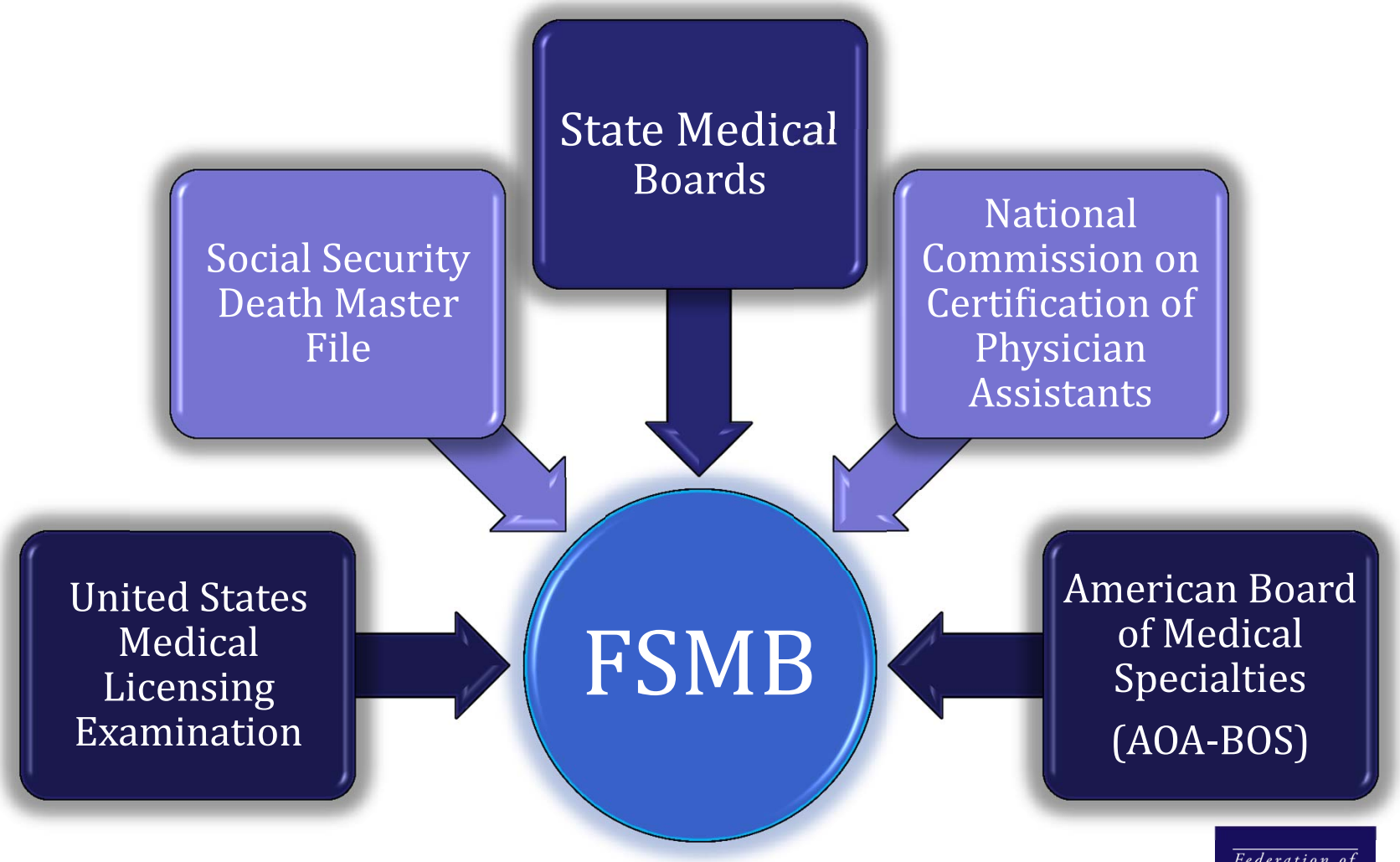
# FSMB Information Sources



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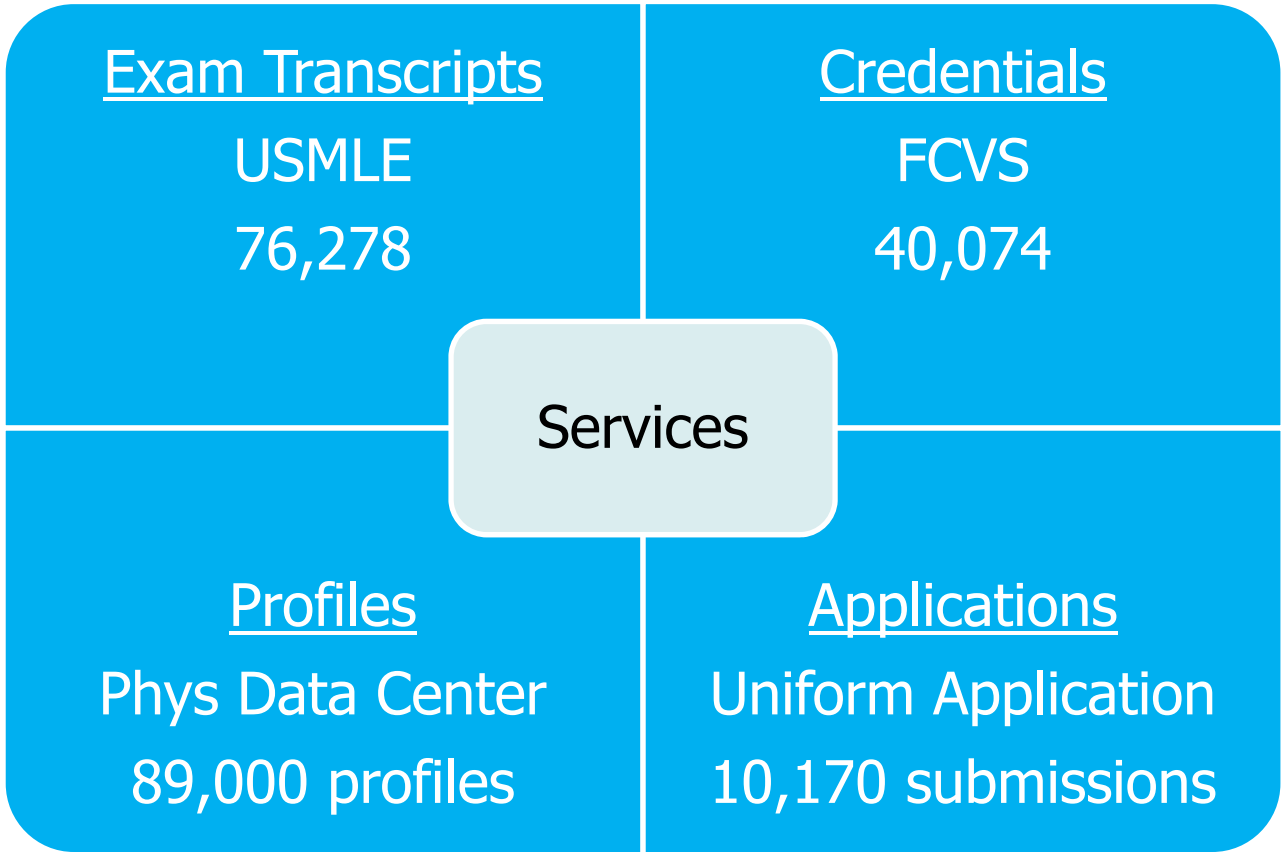
# 2014 Service Volumes




994 roster files - 32.5 million records



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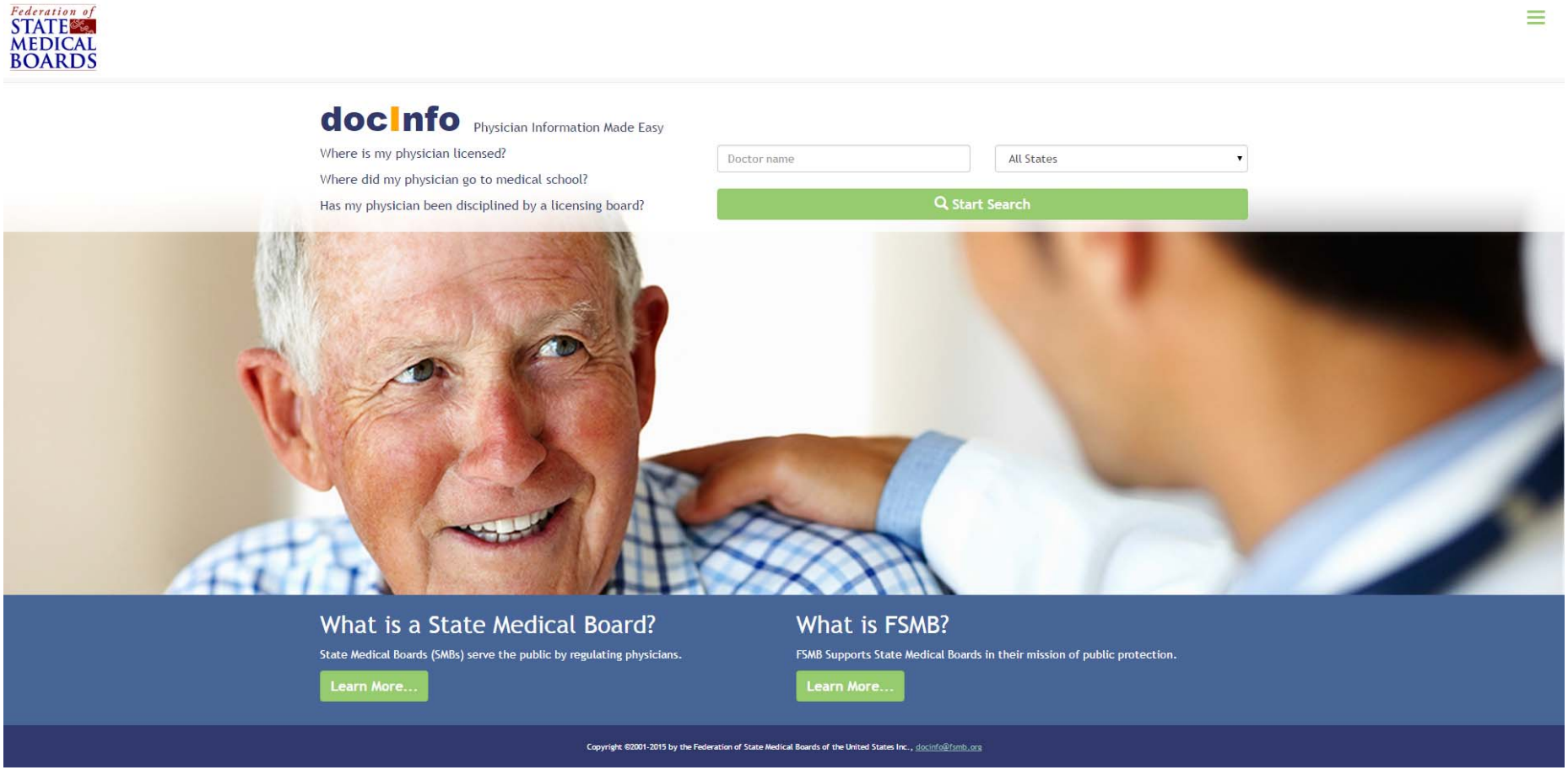
# DocInfo



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# FSMB Educational Offerings

- **Annual Meeting**
  - April 28-30, 2016 in San Diego
- **Annual Educational Series**
- **Board Attorney Workshops**
  - (Fall and Spring)
- **New Executives Orientation**
- **Monthly Roundtable**
- **On-line CME Programs**

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# Communications via Multiple Channels for Multiple Audiences

- **FSMB Annual Report**
- ***Journal of Medical Regulation***
- ***Newsline***
- ***FSMB eNews***
- **Website – www.fsmb.org**
- **Advocacy Newsletter**
- **Twitter - @TheFSMB**

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# Advocacy Update

- Policy Initiatives 2015
- Team-based Regulation/ Scope of Practice
- License Portability / Interstate Medical Licensure Compact
- Opioid Prescribing



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# Policy Initiatives 2015

- **Ethics and Professionalism Committee –** Addressing physician burn-out
- **Workgroup on Telemedicine Consultation –** Development of a common definition of physician-to-physician consultations, and how telemedicine technologies/devices can be used in that context
- **Workgroup on Marijuana and Medical Regulation –** Develop model policy guidelines regarding the use of medical marijuana in patient care, including conditions, diseases, or indications for which medical marijuana may be recommended; and develop a position statement or white paper regarding the regulation of licensees who use marijuana recreationally
- **Workgroup on Team-Based Regulation –** Identify best state-based practices and recommend regulatory strategies for achieving greater cooperation and collaboration among health professional boards in carrying out their shared responsibility to protect the public



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# Scope of Practice/Team-based Regulation

- **2005: FSMB released the policy "*Assessing Scope of Practice in Health Care Delivery: Critical Questions in Assuring Public Access and Safety*"**
  - Collaboration is an effective means for providing safe and competent health care
  - Recognize that scopes of practice often overlap
  - Raises questions about the traditional structure of health care regulation
  - Promotes enhanced cooperation and communication among state health regulatory boards



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# FSMB Workgroup on Team-based Regulation

- The FSMB established a Workgroup on Team-based Regulation
- Tasked with identifying best state-based practices and recommend regulatory strategies for achieving greater cooperation and collaboration among health professional boards in carrying out their shared responsibility to protect the public
- The Workgroup will issue a report of its findings and recommendations to the FSMB Board of Directors


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# FSMB Recommendations

- **States should:**
  - Reduce barriers to cooperation and communication among health regulatory boards
  - Implement a system for joint review of complaints involving multiple practitioners
  - Share complaint information among relevant health regulatory boards



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# Join members of FSMB, NABP and NCSNB

## 2015 Tri-Regulator Symposium:

*Team-based Care – Collaborative Regulation*

**Oct. 6-7, 2015**

The Ritz-Carlton, Pentagon City
Arlington, VA



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# FSMB House of Delegates Vote in 2013 to Aggressively Study Interstate Compact

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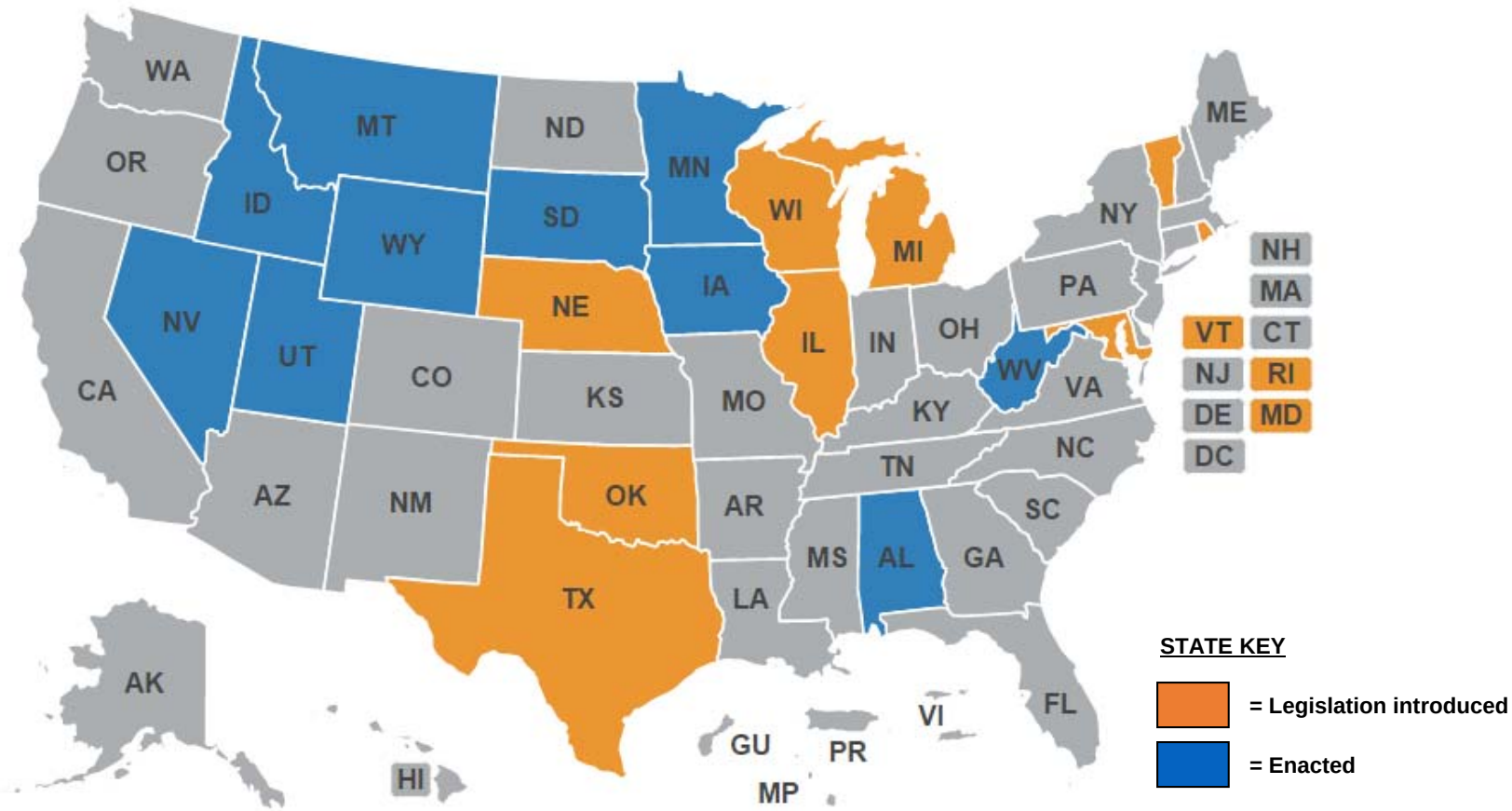
# Interstate Medical Licensure Compact

## Adoptions and Introductions (July, 2015)




www.licenseportability.org

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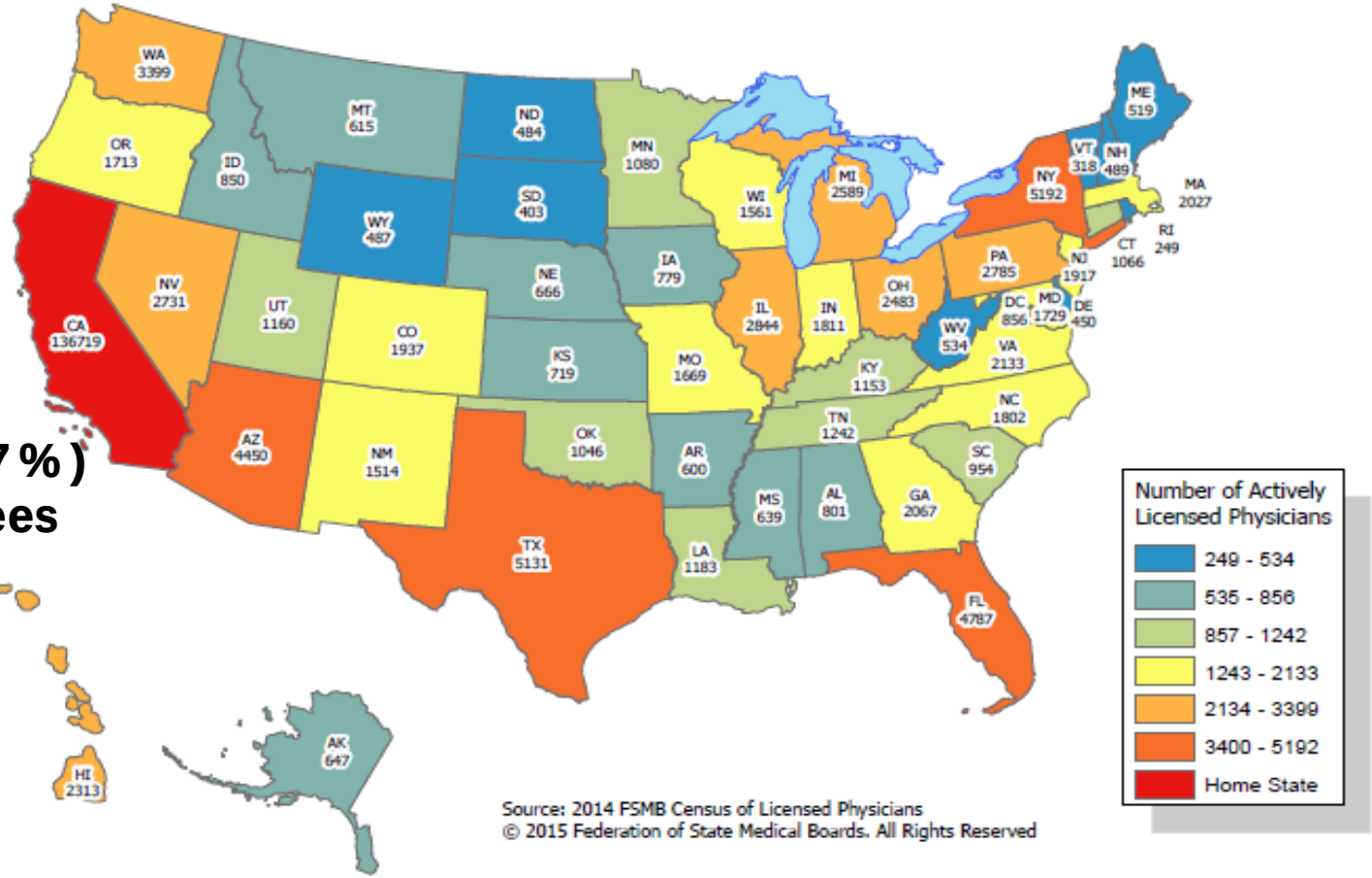
## Medical Board of California
## Actively Licensed Physicians with Licenses in Other States

**38,817 (27%) of licensees**



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## Journal of the American Medical Association

Opinion

VIEWPOINT

### Ensuring Competency and Professionalism Through State Medical Licensing

**Humayun J. Chaudhry, DO, MS**
Federation of State Medical Boards, Euless, Texas.

**J. Daniel Gifford, MD**
Federation of State Medical Boards, Euless, Texas.

**Arthur S. Hengerer, MD**
Federation of State Medical Boards, Euless, Texas.

**The primary mission** of state medical boards in the United States is to protect the public and ensure that only persons who are qualified and fit to practice medicine do so. State boards generally view the practice of medicine as a privilege and not a natural right. In some respects, state boards serve as the ultimate gatekeeper for physicians by issuing medical licenses and authorizing disciplinary actions when professional misconduct occurs. In 2014, a total of 4043 physicians received disciplinary actions (eg, licensure limitation, suspension, or revocation), representing less than half of 1% of the 916 264 actively licensed physicians in the United States.[1]

State medical boards, which also regulate physician assistants and sometimes other health professionals, were among the first entities to gain statutory recognition and jurisdiction over the practice of medicine in the United States.[2] The legal rights of the states were broadly vested in the Tenth Amendment to the Constitution, ratified under the Bill of Rights in 1791, and specifically articulated in the Medical Practice Acts that govern medical licensure and discipline in every state. The earliest actions of state boards focused on preventing so-called quacks and charlatans from practicing medicine fraudulently.

State boards evolved as circumstances and times warranted. Eligibility requirements for medical school matriculation, for instance, shifted from a high school diploma to a baccalaureate degree in the early 1900s. The assessment of a physician's professional competency by state medical board examiners switched from a written essay examination unique to every state to multiple-choice questions beginning in the 1950s, and then to computer-based testing and clinical skills tests with standardized patients during the last 2 decades. Some of these advances were gradual, whereas others were precipitated during the

When state boards contemplate changes to their Medical Practice Act, both physicians and the organizations that represent them (eg, the American Medical Association and the American Osteopathic Association) testify in favor or against the proposals. State legislators also may propose laws that modify licensure or disciplinary regulations; however, such proposals also encourage engagement before adoption. Licensing and disciplinary decisions of state boards are subject to due process protections for physician respondents that also ensure their engagement in individual matters.

#### Public Participation

State medical boards were once described as entities whereby "physicians looked out for other physicians," but that perception began to change in 1961 when the Medical Board of California became the first in the nation to include a public member. Today, almost all state medical boards include public members, and even among boards without public members, the public is invited to attend meetings and, as with physicians and other organizations, their testimony and input are welcomed.

#### Communication

Most state medical boards communicate their decisions and are required by state law to announce planned meetings through electronic or print newsletters and online on websites. This enables interested physicians, the public, and other stakeholders to be informed about decisions, policies, and regulations and anticipated changes to them.

#### Transparency

In 2011, Illinois became the last state in the union to make practice profiles of its licensed physicians available on-

## New England Journal of Medicine

The NEW ENGLAND JOURNAL of MEDICINE

Perspective

APRIL 23, 2015

### Improving Access and Mobility — The Interstate Medical Licensure Compact

Humayun J. Chaudhry, D.O., Lisa A. Robin, M.L.A., Eric M. Fish, J.D., Donald H. Polk, D.O., and J. Daniel Gifford, M.D.

Interstate compacts — negotiated agreements among participating states that have the legal status of both contract and statutory law — allow states to address issues of mutual regulatory or administrative interest without modification of the federal government's authority or reordering of the federal structure of government.[1] Such compacts have been used widely since the founding of the United States to resolve boundary disputes and settle water rights, among other matters. Now,

state boards have since voted to support the model language, and legislation to enact it is now pending in 11 states; Wyoming, South Dakota, Idaho, Utah, and West Virginia have already adopted it as state law.

Easing physicians' ability to practice across state lines is not a

using this service, which verifies primary-source documents such as medical school degrees and provides a central repository for future use of these documents in applications for licensure, hospital admitting privileges, or participation in health plans. And in 2004, we at the Federation of State Medical Boards (FSMB) created a uniform licensure application (with state-specific addenda) that is now used by 24 states. Both services, though helpful, still require physicians who want to be licensed in more

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# NEJM and JAMA Article Impacts

- **Percentile among all NEJM articles: 46th**
- **Percentile among all JAMA articles: 96th**
  - USA, Canada, Japan, Russia, Colombia, Brazil, Argentina, Australia, Indonesia, Iran, China, India, Pakistan, Mexico, Germany, Norway, Israel, Turkey, Portugal, France, Portugal, Italy, Spain, South Africa, New Zealand, Poland, Egypt, Ukraine, Bosnia, South Korea, Philippines, Saudi Arabia, Romania, Chile, Bangladesh, Greece, Iraq, Syria, Sweden, Finland, Ecuador, Bolivia, Kyrgyzstan, Oman


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# Resolution to Revise the FSMB *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* Adopted by HOD

- **In April 2015, the House of Delegates voted to establish a workgroup revise the FSMB's model policy**
  - Workgroup of state medical and osteopathic boards and other key stake holders
    - AMA, AOA, specialty societies/state medical associations
  - Review the current science
  - Revise the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*
  - Submitted by the Washington Medical Quality Assurance Commission



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# Safe Prescribing CME

**Title**: ***Extended-Release and Long-Acting Opioids: Assessing Risks, Safe Prescribing***

- Launched April 1, 2014
- Consists of six (6) free, online modules; each module no longer than 30 minutes
- Accredited for *3.0 AMA PRA Category 1 Credit™* and *3.0 AOA Category 2B Credit*

**www.fsmb.org/safeprescribing**

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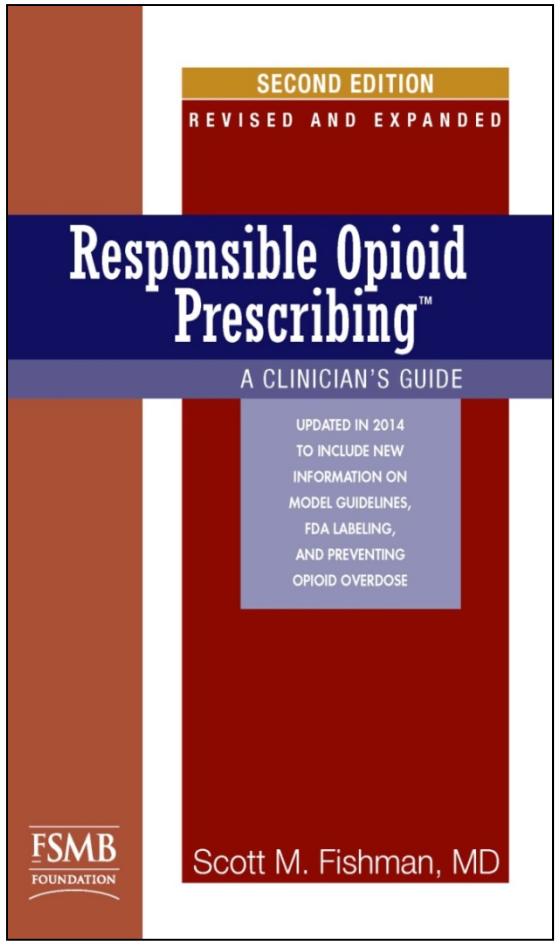
# FSMB Foundation




## *Responsible Opioid Prescribing: Expanded 2nd Edition Revised*

***Responsible Opioid Prescribing: A Clinician's Guide,* by pain expert Scott M. Fishman, MD**

- Updated in October 2014 to include new information on Model Guidelines, FDA labeling, and Preventing Opioid Overdose
- Offers corresponding CME credit in 3 online modules (*7.25 AMA PRA Category 1 Credit*™) available at http://www.fsmb.org/books
- More than 180,000 copies have been distributed/purchased



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# We want you!

- **Elected Positions for Board of Directors and Nominating Committee**
  - For more information, see "Become a Leader" and "Leadership FAQ" at http://www.fsmb.org/about-fsmb
- **Appointments to Other Committees/Workgroups**
  - For more information, see "FSMB Committees" at http://www.fsmb.org/about-fsmb
- **USMLE – Contact David Johnson, djohnson@fsmb.org**
  - Item Writing and Test Development
  - Standard Setting
  - Governance Committees
  - Quality Assurance Program
  - Special Committees and Projects



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Protecting
Advocating
Serving

# Thank you!

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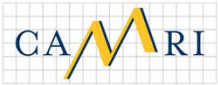
**Janet M. Coffman, MPP, PhD**

**Bio**

**Janet M. Coffman, MPP, PhD** is an Associate Professor at the Philip R. Lee Institute for Health Policy Studies and the Department of Family and Community Medicine at the University of California, San Francisco (UCSF). She is also Affiliate Faculty at UCSF's Center for the Health Professions. Her research interests include the health care workforce, health insurance policy, and access to care for vulnerable populations. Professor Coffman has been the project director for three supplemental surveys of California physicians in partnership with the Medical Board of California. She is the lead author of a report on findings from the 2011 survey on availability of electronic health records in physicians' practices and a report on findings from the 2013 survey regarding Medi-Cal participation. Professor Coffman received a Master's in Public Policy and a PhD in Health Services and Policy Analysis from the University of California, Berkeley.

# Findings from the 2013 Supplemental Survey on Electronic Health Record Availability and Medi-Cal Participation

**Janet Coffman, MPP, PhD**
Associate Professor,
Philip R. Lee Institute for Health Policy Studies
University of California, San Francisco




July 31, 2015

1

# Methods

- Voluntary survey mailed to California MDs with licensure renewal
- All physicians with renewals due in June or July of 2011 and 2013
- Physicians respond by mail or online
- Limited analysis to respondents
  - Practicing in California
  - Not in training
  - Providing patient care

2

# Questionnaire

## Voluntary Questions

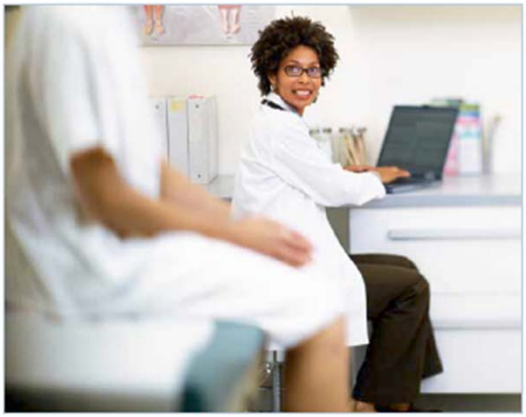
- Availability of EHR at primary practice location
- Specific EHR functions
- Type of practice (e.g. solo, group, clinic, etc.)
- Whether accepting new patients by payer
- Distribution of patients in practice by payer

## Mandatory Questions

- Linked to Medical Board mandatory survey
  - Demographics, specialty, practice location

3

# Electronic Health Records



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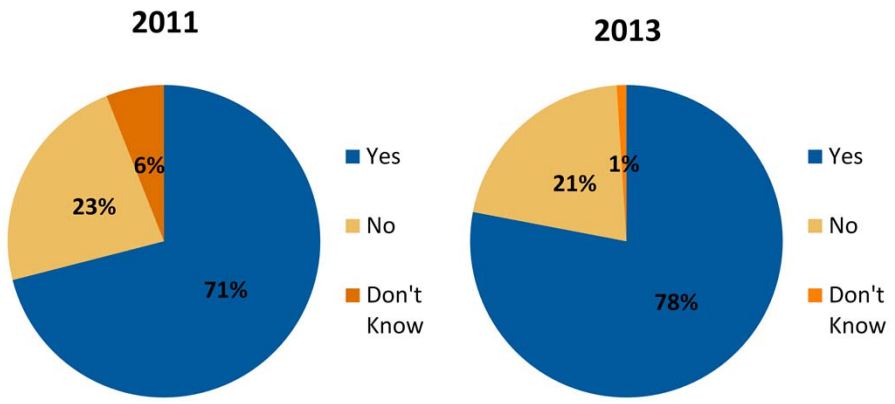
# EHR Availability in 2011 and 2013

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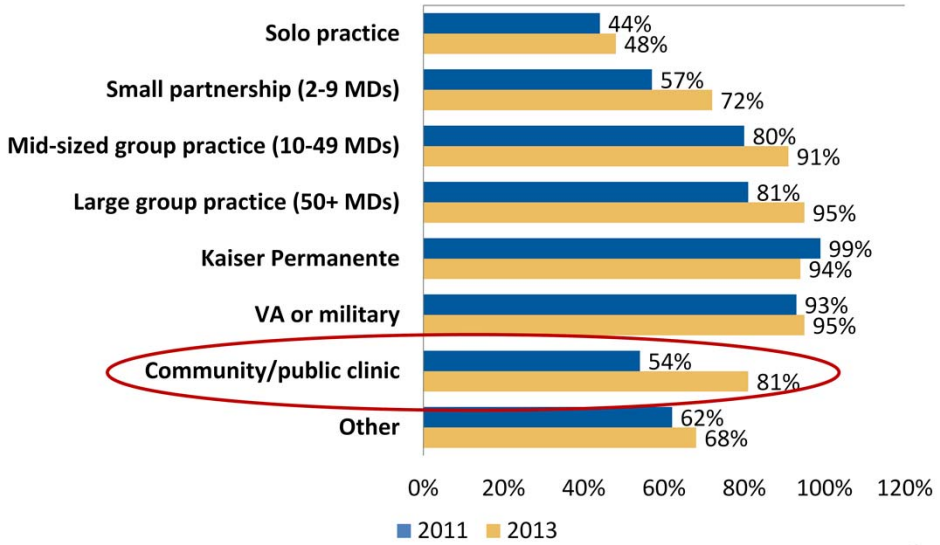
# EHR Availability by Practice Type, 2011 and 2013

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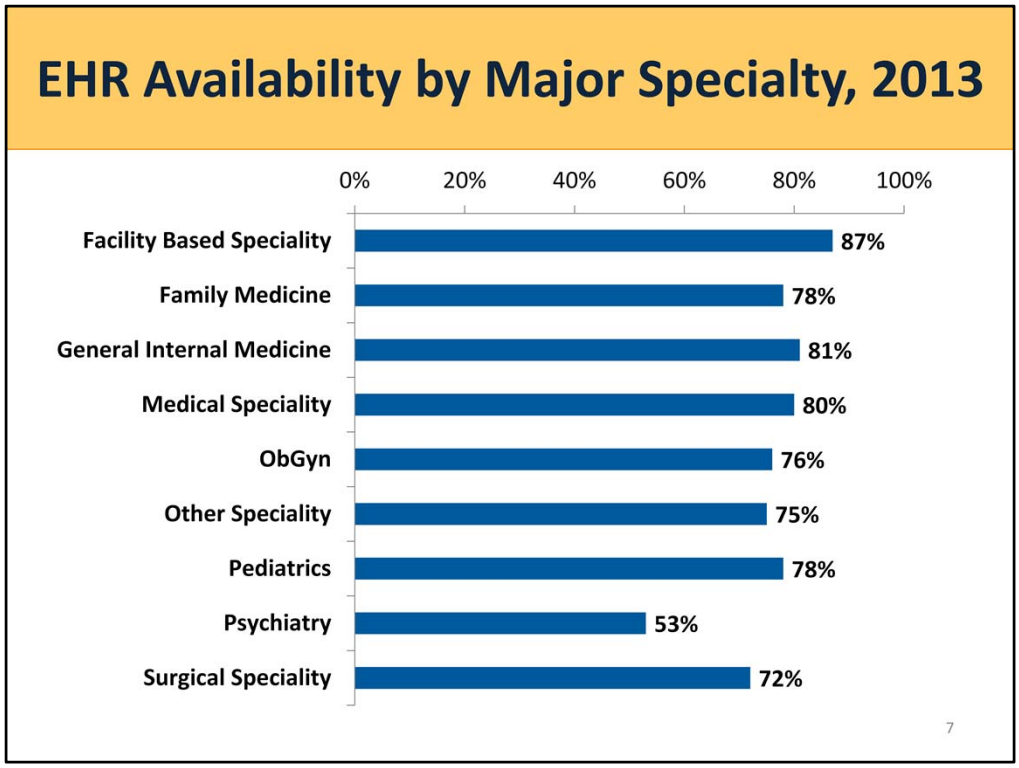

EHR Availability by Major Specialty, 2013
0%
20%
40%
60%
80%
100%
Facility Based Speciality
87%
Family Medicine
78%
General Internal Medicine
81%
Medical Speciality
80%
ObGyn
76%
Other Speciality
75%
Pediatrics
78%
Psychiatry
53%
Surgical Speciality
72%
7

## Five Most Frequently Used EHR Features, 2013

| Feature | Percentage Using |
|---|---|
| 1. Clinical notes | 73% |
| 2. Lists of patients' medications | 73% |
| 3. Lists of medication allergies | 73% |
| 4. Patient problem lists | 71% |
| 5. Lab test results | 70% |

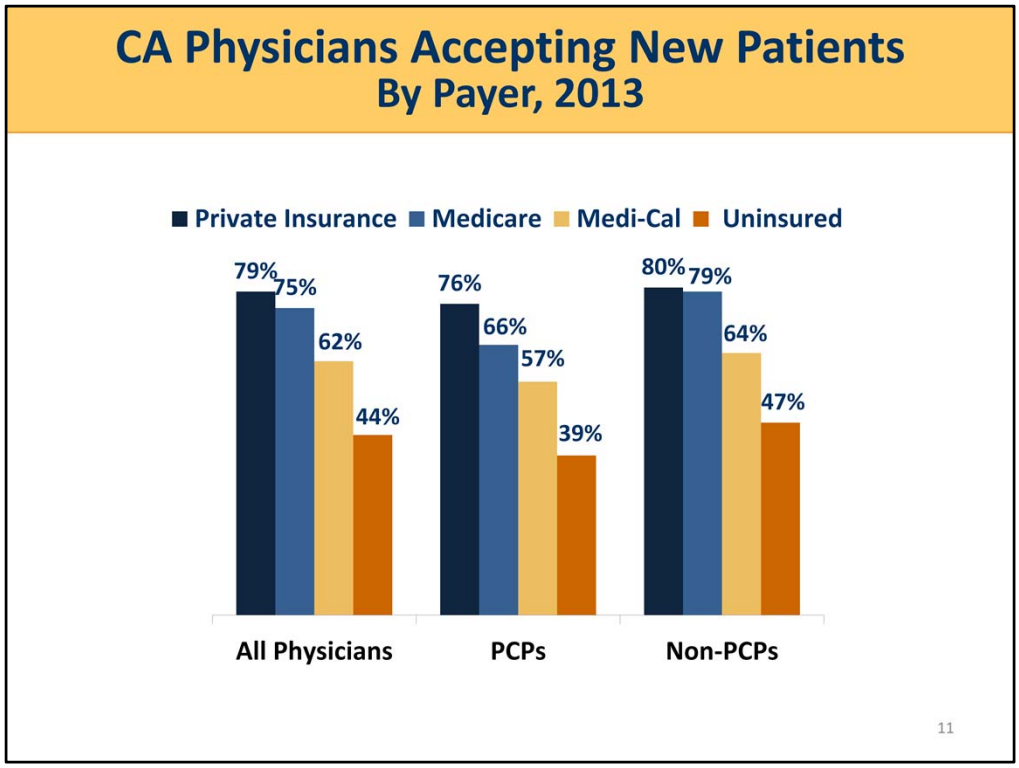
8

## Five Least Frequently Used EHR Features, 2013

| Most Frequently Used | Percentage Using |
|---|---|
| 1. Transmission of data to immunization registries | 17% |
| 2. Patient portal | 31% |
| 3. Lists of patients by condition | 37% |
| 4. Routine reporting of quality indicators | 39% |
| 5. Transmission of data to clinicians in other practices | 39% |

# Medi-Cal Participation

10



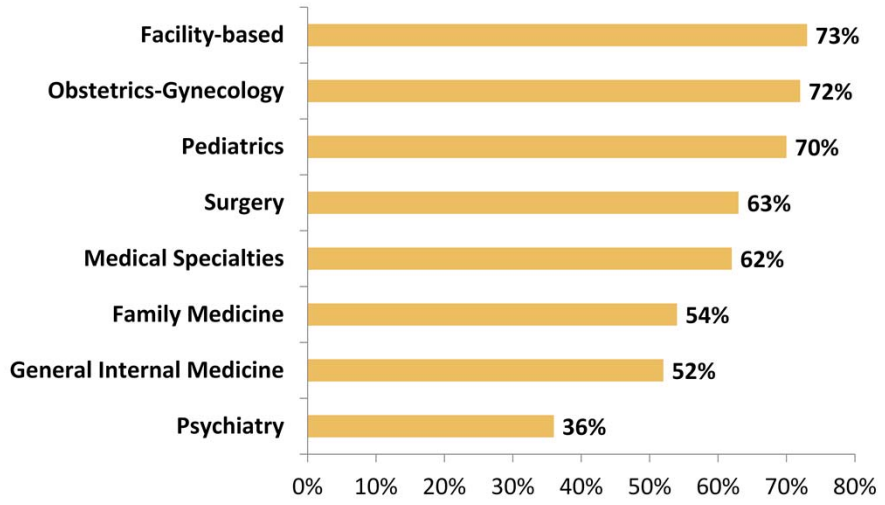

Among all physicians, differences among the four insurance statuses are statistically significant at $p<0.05$.

Among PCPs, all differences are statistically significant at $p<0.05$.

Among non-PCPs, there are statistically significant differences between the acceptance rate for new Medi-Cal patients and acceptance rates for new private insurance, Medicare, and uninsured patients. There are also statistically significant differences between rates of acceptance for new uninsured patients and new private insurance, Medicare and Medi-Cal patients. The difference between new private insurance and new Medicare patients is not statistically significant.

72% both, 17% only managed care and 10% only FFS which means 89% managed care, 82% ffs

## CA Physicians Accepting New Medi-Cal Patients, by Specialty, 2013

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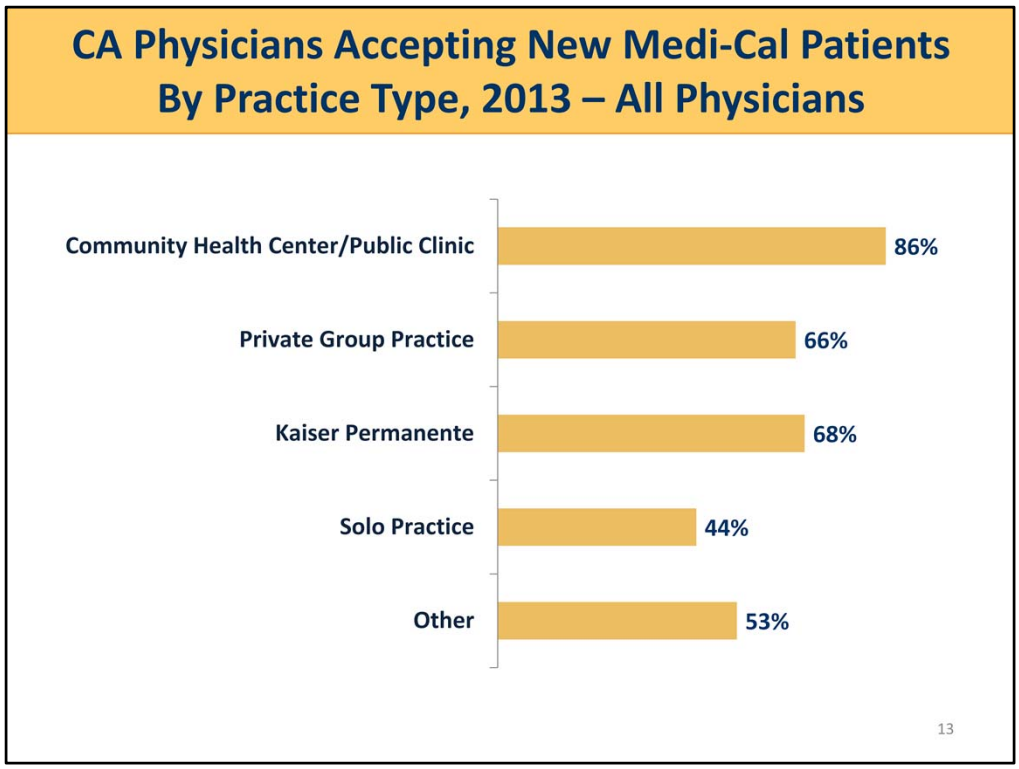
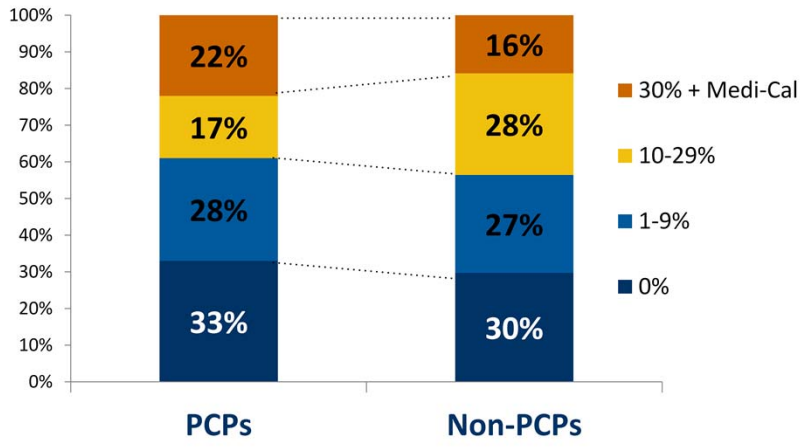



We have not yet calculated confidence intervals on this analysis.
Based on the PCP and non-PCP output, my hunch is that there is a statistically significant difference between the rate at which MDs practicing in community/public clinics accept new Medi-Cal patients and rates for MDs in solo practice and in VA/military settings. In the other cases, the confidence intervals may be too large for the differences in point estimates to be statistically significant.

## Percentage of Patients Enrolled in Medi-Cal
### Primary Care vs. Non-Primary Care Physicians, 2013

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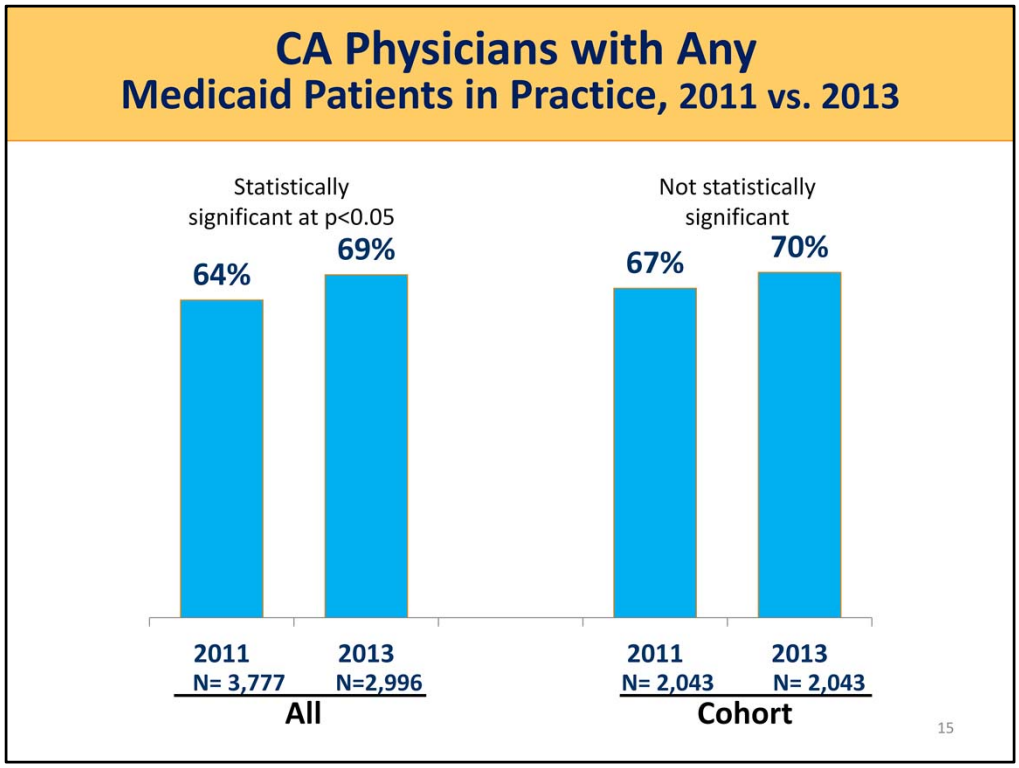


All responders, the difference in the percentage with any Medi-Cal patients is statistically significant at $p<0.05$.

For responders in the cohort (i.e., MDs who responded in both 2011 and 2013), the differences between the point estimates for 2011 and 2013 is not statistically significant.

# Acknowledgments

**Partner**

- Medical Board of California

**Funders**

- California HealthCare Foundation
- California Department of Health Care Services

**Research Team**

- Andrew B. Bindman, MD
- Margaret Fix, MPH
- Denis Hulett, M.S.
- Lena Libatique

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# MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 15, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Administrative Summary
STAFF CONTACT: Kimberly Kirchmeyer, Executive Director

REQUESTED ACTION:
This report is intended to provide the Members with an update on the staffing, budget, and other administrative functions/projects occurring at the Medical Board of California (Board). No action is needed at this time.

Administrative Updates:
Board staff has had several meetings with interested parties regarding the Board.

- Board Members are receiving updates on activities at the Board as well as a pending projects list.
- Regular meetings were held with Director Awet Kidane, Chief Deputy Director Tracy Rhine and Deputy Director Christine Lally of the Department of Consumer Affairs (DCA) and other DCA Executive staff.
- Regular meetings continue to be held with Gloria Castro, Senior Assistant Attorney General.
- Board staff have been meeting with the DCA and the DOJ to discuss requirements for the new Controlled Substance Utilization Review and Evaluation System (CURES) database.
- Board staff have met with the California Medical Association on issues of interest to both parties.
- Board staff attend webinars and teleconferences with staff from the Federation of State Medical Boards and the International Association of Medical Regulatory Authorities.
- Board staff have been meeting with Legislative staff providing updates on the Board, its actions, and issues of interest.
- Board staff attended a meeting held by the Drug Enforcement Administration in Washington D.C. regarding prescribing and telemedicine.
- Board staff met with staff from the Health Professions Education Foundation to discuss mutual issues.
- Board staff have been meeting with the California Department of Public Health to discuss a data use agreement to obtain coroner and death certificate information related to drug overdose deaths.
- Board staff met with the Graduate Medical Education deans to discuss the application and licensure process.
- Board staff met with staff from the California Correctional Health Care Services regarding the complaint and investigation process.
- Board staff had a teleconference meeting with the Health Policy Advisor from the Office of Senator Barbara Boxer, staff from other state medical boards, and sponsors of free health care events to discuss the Board's registration/approval process for physicians attending free health care events from out-of-state.
- Board staff attended a meeting at the San Francisco Attorney General's Office with all Deputy Attorneys General and provided an update on the Board.
- Board staff attended a telehealth presentation in San Francisco.
- Board staff met with staff from the Physician's Assistance Group to discuss their physician monitoring program.
- Board staff continue to meet with representatives from the California Department of Public Health, the Board of Pharmacy, Dental Board, the Department of Health Care Services (DHCS), the DOJ, the Emergency Medical Services Authority, and the DCA regarding prescription opioid misuse and overdose. The group is identifying ways all the entities can work together to educate prescribers, dispensers, and patients regarding this issue of serious concern.
- Board staff have been meeting with Legislative staff and staff of the California Department of Social Services and the DHCS to discuss the issue of psychotropic medications for foster children.

Staffing Update:
The Board has 160.1 permanent full-time positions (in addition to temporary staff). The Board is at an 8% vacancy rate which equates to 13 vacant positions. This is lower than the report provided in the last Administrative Summary. However, of those 13 vacant positions, the Board has 3 individuals pending a start date or verification of eligibility. Therefore, the Board only has 10 positions that do not have an individual identified for the position. This equates to a 6% vacancy rate for the Board.

Budget Update:
The Board's budget documents are attached, beginning on page BRD 19B-4 and continuing to page BRD 19B-17. The Board's fund condition on page BRD 19B-4 identifies the Board's fund reserve was at 3.9 months at the end of FY 14-15. As stated in the last update, it is important to point out that due to BreEZe, the revenue collections for FY 13-14 included revenue in advance, thereby overstating the Board's revenue in FY 13-14. This should be realized in FY 14-15 once the final year end documents have been received. As stated in the last report, the Board is working with DCA to resolve the issues with the Board's revenue. Once the overstated amount is known, a new fund condition will be presented. The fund condition also includes repayment of the $15 million loans to the general fund. The partial repayment of the general fund loans will occur in FY 15-16 ($10 million) as identified in the Governor's Budget. This fund condition also shows the remaining $5 million being repaid in FYs 16-17 and 17-18. With the repayment of the outstanding loans and taking into consideration future anticipated costs, the Board's fund reserve will be below its mandated level in FY 17-18. However, depending upon the actual revenue for FY 13-14 and the FY 14-15 spending, this could occur in FY 16-17. The Board staff will be closely monitoring the Board's budget to determine whether future changes are needed. The second fund condition on page BRD 19B-5 does not include the repayment of the general fund loans. As indicated by both fund conditions, it would not be prudent at this time to consider any reduction in licensing fees as previously recommended by the Bureau of State Audits. The Board should also wait until the transition has been realized and a budget review is completed before any decisions on the Board's fund condition are made.

The Board's overall actual expenditures through May 31, 2015 can be found on page BRD 19B-6. Pages BRD 19B-7 to 19B-11 show the budget report specifically for licensing, enforcement, the Health Quality Investigation Unit (HQIU), and the AG expenditures. Page BRD 19B-15 provides the Board Members' expenditure report as of June 19, 2015.

Lastly, BRD 19B-16 and 19B-17 provide a copy of the budget that was signed by the Governor on June 24, 2015, which specifically identifies the Board's budget for FY 15-16.

BreEZe Update:
The Board continues to not have the reports necessary to identify the Board's workload and processing timeframes. Although the Board's and DCA's staff are working on these reports, there are still no reports that identify the enforcement statistics previously reported to the Board by using the legacy databases.

Board staff continues to submit requests for changes/fixes to DCA for the BreEZe system. The Board continues to prioritize all of its requests when a maintenance release is being scheduled and identifies the top five items that need fixed. The Board has been notified that there will be no maintenance releases after the September 2015 release, unless there is an emergency release needed. Release 2 for the next group of DCA boards, is scheduled to occur in January 2016 and therefore no maintenance releases for Release 1 boards will be performed during the testing and roll out of Release 2. It is unknown at this time when future maintenance releases will be scheduled after September 2015. The Board was also notified that it will need to perform

regression testing on all of its processes and functions during the Release 2 board user acceptance testing. This testing is intended to ensure that the Release 2 roll out will not impact the Board or its functions.

Controlled Substance Utilization Review and Evaluation System (CURES) Update

The rollout of the new CURES system occurred on July 1, 2015, however, due to security issues with older browsers, the DOJ determined that a soft launch needed to occur. On page BRD 19F-1 is a notice that was issued on June 30, 2015 informing prescribers and dispensers that the CURES 2.0 will be a phased roll out. During user testing, it was identified that a significant number of prescribers and dispensers use a browser below Microsoft Internet Explorer Version 11.0. In addition, due to the electronic health record systems, it is not an easy upgrade for users within large health care systems. Therefore, a determination was made for DOJ to identify users with an acceptable browser to register in CURES 2.0 and pilot test the system. Over the next six months DOJ will be working with these users to ensure the system is working as planned. In addition, this will allow individuals with incompatible browsers to upgrade their systems. While this phased release is occurring, individuals already registered for CURES 1.0 will be able to continue to access the system.

In regards to registration, due to the phased roll out of CURES 2.0, at this time all prescribers and dispensers will need to still use the paper process to register for CURES, which includes the requirement for a notary. The DOJ and DCA are still working to provide an easy registration process, without the need for a notary, for those individuals who have a compatible browser. Testing on this process is continuing and the intent is that it will be available within the next 60 days.

Due to the new phased roll out of CURES 2.0, the outreach plan for the Board has changed. The Board intends to put an article in the Summer Newsletter, but the specific language is uncertain. Once more information is received, the Board will notify physicians about the new system. As stated at the last meeting, the plan will involve notifications to licensees via email, social media, newsletters, and by notifying other organizations to get the information to licensees. The material will include information on who needs to register, the registration process, how to look up patient information, how to enter information for licensees who direct dispense, and other important information.

Since the CURES 2.0 release did not roll out as planned, the Board will continue to assist individuals in getting registered. The Board continues to accept applications at its offices statewide and during the Board Meetings. More information on the CURES 2.0 project and release will be provided as it is received by the DOJ.

# 0758 - Medical Board
## Analysis of Fund Condition

(Dollars in Thousands)
Fund Condition with General Fund Loan Repayments

| | | ACTUAL 2013-14 | CURRENT YEAR 2014-15 | BY 2015-16 | BY+1 2016-17 | BY+2 2017-18 |
|---|---|---|---|---|---|---|
| **BEGINNING BALANCE** | | $ 26,498 | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 |
| Prior Year Adjustment | | $ 234 | $ - | $ - | $ - | $ - |
| Adjusted Beginning Balance | | $ 26,732 | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 |
| **REVENUES AND TRANSFERS** | | | | | | |
| Revenues: | | | | | | |
| 125600 | Other regulatory fees | $ 157 | $ 278 | $ 258 | $ 258 | $ 258 |
| 125700 | Other regulatory licenses and permits | $ 6,994 | $ 6,122 | $ 6,249 | $ 6,249 | $ 6,249 |
| 125800 | Renewal fees | $ 48,914 | $ 45,730 | $ 45,710 | $ 45,710 | $ 45,710 |
| 125900 | Delinquent fees | $ 238 | $ 90 | $ 89 | $ 89 | $ 89 |
| 141200 | Sales of documents | $ 12 | $ - | $ - | $ - | $ - |
| 142500 | Miscellaneous services to the public | $ 1 | $ 30 | $ 30 | $ 30 | $ 30 |
| 150300 | Income from surplus money investments | $ 75 | $ 76 | $ 69 | $ 52 | $ 22 |
| 160400 | Sale of fixed assets | $ - | $ 3 | $ 3 | $ 3 | $ 3 |
| 161000 | Escheat of unclaimed checks and warrants | $ 11 | $ - | $ - | $ - | $ - |
| 161400 | Miscellaneous revenues | $ 2 | $ 15 | $ 15 | $ 15 | $ 15 |
| Totals, Revenues | | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| Transfers: | | | | | | |
| Proposed GF Loan Repayment (Budget Act of 2008) | | $ - | $ - | $ 3,000 | $ 3,000 | $ - |
| Proposed GF Loan Repayment (Budget Act of 2011) | | $ - | $ - | $ 7,000 | $ - | $ 2,000 |
| **TOTALS, REVENUES AND TRANSFERS** | | $ 56,404 | $ 52,344 | $ 62,423 | $ 55,406 | $ 54,376 |
| **TOTAL RESOURCES** | | $ 83,136 | $ 80,497 | $ 82,481 | $ 76,906 | $ 67,557 |
| **EXPENDITURES** | | | | | | |
| Disbursements: | | | | | | |
| 0840 State Controller (State Operations) | | $ 3 | $ - | $ - | $ - | $ - |
| 8880 FSCU (State Operations) | | $ - | $ - | $ - | $ - | $ - |
| FISCAL | | $ 259 | $ 48 | $ 107 | $ - | $ - |
| 1110 Program Expenditures (State Operations) | | $ 54,721 | $ 58,271 | $ 57,951 | $ 59,121 | $ 60,314 |
| | 2014-15 and ongoing Approved Costs | | | | | |
| | BreEZe Costs | $ - | $ 1,531 | $ - | $ - | $ - |
| | Enforcement Enhancements | $ - | $ 471 | $ 415 | $ 415 | $ 415 |
| | SB 304 | $ - | $ 118 | $ 118 | $ 118 | $ 118 |
| | Anticipated Future Costs | | | | | |
| | Change in Business Process | $ - | $ - | $ - | $ 715 | $ 715 |
| | Expert Reviewer | $ - | $ - | $ - | $ 735 | $ 735 |
| | Adverse Events Report | $ - | $ - | $ - | $ 140 | $ 140 |
| | BreEZe Costs | $ - | $ 125 | $ 2,403 | $ 2,494 | $ 2,400 |
| | Establish Spending Authority for Midwifery | $ - | $ - | $ (13) | $ (13) | $ (13) |
| Total Disbursements | | $ 54,983 | $ 60,439 | $ 60,981 | $ 63,725 | $ 64,824 |
| 1110 Reimbursement/Cost Recovery | | | $ 1,740 | $ 900 | $ 900 | $ 900 |
| **FUND BALANCE** | | | | | | |
| Reserve for economic uncertainties | | $ 28,153 | $ 20,058 | $ 21,500 | $ 13,181 | $ 2,733 |
| **Months in Reserve** | | 5.6 | 3.9 | 4.0 | 2.4 | 0.5 |

NOTES:

A. Assumes workload and revenue projections are realized for FY 15/16 and beyond.
B. Interest on fund estimated at .361%.
C. $9 million was loaned to the General Fund by the Board in FY 11/12 and $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.
D. BreEZe revenue collections for FY 13/14 included revenue in advance, thereby overstating the Board's revenue in FY 13/14. This should be realized in FY 14/15.
E. FY 14/15 Total Disbursements excludes $125,000 anticipated BreEZe Spring Finance Letter costs.
F. FY 14/15 Year-to-Date reimbursement/cost recovery is a net reduction in expenditures and is reflected for display purposes only.

6/30/2015

# 0758 - Medical Board
# Analysis of Fund Condition

(Dollars in Thousands)

| | | ACTUAL 2013-14 | CURRENT YEAR 2014-15 | BY 2015-16 | BY+1 2016-17 | BY+2 2017-18 |
|---|---|---|---|---|---|---|
| **BEGINNING BALANCE** | | $ 26,498 | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 |
| Prior Year Adjustment | | $ 234 | $ - | $ - | $ - | $ - |
| Adjusted Beginning Balance | | $ 26,732 | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 |
| **REVENUES AND TRANSFERS** | | | | | | |
| Revenues: | | | | | | |
| 125600 | Other regulatory fees | $ 157 | $ 278 | $ 258 | $ 258 | $ 258 |
| 125700 | Other regulatory licenses and permits | $ 6,994 | $ 6,122 | $ 6,249 | $ 6,249 | $ 6,249 |
| 125800 | Renewal fees | $ 48,914 | $ 45,730 | $ 45,710 | $ 45,710 | $ 45,710 |
| 125900 | Delinquent fees | $ 238 | $ 90 | $ 89 | $ 89 | $ 89 |
| 141200 | Sales of documents | $ 12 | $ - | $ - | $ - | $ - |
| 142500 | Miscellaneous services to the public | $ 1 | $ 30 | $ 30 | $ 30 | $ 30 |
| 150300 | Income from surplus money investments | $ 75 | $ 76 | $ 69 | $ 52 | $ 22 |
| 160400 | Sale of fixed assets | $ - | $ 3 | $ 3 | $ 3 | $ 3 |
| 161000 | Escheat of unclaimed checks and warrants | $ 11 | $ - | $ - | $ - | $ - |
| 161400 | Miscellaneous revenues | $ 2 | $ 15 | $ 15 | $ 15 | $ 15 |
| Totals, Revenues | | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| Transfers: | | | | | | |
| **TOTALS, REVENUES AND TRANSFERS** | | $ 56,404 | $ 52,344 | $ 52,423 | $ 52,406 | $ 52,376 |
| **TOTAL RESOURCES** | | $ 83,136 | $ 80,497 | $ 72,481 | $ 63,906 | $ 52,557 |
| **EXPENDITURES** | | | | | | |
| Disbursements: | | | | | | |
| 0840 State Controller (State Operations) | | $ 3 | $ - | $ - | $ - | $ - |
| 8880 FSCU (State Operations) | | $ - | $ - | $ - | $ - | $ - |
| FISCAL | | $ 259 | $ 48 | $ 107 | $ - | $ - |
| 1110 Program Expenditures (State Operations) | | $ 54,721 | $ 58,271 | $ 57,951 | $ 59,121 | $ 60,314 |
| | 2014-15 and ongoing Approved Costs | | | | | |
| | BreEZe Costs | | $ 1,531 | $ - | $ - | $ - |
| | Enforcement Enhancements | | $ 471 | $ 415 | $ 415 | $ 415 |
| | SB 304 | | $ 118 | $ 118 | $ 118 | $ 118 |
| | Anticipated Future Costs | | | | | |
| | Change in Business Process | $ - | $ - | $ - | $ 715 | $ 715 |
| | Expert Reviewer | $ - | $ - | $ - | $ 735 | $ 735 |
| | Adverse Events Report | $ - | $ - | $ - | $ 140 | $ 140 |
| | BreEZe Costs | | $ 125 | $ 2,403 | $ 2,494 | $ 2,400 |
| | Establish Spending Authority for Midwifery | | | $ (13) | $ (13) | $ (13) |
| Total Disbursements | | $ 54,983 | $ 60,439 | $ 60,981 | $ 63,725 | $ 64,824 |
| 1110 Reimbursement/Cost Recovery | | | $ 1,740 | $ 900 | $ 900 | $ 900 |
| **FUND BALANCE** | | | | | | |
| Reserve for economic uncertainties | | $ 28,153 | $ 20,058 | $ 11,500 | $ 181 | $ (12,267) |
| **Months in Reserve** | | 5.6 | 3.9 | 2.2 | 0.0 | -2.4 |

NOTES:

A. Assumes workload and revenue projections are realized for FY 15/16 and beyond.
B. Interest on fund estimated at .361%.
C. $9 million was loaned to the General Fund by the Board in FY 11/12 and $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.
D. BreEZe revenue collections for FY 13/14 included revenue in advance, thereby overstating the Board's revenue in FY 13/14. This should be realized in FY 14/15.
E. FY 14/15 Total Disbursements exclude $125,000 anticipated BreEZE Spring Finance Letter costs.
F. FY 14/15 Year-to-Date reimbursement/cost recovery is a net reduction in expenditures and is reflected for display purposes only.

6/30/2015

**Medical Board of California**
**Fiscal Year 2014-15**
**Budget Expenditure Report**
**(As of May 31, 2015)**
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 9,272,626 | 7,445,879 | 80.3 | 1,826,747 |
| Board Members | 31,500 | 76,356 | 242.4 | (44,856) |
| Temp Help | 755,888 | 161,152 | 21.3 | 594,736 |
| Overtime | 44,433 | 21,235 | 47.8 | 23,198 |
| Staff Benefits | 5,084,579 | 4,062,442 | 79.9 | 1,022,138 |
| BL 12-03 Blanket | 0 | 484,807 | | 0 |
| **TOTALS, PERS SERVICES** | 15,189,026 | 12,251,871 | 80.7 | 3,421,963 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 72,874 | 284,557 | 390.5 | (211,683) |
| Fingerprint Reports | 333,448 | 287,537 | 86.2 | 45,911 |
| Printing | 194,755 | 163,738 | 84.1 | 31,017 |
| Communications | 106,190 | 120,151 | 113.1 | (13,961) |
| Postage | 149,511 | 108,213 | 72.4 | 41,298 |
| Insurance | 2,053 | 5,390 | 262.5 | (3,337) |
| Travel In-State | 130,298 | 107,636 | 82.6 | 22,662 |
| Travel Out-of-State | 0 | 2,641 | 0.0 | (2,641) |
| Training | 54,894 | 8,542 | 15.6 | 46,352 |
| Facilities Operation (Rent) | 928,140 | 1,105,073 | 119.1 | (176,933) |
| Consult/Prof Services | 2,301,088 | 2,002,902 | 87.0 | 298,186 |
| Departmental Prorata | 5,059,555 | 5,155,986 | 101.9 | (96,432) |
| HQIU | 16,320,487 | 15,014,644 | 92.0 | 1,305,843 |
| Consolidated Data Center | 650,230 | 120,838 | 18.6 | 529,392 |
| Data Processing | 117,492 | 328,267 | 279.4 | (210,775) |
| Central Admin Svcs (Statewide Prorata) | 2,883,789 | 2,866,649 | 99.4 | 17,140 |
| Major Equipment | 57,180 | 48,893 | 85.5 | 8,287 |
| Other Items of Expense | 0 | 7,109 | 0.0 | (7,109) |
| Vehicle Operations | 31,925 | 28,379 | 88.9 | 3,546 |
| Attorney General Services | 13,347,280 | 11,790,338 | 88.3 | 1,556,942 |
| Office of Administrative Hearings | 1,525,080 | 953,408 | 62.5 | 571,672 |
| Evidence/Witness | 1,893,439 | 1,513,887 | 80.0 | 379,552 |
| Court Reporter Services | 225,000 | 215,046 | 95.6 | 9,954 |
| Minor Equipment | 28,949 | 90,904 | 314.0 | (61,955) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 46,413,657 | 42,330,728 | 91.2 | 4,082,929 |
| **TOTALS, EXPENDITURES** | 61,602,683 | 54,582,599 | 88.6 | 7,020,084 |
| **Scheduled Reimbursements** | (384,000) | (318,613) | 83.0 | (65,387) |
| **Distributed Costs** | (780,000) | (555,282) | 71.2 | (224,718) |
| **NET TOTAL, EXPENDITURES** | 60,438,683 | 53,708,705 | 88.9 | 6,729,979 |
| **Unscheduled Reimbursements*** | | (1,740,078) | | |
| | | **51,968,627** | | |

** no authority to spend*

## Medical Board of California
### Fiscal Year 2014-15
### Budget Expenditure Report - Licensing
### (As of May 31, 2015)
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 2,656,772 | 2,215,266 | 83.4 | 441,506 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 214,000 | 30,152 | 14.1 | 183,848 |
| Overtime | 17,825 | 7,852 | 44.1 | 9,973 |
| Staff Benefits | 855,480 | 1,239,213 | 144.9 | (383,733) |
| BL 12-03 Blanket | 0 | 22,969 | | 0 |
| **TOTALS, PERS SERVICES** | 3,744,078 | 3,515,452 | 93.9 | 251,594 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,345 | 23,941 | 156.0 | (8,596) |
| Fingerprint Reports | 333,448 | 286,675 | 86.0 | 46,773 |
| Printing | 99,876 | 106,635 | 106.8 | (6,759) |
| Communications | 25,000 | 21,715 | 86.9 | 3,285 |
| Postage | 78,111 | 51,789 | 66.3 | 26,322 |
| Insurance | 0 | 0 | 0.0 | 0 |
| Travel In-State | 9,758 | 15,786 | 161.8 | (6,028) |
| Travel Out-of-State | 0 | 0 | 0.0 | 0 |
| Training | 5,000 | 0 | 0.0 | 5,000 |
| Facilities Operation (Rent) | 226,000 | 325,608 | 144.1 | (99,608) |
| Consult/Prof Services | 1,227,873 | 1,013,925 | 82.6 | 213,948 |
| Departmental Prorata | 610,898 | 615,109 | 100.7 | (4,211) |
| HQIU | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 3,000 | 23,215 | 773.8 | (20,215) |
| Central Admin Svcs (Statewide Prorata) | 341,872 | 333,302 | 97.5 | 8,570 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 0 | 0.0 | 0 |
| Vehicle Operations | 0 | 0 | 0.0 | 0 |
| Attorney General Services | 190,000 | 21,557 | 11.3 | 168,443 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 7,500 | 0 | 0.0 | 7,500 |
| Court Reporter Services | 250 | 0 | 0.0 | 250 |
| Minor Equipment | 0 | 519 | 0.0 | (519) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 3,173,931 | 2,839,776 | 89.5 | 334,155 |
| **TOTALS, EXPENDITURES** | 6,918,009 | 6,355,228 | 91.9 | 562,781 |
| **Scheduled Reimbursements** | (384,000) | (318,613) | 83.0 | (65,387) |
| **Distributed Costs** | (31,131) | (22,044) | 70.8 | (9,087) |
| **NET TOTAL, EXPENDITURES** | 6,502,878 | 6,014,571 | 92.5 | 488,307 |
| **Unscheduled Reimbursements*** | | 0 | | |
| | | **6,014,571** | | |

** no authority to spend*

## Medical Board of California
### Fiscal Year 2014-15
### Budget Expenditure Report - Enforcement
### (As of May 31, 2015)
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | | | | |
| (Staff & Exec Director) | 2,490,580 | 1,927,018 | 77.4 | 563,563 |
| Board Members | 0 | 0 | 0.0 | 0 |
| Temp Help | 200,000 | 75,522 | 37.8 | 124,479 |
| Overtime | 14,554 | 5,465 | 37.5 | 9,089 |
| Staff Benefits | 2,909,133 | 1,172,310 | 40.3 | 1,736,824 |
| BL 12-03 Blanket | 0 | 448,960 | | 0 |
| **TOTALS, PERS SERVICES** | 5,614,267 | 3,629,274 | 64.6 | 2,433,954 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 15,340 | 114,557 | 746.8 | (99,217) |
| Fingerprint Reports | 0 | 832 | 0.0 | (832) |
| Printing | 35,279 | 32,472 | 92.0 | 2,807 |
| Communications | 14,510 | 48,073 | 331.3 | (33,563) |
| Postage | 60,000 | 54,416 | 90.7 | 5,584 |
| Insurance | 0 | 0 | 0.0 | 0 |
| Travel In-State | 17,531 | 30,172 | 172.1 | (12,641) |
| Travel Out-of-State | 0 | 1,677 | 0.0 | (1,677) |
| Training | 31,000 | 3,715 | 12.0 | 27,285 |
| Facilities Operation (Rent) | 367,140 | 345,349 | 94.1 | 21,791 |
| Consult/Prof Services | 985,494 | 967,874 | 98.2 | 17,620 |
| Departmental Prorata | 3,664,636 | 3,751,003 | 102.4 | (86,368) |
| HQIU | 16,320,487 | 15,014,644 | 92.0 | 1,305,843 |
| Consolidated Data Center | 0 | 0 | 0.0 | 0 |
| Data Processing | 17,492 | 40,068 | 229.1 | (22,576) |
| Central Admin Svcs (Statewide Prorata) | 2,103,100 | 2,094,530 | 99.6 | 8,570 |
| Major Equipment | 0 | 0 | 0.0 | 0 |
| Other Items of Expense | 0 | 5,620 | 0.0 | (5,620) |
| Vehicle Operations | 0 | 5,368 | 0.0 | (5,368) |
| Attorney General Services | 13,157,280 | 11,768,781 | 89.4 | 1,388,499 |
| Office of Administrative Hearings | 1,525,080 | 953,408 | 62.5 | 571,673 |
| Evidence/Witness | 1,820,939 | 1,375,247 | 75.5 | 445,693 |
| Court Reporter Services | 224,750 | 215,046 | 95.7 | 9,704 |
| Minor Equipment | 0 | 8,204 | 0.0 | (8,204) |
| Special Items of Expense | 0 | 0 | 0.0 | 0 |
| **TOTALS, OE&E** | 40,360,057 | 36,831,055 | 91.3 | 3,529,003 |
| **TOTALS, EXPENDITURES** | 45,974,324 | 40,460,328 | 88.0 | 5,513,996 |
| **Scheduled Reimbursements** | | | 0.0 | 0 |
| **Distributed Costs** | (744,054) | (527,505) | 70.9 | (216,549) |
| **NET TOTAL, EXPENDITURES** | 45,230,270 | 39,932,823 | 88.3 | 5,297,447 |
| **Unscheduled Reimbursements*** | | (268,499) | | |
| | | **39,664,324** | | |

** no authority to spend*

## Health Quality Investigation Unit (HQIU)
### Fiscal Year 2014-15
### Budget Expenditure Report
### (As of May 31, 2015)
(92% of fiscal year completed)

| OBJECT DESCRIPTION | BUDGET ALLOTMENT | EXPENDITURES / ENCUMBRANCES | PERCENT OF BUDGET EXPEND / ENCUMB | UNENCUMBERED BALANCE |
|---|---|---|---|---|
| **PERSONAL SERVICES** | | | | |
| Salary & Wages | 8,147,742 | 7,052,923 | 86.6 | 1,094,819 |
| Temp Help | 1,073,743 | 1,297,437 | 0.0 | (223,694) |
| Overtime | 5,559 | 12,547 | 225.7 | (6,988) |
| Staff Benefits | 4,338,004 | 3,878,219 | 89.4 | 459,785 |
| BL 12-03 Blanket | 0 | 7,140 | 0.0 | (7,140) |
| **TOTALS, PERS SERVICES** | 13,565,048 | 12,248,266 | 90.3 | 1,316,782 |
| **OPERATING EXP & EQUIP** | | | | |
| General Expense | 113,035 | 213,398 | 188.8 | (100,363) |
| Printing | 69,000 | 79,575 | 115.3 | (10,575) |
| Communications | 118,004 | 116,115 | 98.4 | 1,889 |
| Postage | 36,000 | 45,445 | 126.2 | (9,445) |
| Insurance | 39,000 | 30,056 | 77.1 | 8,945 |
| Travel In-State | 222,000 | 151,003 | 0.0 | 70,997 |
| Travel Out-of-State | 7,000 | 12 | 0.2 | 6,988 |
| Training | 27,000 | 25,904 | 0.0 | 1,096 |
| Facilities Operation (Rent) | 1,574,000 | 1,438,881 | 91.4 | 135,119 |
| Consult/Prof Services | 91,000 | 103,522 | 113.8 | (12,522) |
| Departmental Prorata | 0 | 0 | 0.0 | 0 |
| Consolidated Data Center | 15,000 | 0 | 0.0 | 15,000 |
| Data Processing | 0 | 39,218 | 0.0 | (39,218) |
| Central Admin Svcs (Statewide Prorata) | 0 | 0 | 0.0 | 0 |
| Major Equipment | 141,200 | 0 | 0.0 | 141,200 |
| Other Items of Expense | 28,000 | 0 | 0.0 | 28,000 |
| Vehicle Operations | 216,000 | 275,105 | 0.0 | (59,105) |
| Attorney General Services | 0 | 0 | 0.0 | 0 |
| Office of Administrative Hearings | 0 | 0 | 0.0 | 0 |
| Evidence/Witness | 0 | 10,984 | 0.0 | (10,984) |
| Court Reporter Services | 0 | 201,482 | 0.0 | (201,482) |
| Minor Equipment | 59,200 | 30,678 | 0.0 | 28,522 |
| Special Items of Expense | 0 | 5,000 | 0.0 | (5,000) |
| **TOTALS, OE&E** | 0 | 0 | 0.0 | 0 |
| | 2,755,439 | 2,766,378 | 100.4 | (10,939) |
| **TOTALS, EXPENDITURES** | 16,320,487 | 15,014,644 | 92.0 | 1,305,844 |
| **Scheduled Reimbursements** | | | | 0 |
| **Distributed Costs** | | | | 0 |
| **NET TOTAL, EXPENDITURES** | | | | |
| **Unscheduled Reimbursements*** | 16,320,487 | 15,014,644 | 92.0 | 1,305,844 |
| | | 0 | | |
| | | **15,014,644** | | |

** no authority to spend*

**MEDICAL BOARD OF CALIFORNIA**
**ATTORNEY GENERAL EXPENDITURES - FY 2014-15**
**DOJ AGENCY CODE 003573 - ENFORCEMENT (6303)**


| | | Number of Hours | Rate | Amount |
|---|---|---|---|---|
| July | Attorney Services | 6051.00 | $170.00 | $1,028,670.00 |
| | Paralegal Services | 214.25 | $120.00 | $25,710.00 |
| | Auditor/Analyst Services | 117.75 | $99.00 | $11,657.25 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $0.00 |
| | | | | $1,066,037.25 |
| August | Attorney Services | 5767.50 | $170.00 | $980,475.00 |
| | Paralegal Services | 228.75 | $120.00 | $27,450.00 |
| | Auditor/Analyst Services | 75.50 | $99.00 | $7,474.50 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $929.00 |
| | | | | $1,016,328.50 |
| September | Attorney Services | 6069.50 | $170.00 | $1,031,815.00 |
| | Paralegal Services | 187.25 | $120.00 | $22,470.00 |
| | Auditor/Analyst Services | 91.00 | $99.00 | $9,009.00 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $3.50 |
| | | | | $1,063,297.50 |
| October | Attorney Services | 6230.50 | $170.00 | $1,059,185.00 |
| | Paralegal Services | 208.00 | $120.00 | $24,960.00 |
| | Auditor/Analyst Services | 104.50 | $99.00 | $10,345.50 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $587.45 |
| | | | | $1,095,077.95 |
| November | Attorney Services | 4581.25 | $170.00 | $778,812.50 |
| | Paralegal Services | 162.50 | $120.00 | $19,500.00 |
| | Auditor/Analyst Services | 81.25 | $99.00 | $8,043.75 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $26.95 |
| | | | | $806,383.20 |
| December | Attorney Services | 4609.50 | $170.00 | $783,615.00 |
| | Paralegal Services | 162.50 | $120.00 | $19,500.00 |
| | Auditor/Analyst Services | 81.25 | $99.00 | $8,043.75 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $469.95 |
| | | | | $811,628.70 |

**Total July-Dec = $5,858,753.10**
**FY 2014-15 Budget = $13,157,279.00**

**MEDICAL BOARD OF CALIFORNIA**
**ATTORNEY GENERAL EXPENDITURES - FY 2014-15**
**DOJ AGENCY CODE 003573 - ENFORCEMENT (6303)**


| | | Number of Hours | Rate | Amount |
|---|---|---|---|---|
| January | Attorney Services | 10506.25 | $170.00 | $1,786,062.50 |
| | Paralegal Services | 431.25 | $120.00 | $51,750.00 |
| | Auditor/Analyst Services | 190.00 | $99.00 | $18,810.00 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $1,392.80 |
| | | | | $1,858,015.30 |
| February | Attorney Services | 5191.50 | $170.00 | $882,555.00 |
| | Paralegal Services | 223.75 | $120.00 | $26,850.00 |
| | Auditor/Analyst Services | 144.00 | $99.00 | $14,256.00 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $677.35 |
| | | | | $924,338.35 |
| March | Attorney Services | 5847.50 | $170.00 | $994,075.00 |
| | Paralegal Services | 318.50 | $120.00 | $38,220.00 |
| | Auditor/Analyst Services | 186.50 | $99.00 | $18,463.50 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $0.00 |
| | | | | $1,050,758.50 |
| April | Attorney Services | 5901.50 | $170.00 | $1,003,255.00 |
| | Paralegal Services | 323.00 | $120.00 | $38,760.00 |
| | Auditor/Analyst Services | 254.00 | $99.00 | $25,146.00 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $0.00 |
| | | | | $1,067,161.00 |
| May | Attorney Services | 5604.75 | $170.00 | $952,807.50 |
| | Paralegal Services | 263.25 | $120.00 | $31,590.00 |
| | Auditor/Analyst Services | 250.50 | $99.00 | $24,799.50 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $557.50 |
| | | | | $1,009,754.50 |
| June | Attorney Services | 0.00 | $170.00 | $0.00 |
| | Paralegal Services | 0.00 | $120.00 | $0.00 |
| | Auditor/Analyst Services | 0.00 | $99.00 | $0.00 |
| | Special Agent | 0.00 | $0.00 | $0.00 |
| | Cost of Suit | | | $0.00 |
| | | | | $0.00 |

**FYTD Total = $11,768,780.75**
**FY 2014-15 Budget = $13,157,279.00**

**ENFORCEMENT/PROBATION RECEIPTS**
**MONTHLY PROFILE: JULY 2012 - JUNE 2015**

| | Jul-12 | Aug-12 | Sep-12 | Oct-12 | Nov-12 | Dec-12 | Jan-13 | Feb-13 | Mar-13 | Apr-13 | May-13 | Jun-13 | FYTD Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Invest Cost Recovery | 250 | 300 | 650 | 2,349 | 750 | 700 | 4,527 | 600 | 2,595 | 6,888 | 600 | 500 | 20,709 |
| Criminal Cost Recovery | 1,409 | 705 | 619 | 5,136 | 964 | 10,914 | 2,411 | 1,198 | 676 | 489 | 39,422 | 2,871 | 66,814 |
| Probation Monitoring | 38,879 | 47,871 | 26,432 | 65,999 | 45,648 | 146,950 | 434,545 | 319,499 | 52,448 | 55,458 | 29,123 | 33,854 | 1,296,706 |
| Exam | 1,848 | 3,456 | 6,563 | 2,666 | 5,212 | 975 | 3,074 | 1,625 | 4,725 | 12,262 | 138 | 1,881 | 44,424 |
| Cite/Fine | 2,800 | 1,900 | 4,750 | 6,268 | 8,586 | 12,300 | 8,700 | 4,059 | 3,850 | 1,650 | 3,100 | 7,300 | 65,263 |
| MONTHLY TOTAL | 45,186 | 54,232 | 39,014 | 82,418 | 61,160 | 171,839 | 453,257 | 326,981 | 64,294 | 76,747 | 72,382 | 46,406 | 1,493,916 |
| FYTD TOTAL | 45,186 | 99,418 | 138,432 | 220,850 | 282,010 | 453,849 | 907,106 | 1,234,087 | 1,298,381 | 1,375,128 | 1,447,510 | 1,493,916 | |

| | Jul-13 | Aug-13 | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 | FYTD Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Invest Cost Recovery | 650 | 550 | 550 | 0 | 0 | 50 | 1,050 | 50 | 0 | 100 | 50 | 50 | 3,100 |
| Criminal Cost Recovery | 499 | 698 | 1,050 | 3,127 | 8,857 | 204 | 2,824 | 9,707 | 100 | 7,352 | 1,235 | 2,677 | 38,330 |
| Probation Monitoring | 69,560 | 54,598 | 28,303 | 0 | 100,901 | 115,137 | 439,694 | 161,273 | 109,197 | 136,412 | 63,742 | 65,414 | 1,344,231 |
| Exam | 7,232 | 6,164 | 4,537 | 0 | 5,568 | 1,500 | 7,328 | 3,075 | 4,929 | 5,784 | 3,953 | 9,338 | 59,408 |
| Cite/Fine | 2,850 | 5,450 | 2,000 | 4,925 | 2,975 | 2,850 | 1,100 | 1,100 | 0 | 750 | 1,850 | 5,500 | 31,350 |
| MONTHLY TOTAL | 80,791 | 67,460 | 36,440 | 8,052 | 118,301 | 119,741 | 451,996 | 175,205 | 114,226 | 150,398 | 70,830 | 82,979 | 1,476,418 |
| FYTD TOTAL | 80,791 | 148,251 | 184,691 | 192,743 | 311,044 | 430,784 | 882,780 | 1,057,985 | 1,172,211 | 1,322,609 | 1,393,439 | 1,476,418 | |

| | Jul-14 | Aug-14 | Sep-14 | Oct-14 | Nov-14 | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 | FYTD Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Invest Cost Recovery | 0 | 50 | 50 | 850 | 0 | 850 | 800 | 500 | 100 | 50 | 1,963 | | 5,213 |
| Criminal Cost Recovery | 844 | 29,175 | 4,060 | 13,683 | 15,041 | 1,185 | 1,133 | 6,184 | 1,499 | 7,009 | 1,194 | | 81,007 |
| Probation Monitoring | 64,316 | 41,643 | 52,840 | 73,499 | 56,938 | 146,603 | 414,557 | 227,809 | 117,226 | 60,897 | 46,859 | | 1,303,187 |
| Exam | 9,061 | 3,048 | 7,438 | 13,718 | 26,715 | 8,551 | 13,313 | 7,060 | 6,755 | 8,796 | 3,273 | | 107,728 |
| Cite/Fine | 3,000 | 3,000 | 1,000 | 5,000 | 0 | 0 | 0 | 0 | 2,500 | 0 | 0 | | 14,500 |
| MONTHLY TOTAL | 77,221 | 76,916 | 65,388 | 106,750 | 98,694 | 157,189 | 429,803 | 241,553 | 128,080 | 76,752 | 53,289 | 0 | 1,511,635 |
| FYTD TOTAL | 77,221 | 154,137 | 219,525 | 326,275 | 424,969 | 582,158 | 1,011,961 | 1,253,514 | 1,381,594 | 1,458,346 | 1,511,635 | 1,511,635 | |

excel:enfreceiptsmonthlyprofile.xls.revised 6/18/2015

**NOTE:** Beginning with October 2013, payment amounts reflect payments made directly to MBC; they do not include payments made through BreEZe online system. Online payment information is unavailable.

MEDICAL BOARD OF CALIFORNIA BUDGET OVERVIEW BY BOARD COMPONENT

| | EXEC | ENFORCE | OPERATION SAFE MEDICINE | LICENSING | ADMIN SERVICES | INFO SYSTEMS | PROBATION MONITORING | BOARD TOTAL |
|---|---|---|---|---|---|---|---|---|
| **FY 11/12** | | | | | | | | |
| $ Budgeted | 1,885,220 | 40,510,088 | | 5,336,015 | 1,585,554 | 3,069,028 | 2,013,445 | 54,399,350 |
| $ Spent * | 1,775,576 | 33,754,208 | | 4,745,127 | 1,543,636 | 2,810,667 | 503,487 | 45,132,701 * |
| Positions Authorized | 8.8 | 164.1 | | 53.3 | 15.0 | 17.0 | 25.0 | 283.2 |
| **FY 12/13** | | | | | | | | |
| $ Budgeted | 2,132,008 | 39,300,606 | 525,515 | 6,399,247 | 1,570,587 | 3,754,162 | 2,239,391 | 55,921,516 |
| $ Spent * | 1,762,058 | 37,058,493 | 672,700 | 5,770,689 | 1,671,010 | 3,001,574 | 720,484 | 50,657,008 * |
| Positions Authorized | 8.8 | 147.0 | 6.0 | 53.3 | 14.0 | 17.0 | 25.0 | 271.1 |
| **FY 13/14** | | | | | | | | |
| $ Budgeted | 2,304,466 | 40,127,776 | 716,147 | 8,386,914 | 1,833,855 | 3,363,720 | 2,281,227 | 59,014,105 |
| $ Spent* | 1,427,599 | 40,148,898 | 879,418 | 6,023,718 | 1,650,434 | 3,166,541 | 1,424,973 | 54,721,581 * |
| Positions Authorized | 8.8 | 147.0 | 6.0 | 53.3 | 14.0 | 17.0 | 25.0 | 271.1 |
| **FY 14/15** | | | | | | | | |
| $ Budgeted ** | 1,909,018 | 45,230,270 | | 6,502,878 | 1,576,586 | 3,154,922 | 2,065,009 | 60,438,683 |
| $ Spent thru 05/31* | 1,473,609 | 39,932,823 | | 6,014,571 | 1,373,489 | 2,771,108 | 2,143,105 | 53,708,705 * |
| Positions Authorized | 8.0 | 44.0 | | 53.1 | 14.0 | 17.0 | 24.0 | 160.1 |

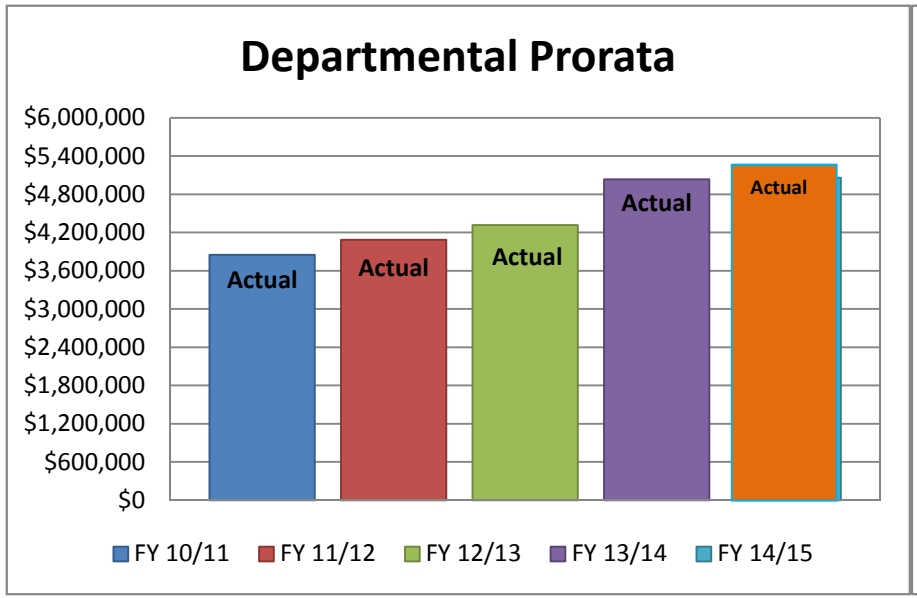
** net expenditures (includes unscheduled reimbursements)*

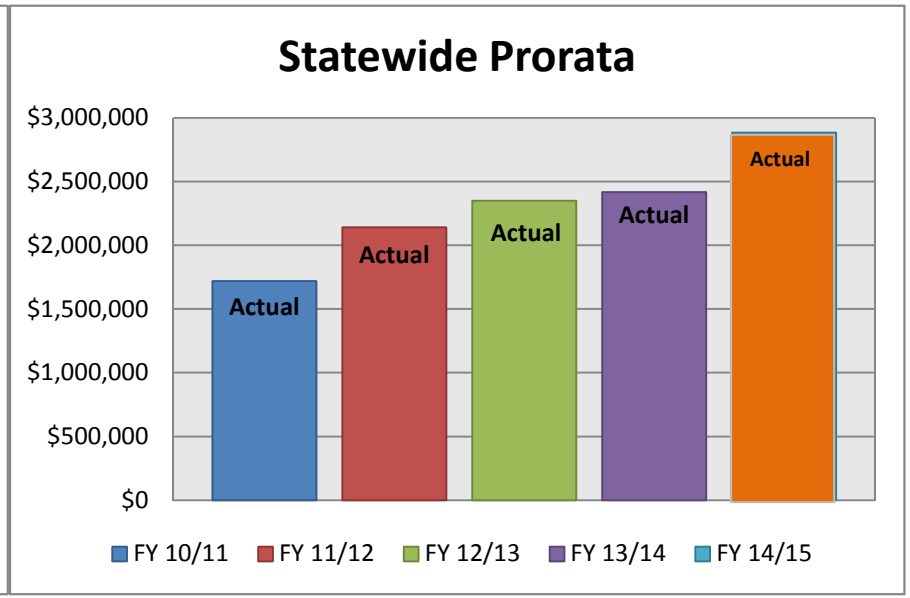
*** Budgeted does not include pending current year budget adjustments.*

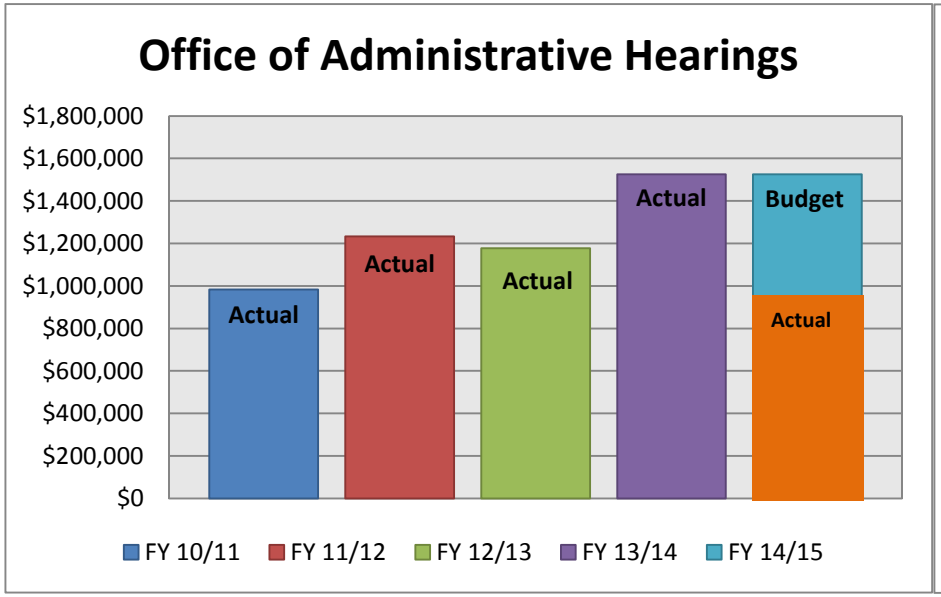
6/26/2015

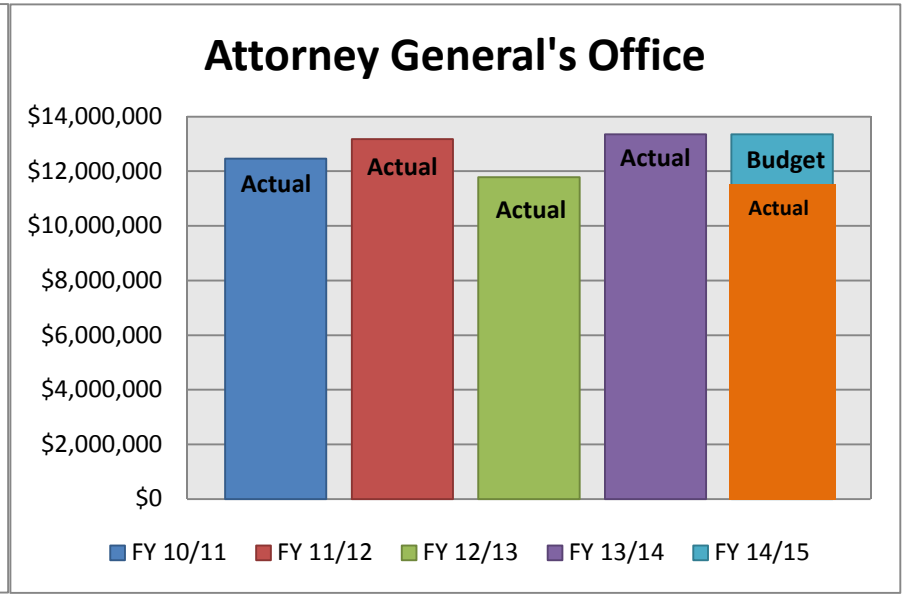
Budget Overview by Program.xls

External Agencies' Spending




FY 14/15 actual expenditures through 5/31/15

Board Members' Expenditures - Per Diem/Travel
July 1, 2014 - June 30, 2015

| NAMES | JULY | AUG | SEPT | OCT | NOV | DEC | JAN | FEB | MAR | APRIL | MAY | JUNE | YTD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| DR BHOLAT - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |
| DR. BISHOP - Per diem | $ 600.00 | $ 200.00 | $ 600.00 | $ 700.00 | $ 300.00 | $ 600.00 | $ 600.00 | $ 600.00 | $ 300.00 | $ 800.00 | $ 900.00 | $ - | $ 6,200.00 |
| Travel | $ 875.32 | $ - | $ 511.52 | $ 75.60 | $ - | $ 671.39 | $ 809.30 | $ - | $ - | $ 543.44 | $ 522.79 | $ - | $ 4,009.36 |
| | $ 1,475.32 | $ 200.00 | $ 1,111.52 | $ 775.60 | $ 300.00 | $ 1,271.39 | $ 1,409.30 | $ 600.00 | $ 300.00 | $ 1,343.44 | $ 1,422.79 | $ - | **$ 10,209.36** |
| DR GNANADEV - Per diem | $ 1,400.00 | $ 1,000.00 | $ 1,100.00 | $ 900.00 | $ 400.00 | $ 700.00 | $ 1,000.00 | $ - | $ - | $ - | $ - | $ - | $ 6,500.00 |
| Travel | $ 823.38 | $ - | $ 115.96 | $ 683.22 | $ - | $ - | $ 817.20 | $ - | $ - | $ - | $ - | $ - | $ 2,439.76 |
| | $ 2,223.38 | $ 1,000.00 | $ 1,215.96 | $ 1,583.22 | $ 400.00 | $ 700.00 | $ 1,817.20 | $ - | $ - | $ - | $ - | $ - | **$ 8,939.76** |
| DR HAWKINS - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |
| DR. KRAUSS - Per diem | $ 1,400.00 | $ - | $ - | $ 1,400.00 | $ - | $ - | $ - | $ - | $ - | $ - | $ 1,300.00 | $ - | $ 4,100.00 |
| Travel | $ - | $ - | $ - | $ 691.22 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 691.22 |
| | $ 1,400.00 | $ - | $ - | $ 2,091.22 | $ - | $ - | $ - | $ - | $ - | $ - | $ 1,300.00 | $ - | **$ 4,791.22** |
| DR. LEVINE - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ 750.51 | $ - | $ - | $ 442.00 | $ - | $ - | $ - | $ 245.39 | $ - | $ 1,437.90 |
| | $ - | $ - | $ - | $ 750.51 | $ - | $ - | $ 442.00 | $ - | $ - | $ - | $ 245.39 | $ - | **$ 1,437.90** |
| DR. LEWIS - Per diem | $ 1,500.00 | $ 900.00 | $ 1,000.00 | $ 1,500.00 | $ 900.00 | $ 900.00 | $ 1,300.00 | $ 1,200.00 | $ 1,000.00 | $ 700.00 | $ 1,100.00 | $ - | $ 12,000.00 |
| Travel | $ 615.60 | $ - | $ - | $ 1,550.71 | $ 530.33 | $ 756.80 | $ 968.22 | $ 900.61 | $ - | $ - | $ 563.70 | $ - | $ 5,885.97 |
| | $ 2,115.60 | $ 900.00 | $ 1,000.00 | $ 3,050.71 | $ 1,430.33 | $ 1,656.80 | $ 2,268.22 | $ 2,100.61 | $ 1,000.00 | $ 700.00 | $ 1,663.70 | $ - | **$ 17,885.97** |
| MR. LUI - Per diem | $ - | $ - | $ - | $ 300.00 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 300.00 |
| Travel | $ - | $ - | $ - | $ 414.51 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ 414.51 |
| | $ - | $ - | $ - | $ 714.51 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ 714.51** |
| MS. PINES - Per diem | $ 1,300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,200.00 | $ 1,000.00 | $ 1,000.00 | $ 1,500.00 | $ 1,200.00 | $ 1,100.00 | $ 1,500.00 | $ 1,000.00 | $ - | $ 13,000.00 |
| Travel | $ 677.46 | $ - | $ - | $ - | $ - | $ - | $ 783.75 | $ 656.95 | $ - | $ - | $ 70.00 | $ - | $ 2,188.16 |
| | $ 1,977.46 | $ 1,100.00 | $ 1,100.00 | $ 1,200.00 | $ 1,000.00 | $ 1,000.00 | $ 2,283.75 | $ 1,856.95 | $ 1,100.00 | $ 1,500.00 | $ 1,070.00 | $ - | **$ 15,188.16** |
| MS.SCHIPSKE - Per diem | $ 1,600.00 | $ 1,100.00 | $ 1,200.00 | $ 1,100.00 | $ 800.00 | $ 1,000.00 | $ 800.00 | $ 300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,100.00 | $ - | $ 11,200.00 |
| Travel | $ - | $ - | $ - | $ 166.36 | $ - | $ - | $ - | $ - | $ - | $ - | $ 129.40 | $ - | $ 295.76 |
| | $ 1,600.00 | $ 1,100.00 | $ 1,200.00 | $ 1,266.36 | $ 800.00 | $ 1,000.00 | $ 800.00 | $ 300.00 | $ 1,100.00 | $ 1,100.00 | $ 1,229.40 | $ - | **$ 11,495.76** |
| MR. SERRANO SWELL- Per diem | $ 700.00 | $ 700.00 | $ 700.00 | $ 800.00 | $ 600.00 | $ 500.00 | $ 500.00 | $ 700.00 | $ 700.00 | $ 700.00 | $ 700.00 | $ - | $ 7,300.00 |
| | $ 413.72 | $ - | $ - | $ 639.41 | $ - | $ - | $ 254.80 | $ - | $ - | $ - | $ 580.37 | $ - | $ 1,888.30 |
| | $ 1,113.72 | $ 700.00 | $ 700.00 | $ 1,439.41 | $ 600.00 | $ 500.00 | $ 754.80 | $ 700.00 | $ 700.00 | $ 700.00 | $ 1,280.37 | $ - | **$ 9,188.30** |
| MS.WRIGHT - Per diem | $ 1,600.00 | $ 1,400.00 | $ 1,600.00 | $ 1,600.00 | $ 900.00 | $ 1,400.00 | $ 1,400.00 | $ 1,100.00 | $ 1,000.00 | $ 1,100.00 | $ 1,100.00 | $ - | $ 14,200.00 |
| Travel | $ 210.03 | $ - | $ - | $ 669.34 | $ - | $ - | $ 705.24 | $ - | $ - | $ - | $ 65.00 | $ - | $ 1,649.61 |
| | $ 1,810.03 | $ 1,400.00 | $ 1,600.00 | $ 2,269.34 | $ 900.00 | $ 1,400.00 | $ 2,105.24 | $ 1,100.00 | $ 1,000.00 | $ 1,100.00 | $ 1,165.00 | $ - | **$ 15,849.61** |
| MS. YAROSLAVSKY - Per diem | $ 1,000.00 | $ 700.00 | $ 1,200.00 | $ 1,400.00 | $ 700.00 | $ 800.00 | $ 1,400.00 | $ 1,200.00 | $ 900.00 | $ 1,700.00 | $ - | $ - | $ 11,000.00 |
| Travel | $ 799.36 | $ 1,116.37 | $ 462.44 | $ 678.26 | $ - | $ - | $ 756.17 | $ 1,921.63 | $ - | $ - | $ 375.45 | $ - | $ 6,109.68 |
| | $ 1,799.36 | $ 1,816.37 | $ 1,662.44 | $ 2,078.26 | $ 700.00 | $ 800.00 | $ 2,156.17 | $ 3,121.63 | $ 900.00 | $ 1,700.00 | $ 375.45 | $ - | **$ 17,109.68** |
| DR. YIP - Per diem | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Travel | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | **$ -** |

As of: 6/19/15

| | |
|---|---|
| **TOTAL PER DIEM** | $ 85,800.00 |
| **TOTAL PER DIEM BUDGETED** | $ 31,500.00 |
| **TOTAL TRAVEL** | $ 27,010.23 |
| **TOTAL** | **$ 112,810.23** |

**Assembly Bill No. 93**

CHAPTER 10

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, relating to the state budget, to take effect immediately, budget bill.

[Approved by Governor June 24, 2015. Filed with Secretary of State June 24, 2015.]

LEGISLATIVE/JUDICIAL/EXECUTIVE

Legislative

| Item | | Amount |
|---|---|---|
| Provisions: | | |
| 1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code. | | |
| 1110-001-0175--For support of Medical Board of California, Registered Dispensing Opticians, payable from the Dispensing Opticians Fund | | 352,000 |
| Schedule: | | |
| (1) 1150020-Registered Dispensing Opticians | 352,000 | |
| Provisions: | | |
| 1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code. | | |
| 1110-001-0210--For support of Medical Board of California, Outpatient Setting, payable from the Outpatient Setting Fund of the Medical Board of California | | 27,000 |
| Schedule: | | |
| (1) 1150029-Outpatient Setting | 27,000 | |

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.

1110-001-0755--For support of Medical Board of California, payable from the Licensed Midwifery Fund 13,000

Schedule:

(1) 1150038-Licensed Midwifery Program 13,000

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.

1110-001-0758--For support of Medical Board of California, payable from the Contingent Fund of the Medical Board of California 61,045,000

Schedule:

(1) 1150019-Medical Board of California--Support 62,209,000

(2) 1150013-Medical Board of California--Distributed −780,000

(3) Reimbursements to 1150019-Medical Board of California--Support −384,000

# MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 31, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Enforcement Program Summary
STAFF CONTACT: Kimberly Kirchmeyer, Executive Director

Requested Action:
This report is intended to provide the Members with an update on the Enforcement Program at the Medical Board of California (Board). No action is needed at this time.

Expert Reviewer Program Update:
There are currently 1074 experts in the Board's expert database. 186 experts were utilized to review 307 cases between January and June 2015. **Attachment A** provides the Expert Reviewer Program statistics. Additional experts are needed in the following specialties:

- Addiction Medicine with additional certification in Family or Internal Medicine, or Psychiatry
- Dermatology
- Neurological Surgery
- Neurology
- OB/Gyn
- Pain Medicine (Active Private Practice)
- Pathology

Staffing Update:
The Enforcement Program presently has nine vacancies throughout its various units. The Central Complaint Unit (CCU) is currently experiencing a high vacancy rate due to two disability retirements in two months and one employee separating from state service, in addition to two other vacancies that resulted from internal promotions. CCU management has filled one part-time Staff Services Analyst (SSA) position and this individual will report to work on August 10, 2015. Interviews for three of the remaining vacancies have been scheduled, and interviews to fill the final vacancy are expected to be scheduled for the beginning of August. The Complaint Investigation Office filled the Special Investigator (non-sworn) position that was reported vacant in May but now has another vacancy. This position has been advertised and interviews are expected to be scheduled the beginning of August. The Probation Unit is currently recruiting for one Inspector I position and one Associate Governmental Program Analyst (AGPA) in Northern California, and one Inspector II position in the LA Metro area. A candidate for the Inspector I position in Northern California is in the final stages of recruitment and the two remaining positions have been advertised. The Discipline Coordination Unit is fully staffed.

Central Complaint Unit (CCU):
CCU has maintained an acceptable timeframe for the number of days elapsed between receipt of a complaint and the date of initiation, and is continuing its efforts to reduce the number of days needed for the completion of complaint processing. This has proven difficult with the increase in the number of vacancies in the unit but staff is working together to accomplish this goal, including working overtime to assist with the backlog of cases for the positions which are currently vacant.

Complaint Investigation Office (CIO):
The Special Investigators (non-sworn) in CIO continue to each carry a caseload of, approximately, 30-35 cases. Since the last report in May 2015 the unit has transmitted six (6) cases to the AG's Office; three (3) convictions, two (2) Petitions for Reinstatement and one (1) Medical Malpractice case. Staff also completed fourteen (14) face-to-face subject interviews and closed forty-nine (49) cases.

Discipline Coordination Unit (DCU):
DCU staff has continued to focus their efforts on restoring public disciplinary documents on the MBC website to ensure compliance with AB 1886. This assignment was near completion when another component related to Breeze was identified. Staff is working diligently on this task and hopes to have it completed in the near future.

Third Party Review of Disciplinary Action Demographic Data:
Staff is finalizing a Memorandum of Understanding (MOU) with the California Research Bureau (CRB) to review and analyze the Board's disciplinary action demographic data and issue a report on their findings. The draft MOU was submitted to the CRB in May 2015, however, there was a change in the administration at CRB and Board staff needed to wait until the new administration reviewed the MOU. Board staff met with CRB staff July 9 and discussed the CRB's suggested amendments. A revised MOU has been provided to CRB. The Board plans to have the MOU completed and finalized the week of July 20, 2015. Once the MOU has been signed by the CRB and the Board, work will begin on this project.

Statistics:
Unfortunately the Board still does not have access to reports that identify timeframes for the processing of complaints, investigations, or disciplinary actions. At this time, the primary focus is on obtaining reports related to the investigative process.

# Medical Board of California
# Expert Reviewer Program Report

## CASES BY SPECIALTY SENT FOR REVIEW
## USE OF EXPERTS BY SPECIALTY
## ACTIVE LIST EXPERTS BY SPECIALTY
## July 1, 2015

| SPECIALTY | Number of cases reviewed/sent to Experts (Jan-June 30, 2015) | Number of Experts used and how often utilized (Jan-June 30, 2015) | Active List Experts 1,074 |
|---|---|---|---|
| *ADDICTION* | | | 12 ↑ |
| ALLERGY & IMMUNOLOGY (A&I) | | | 3 |
| ANESTHESIOLOGY (Anes) | 8 | 6 EXPERTS<br>5 LIST EXPERTS REVIEWED 1 CASE<br>1 LIST EXPERT REVIEWED 4 CASES | 70 ↓ |
| COLON & RECTAL SURGERY (CRS) | | | 3 |
| *COMPLEMENTARY/ALTERNATIVE MEDICINE* | 2 | 1 EXPERT<br>1 LIST EXPERT REVIEWED 2 CASES | 18 ↓ |
| DERMATOLOGY (D) | 3 | 1 EXPERT<br>1 LIST EXPERT REVIEWED 3 CASES | 10 ↑ |
| EMERGENCY (EM)<br>*INVOLVED 6 COMPANION CASES | 12 | 6 EXPERTS<br>4 LIST EXPERTS REVIEWED 1 CASE<br>1 LIST EXPERT REVIEWED 2 CASES<br>1 LIST EXPERT REVIEWED 7 CASES* | 45 ↓ |
| FAMILY (FM)<br>*VERY RELIABLE EXPERT AND INCLUDED PREPARATION FOR HEARING | 50 | 22 EXPERTS<br>11 LIST EXPERTS REVIEWED 1 CASE<br>4 LIST EXPERTS REVIEWED 2 CASES<br>4 LIST EXPERTS REVIEWED 3 CASES<br>2 LIST EXPERTS REVIEWED 4 CASES<br>1 LIST EXPERT REVIEWED 12 CASES* | 65 ↑ |
| *HAND SURGERY* | | | 15 |
| *HOSPICE & PALLIATIVE MEDICINE* | 1 | 1 EXPERT<br>1 LIST EXPERT | 14 |
| INTERNAL (General Internal Med) | 35 | 29 EXPERTS<br>23 LIST EXPERTS REVIEWED 1 CASE<br>4 LIST EXPERTS REVIEWED 2 CASES<br>2 LIST EXPERTS REVIEWED 3 CASES | 159 ↑ |
| Cardiovascular Disease (Cv) | 5 | 5 EXPERTS<br>5 LIST EXPERTS REVIEWED 1 CASE | 33 ↑ |
| Gastroenterology (Ge) | 5 | 4 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE<br>1 LIST EXPERT REVIEWED 2 CASES | 20 ↑ |

# Medical Board of California
# Expert Reviewer Program Report

## CASES BY SPECIALTY SENT FOR REVIEW
## USE OF EXPERTS BY SPECIALTY
## ACTIVE LIST EXPERTS BY SPECIALTY
## July 1, 2015

| SPECIALTY | Number of cases reviewed/sent to Experts (Jan-June 30, 2015) | Number of Experts used and how often utilized (Jan-June 30, 2015) | Active List Experts 1,074 |
|---|---|---|---|
| Nephrology (Nep) | | | 13 ↑ |
| Pulmonary Disease (Pul) | 1 | 1 EXPERT<br>1 LIST EXPERT | 16 |
| Rheumatology (Rhu) | | | 6 |
| MIDWIFE REVIEWER | 1 | 3 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE | 5↓ |
| NEUROLOGICAL SURGERY (NS) | 5 | 4 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE<br>1 LIST EXPERT REVIEWED 2 CASES | 8 |
| NEUROLOGY (N)<br>*INVOLVED COMPANION CASES | 15 | 8 EXPERTS<br>4 LIST EXPERTS REVIEWED 1 CASE<br>2 LIST EXPERTS REVIEWED 2 CASES<br>1 LIST EXPERT REVIEWED 3 CASES<br>1 LIST EXPERT REVIEWED 5 CASES* | 23 ↑ |
| NEUROLOGY with Special Qualifications in Child Neurology (N/ChiN) | | | 3 |
| NUCLEAR MEDICINE (NuM) | | | 4 |
| OBSTETRICS & GYNECOLOGY (ObG) | 18 | 13 EXPERTS<br>7 LIST EXPERTS REVIEWED 1 CASE<br>4 LIST EXPERTS REVIEWED 2 CASES<br>1 LIST EXPERT REVIEWED 3 CASES<br>1 LIST EXPERT REVIEWED 5 CASES | 65↑ |
| OPHTHALMOLOGY (Oph) | 10 | 8 EXPERTS<br>6 LIST EXPERTS REVIEWED 1 CASE<br>2 LIST EXPERTS REVIEWED 3 CASES | 26 ↑ |
| ORTHOPAEDIC SURGERY (OrS) | 3 | 3 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE | 32 ↑ |
| OTOLARYNGOLOGY (Oto) | 1 | 1 EXPERT<br>1 LIST EXPERT | 17 ↓ |

# Medical Board of California
# Expert Reviewer Program Report

## CASES BY SPECIALTY SENT FOR REVIEW
## USE OF EXPERTS BY SPECIALTY
## ACTIVE LIST EXPERTS BY SPECIALTY
## July 1, 2015

| SPECIALTY | Number of cases reviewed/sent to Experts (Jan-June 30, 2015) | Number of Experts used and how often utilized (Jan-June 30, 2015) | Active List Experts 1,074 |
|---|---|---|---|
| PAIN MEDICINE (PM) | 18 | 13 EXPERTS | 31 ↑ |
| PATHOLOGY (Path) | | | 9 |
| PEDIATRICS (Ped) | 5 | 5 EXPERTS<br>5 LIST EXPERTS REVIEWED 1 CASE | 49 ↑ |
| Pediatric Cardiology (Cd) | 2 | 2 EXPERTS<br>2 LIST EXPERTS REVIEWED 1 CASE | 5 |
| PHYSICAL MEDICINE & REHABILITATION (PMR) | | | 9 ↑ |
| PLASTIC SURGERY (PIS) | 29 | 10 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE<br>2 LIST EXPERTS REVIEWED 2 CASES<br>1 LIST EXPERT REVIEWED 3 CASES<br>2 LIST EXPERTS REVIEWED 4 CASES<br>2 LIST EXPERTS REVIEWED 6 CASES | 41 ↓ |
| OCCUPATIONAL MEDICINE | 2 | 2 EXPERTS<br>2 LIST EXPERTS REVIEWED 1 CASE | 7 |
| PSYCHIATRY (Psyc)<br><br>*INVOLVED EVALUATIONS AND CASE REVIEWS<br>**INVOLVED COMBINATION OF EVALUATIONS, CASE REVIEWS AND PREPARATION/ TESTIMONY | 75 | 32 EXPERTS<br>15 EXPERTS REVIEWED 1 CASE<br>6 EXPERTS REVIEWED 2 CASES<br>6 EXPERTS REVIEWED 3 CASES<br>1 EXPERT REVIEWED 5 CASES<br>3 EXPERTS REVIEWED 6 CASES*<br>1 LIST EXPERT REVIEWED 9 CASES** | 70 ↓ |
| RADIOLOGY (Rad)<br><br>*COMPANION CASES | 7 | 3 EXPERTS<br>2 EXPERTS REVIEWED 1 CASE<br>1 EXPERT REVIEWED 5 CASES* | 30 ↓ |
| Radiation Oncology (Rad RO) | | | 4 |
| SLEEP MEDICINE (S) | 1 | 1 EXPERT<br>1 LIST EXPERT | 8 ↑ |

# Medical Board of California
# Expert Reviewer Program Report

## CASES BY SPECIALTY SENT FOR REVIEW
## USE OF EXPERTS BY SPECIALTY
## ACTIVE LIST EXPERTS BY SPECIALTY
## July 1, 2015

| SPECIALTY | Number of cases reviewed/sent to Experts (Jan-June 30, 2015) | Number of Experts used and how often utilized (Jan-June 30, 2015) | Active List Experts 1,074 |
|---|---|---|---|
| SURGERY (S) | 9 | 6 EXPERTS<br>3 LIST EXPERTS REVIEWED 1 CASE<br>3 LIST EXPERTS REVIEWED 2 CASES | 32 ↓ |
| Pediatric Surgery (PdS) | | | 3 |
| Vascular Surgery (VascS) | 1 | 2 EXPERTS<br>2 LIST EXPERTS REVIEWED 1 CASE | 7 ↓ |
| THORACIC SURGERY (TS) | | | 11 ↓ |
| (*MEDICAL) TOXICOLOGY* | 1 | 1 EXPERT<br>1 LIST EXPERT | 7 |
| UROLOGY (U) | 6 | 3 EXPERTS<br>2 LIST EXPERTS REVIEWED 1 CASE<br>1 LIST EXPERT REVIEWED 4 CASES | 14 ↓ |

| | |
|---|---|
| TOTAL CASES REVIEWED (Jan-Jun 30, 2015) | **307** |
| TOTAL LIST EXPERTS UTILIZED (Jan-Jun 30, 2015) | **186** |
| TOTAL ACTIVE LIST EXPERTS (as of June 30, 2015) | **1,074** |

Expert Program/susan (7/1/15)

# Medical Board of California
# Expert Reviewer Program Report

## CASES BY SPECIALTY SENT FOR REVIEW
## USE OF EXPERTS BY SPECIALTY
## ACTIVE LIST EXPERTS BY SPECIALTY
## July 1, 2015

| SPECIALTY | Number of cases reviewed/sent to Experts (Jan-June 30, 2015) | Number of Experts used and how often utilized (Jan-June 30, 2015) | Active List Experts 1,074 |
|---|---|---|---|

# MEDICAL BOARD OF CALIFORNIA

DATE REPORT ISSUED: July 10, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Licensing Program Summary
STAFF CONTACT: Curtis J. Worden, Chief of Licensing

STAFFING:
The Licensing Program staff continued to work hard in the fourth quarter of fiscal year (FY) 2014-15 to meet the needs of applicants for physician's and surgeon's (P&S) licenses or postgraduate training authorization letters (PTAL), licensees and consumers.

Licensing currently has the following vacancies:

- 1 Office Technician – Cashiering
- 1 Office Services Supervisor II – Call Center
- 1 Management Services Technician - US/CAN P&S Application Reviewer
- 1 Staff Services Analyst - IMG P&S Application Reviewer

Staff Currently Training:

- 3 Office Technicians – Application Setup
- 1 Management Services Technician – U S/CAN P&S Application Reviewer
- 1 Management Services Technician – US/CAN & IMG P&S License Issuer
- 2 Staff Services Analyst – IMG P&S Application Review
- 1 Associate Governmental Program Analyst – International Medical School Reviews

STATISTICS:
The statistics are on pages BRD 19D - 3 through BRD 19D - 8. Please note that most of the statistics normally provided are unavailable at this time due to the unavailability of reports in the BreEZe system. The statistics that have been provided have been obtained from the call center phone system, tracked manually, or from the BreEZe system.

Notable statistics include:

- Consumer Information Unit telephone calls answered: 19,957
  - 923 more calls answered than the previous quarter
- Consumer Information Unit telephone calls abandoned: 7,620
  - 2,467 less abandon calls than the previous quarter
- Consumer Information Unit telephone calls requesting a call back: 9,913
  - 2,445 less call back requests than the previous quarter
- P&S applications initial review completed: 1,545 per BreEZe report
- P&S licenses issued: 2,017
  - This is an increase of 626 licenses issued from the previous quarter.
- Total Number of P&S licenses issued FY 2014-15: 5,873
  - This is an increase of 351 licenses issued from FY 2013-14.

Licensing did not meet its goal of performing initial reviews of all new P&S applications within 45 days of receipt by the Board for five weeks out of the 13 weeks in the fourth quarter of FY 2014-15. The highest number of days the initial goal was exceeded was 12 days.

INTERNATIONAL MEDICAL SCHOOLS:
The statistics for the International Medical School Reviews are on page BRD 19D - 4.
The review of International Medical Schools continues to be a demanding workload for the Board. The Board received one new Self-Assessment Report and there are currently seven Self-Assessment Reports that are pending.

PHYSICIAN SPECIALTY BOARD APPLICATIONS:
The Board has one pending applications from physician specialty boards requesting approval by the Board.

OUTREACH:
The Licensing Outreach Manager has attended the following licensing workshops and when appropriate, residents from affiliated hospitals are invited to attend, and CURES signups were also offered:

- April 8: Mercy Merced; approximately 8 residents and staff
  Kaweah Delta (Visalia); approximately 25 residents and staff
- April 9: UC San Francisco-Fresno; approximately 40 residents
- April 22: Kaiser San Francisco Bay Area (San Francisco, Oakland, Santa Clara and Vallejo); approximately 90 residents
- April 24: UC Davis; approximately 100 residents
- June 18: UC Los Angeles intern orientation and vendor fair; 185 trainees, some program staff
- June 19: UC San Francisco intern orientation and vendor fair; 225 trainees, some program staff
- June 22: UC Riverside intern orientation; 41 trainees and some program staff
  Loma Linda University intern orientation; 175 trainees
  UC Irvine intern orientation; 150 trainees
- June 30: UC San Francisco resident/fellowship orientation and vendor fair; 200 trainees

All trips are planned in consideration of the Governor's Executive Order to limit and condense travel to reduce costs.

# WORKLOAD REPORT
## as of June 30, 2015



| CONSUMER INFORMATION UNIT FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Total Calls Answered | **78,260** | 22,092 | 17,177 | 19,034 | 19,957 |
| Calls Requesting Call Back | **42,728** | 11,376 | 9,081 | 12,358 | 9,913 |
| Calls Abandoned | **34,104** | 9,204 | 7,193 | 10,087 | 7,620 |
| Address Changes Completed | **12,063** | 5,231 | 3,369 | 2,235 | 1,228 |

| CONSUMER INFORMATION UNIT FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | FY 13/14 | Q1 | Q2 | Q3 | Q4 |
| Total Calls Answered | **90,472** | 24,897 | 21,921 | 19,896 | 23,758 |
| Calls Requesting Call Back | **30,804** | 3,861 | 8,542 | 10,625 | 7,776 |
| Calls Abandoned | **27,182** | 3,147 | 8,058 | 9,585 | 6,392 |
| Address Changes Completed | **5,201** | 1,674 | 1,140 | 2,387 | |

| PHYSICIAN & SURGEON DATA FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Applications Received | **N/A** | | | 1,967 | 1,516 |
| Initial Reviews Completed | **N/A** | | | | 1,545 |
| Total Pending | **N/A** | | | | |
| Reviewed | **N/A** | | | | |
| Not Reviewed | **N/A** | | | | |
| (SR2s Pending) | **N/A** | | | 16 | 21 |
| Licenses Issued | **5,873** | 1,222 | 1,243 | 1,391 | 2,017 |
| Renewals Issued | **N/A** | | | 16,675 | 16,666 |

| PHYSICIAN & SURGEON DATA FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | FY 13/14 | Q1 | Q2 | Q3 | Q4 |
| Applications Received | **6,308** | | | | |
| Initial Reviews Completed | **N/A** | | | | |
| Total Pending | **N/A** | | | | |
| Reviewed | **N/A** | | | | |
| Not Reviewed | **N/A** | | | | |
| (SR2s Pending) | **N/A** | | | | |
| Licenses Issued | **5,522** | 1,447 | 849 | 1,257 | 1,969 |
| Renewals Issued | **64,714** | | | | |

| Unrecognized and Disapproved Medical School Applicants (2135.7) - FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Received | **6** | 3 | 0 | 2 | 1 |
| Reviewed | **8** | 2 | 1 | 2 | 3 |
| Not Eligible | **0** | 0 | 0 | 0 | 0 |
| Licensed | **0** | 0 | 0 | 0 | 0 |

# WORKLOAD REPORT
## as of June 30, 2015

| SR 2 - CATEGORIES FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Alcohol/Drugs | **33** | 10 | 4 | 14 | 5 |
| PG/Medical Knowledge | **105** | 42 | 19 | 25 | 19 |
| Convictions | **39** | 14 | 10 | 7 | 8 |
| Other | **112** | 34 | 29 | 24 | 25 |

| SR 2 - CATEGORIES FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | FY 13/14 | Q1 | Q2 | Q3 | Q4 |
| Alcohol/Drugs | **13** | 5 | 0 | 4 | 4 |
| PG/Medical Knowledge | **67** | 19 | 9 | 18 | 21 |
| Convictions | **29** | 11 | 5 | 4 | 9 |
| Other | **95** | 29 | 16 | 24 | 26 |

| INTERNATIONAL MEDICAL SCHOOL APPLICATIONS FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Schools Pending Recognition at Beginning of Quarter | **N/A** | 101 | 106 | 102 | 111 |
| Pending Self-Assessment Reports (included above) | **N/A** | 6 | 7 | 7 | 7 |
| New Self-Assessment Reports Received | **1** | 1 | 0 | 0 | 0 |
| New Unrecognized Schools Received | **59** | 22 | 12 | 16 | 9 |
| School Recognized Pursuant to CCR 1314(a)(1) | **54** | 18 | 16 | 7 | 13 |
| School Recognized Pursuant to CCR 1314(a)(2) | **0** | 0 | 0 | 0 | 0 |
| TOTAL Schools Pending Recognition at End of Quarter | **N/A** | 106 | 102 | 111 | 107 |

| INTERNATIONAL MEDICAL SCHOOL APPLICATIONS FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | FY 13/14 | Q1 | Q2 | Q3 | Q4 |
| Schools Pending Recognition at Beginning of Quarter | **N/A** | 98 | 102 | 104 | 108 |
| Pending Self-Assessment Reports (included above) | **N/A** | 8 | 9 | 9 | 6* |
| New Self-Assessment Reports Received | **2** | 1 | 0 | 1 | 0 |
| New Unrecognized Schools Received | **73** | 21 | 25 | 10 | 17 |
| School Recognized Pursuant to CCR 1314(a)(1) | **68** | 18 | 23 | 7 | 20 |
| School Recognized Pursuant to CCR 1314(a)(2) | **1** | 0 | 0 | 0 | 1 |
| TOTAL Schools Pending Recognition at End of Quarter | **N/A** | 102 | 104 | 108 | 101 |

*Three CCR 1314.1(a)(2) school files were closed due to lack of response to the Board's requests for information.

| SPECIALTY BOARD APPLICATIONS FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Applications Received | **0** | 0 | 0 | 0 | 0 |
| Applications Pending | **N/A** | 1 | 1 | 1 | 1 |

# WORKLOAD REPORT
## as of June 30, 2015



| RESEARCH PSYCHOANALYST FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | **FY 14/15** | **Q1** | **Q2** | **Q3** | **Q4** |
| RP Applications Received | **12** | 4 | 2 | 2 | 4 |
| RP Licenses Issued | **7** | 1 | 4 | 1 | 1 |

| RESEARCH PSYCHOANALYST FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | **FY 13/14** | **Q1** | **Q2** | **Q3** | **Q4** |
| RP Applications Received | **3** | 1 | 0 | 2 | 0 |
| RP Licenses Issued | **3** | 1 | 0 | 2 | 0 |

| LICENSED MIDWIVES FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | **FY 14/15** | **Q1** | **Q2** | **Q3** | **Q4** |
| Applications Received | **45** | 3 | 20 | 16 | 6 |
| Applications Pending | **N/A** | 2 | 7 | 10 | 6 |
| Applications Withdrawn | **1** | 0 | 1 | 0 | 0 |
| Licenses Issued | **42** | 5 | 14 | 13 | 10 |
| Licenses Renewed | **153** | 43 | 39 | 29 | 42 |

| LICENSED MIDWIVES FY 13/14 | | | | | |
|---|---|---|---|---|---|
| | **FY 13/14** | **Q1** | **Q2** | **Q3** | **Q4** |
| Applications Received | **30** | 2 | 15 | 4 | 9 |
| Applications Pending | **N/A** | 7 | 5 | 4 | 3 |
| Licenses Issued | **28** | 1 | 12 | 5 | 10 |
| Licenses Renewed | **141** | 36 | 25 | 46 | 34 |

| FICTITIOUS NAME PERMITS FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | **FY 14/15** | **Q1** | **Q2** | **Q3** | **Q4** |
| P&S - FNP Received | **N/A** | | | 322 | 364 |
| P&S - FNP Issued | **N/A** | | | 255 | 339 |
| P&S - FNP Pending | **N/A** | | | N/A | N/A |
| P&S - FNP Renewed | **N/A** | | | 1,371 | 1,319 |
| Podiatric FNP Received | **N/A** | | | 5 | 9 |
| Podiatric FNP Issued | **N/A** | | | 7 | 4 |
| Podiatric FNP Pending | **N/A** | | | N/A | N/A |
| Podiatric FNP Renewed | **N/A** | | | 30 | 37 |

# WORKLOAD REPORT
## as of June 30, 2015



| OPTICAL REGISTRATIONS FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| RDO - Business Registrations Issued | N/A | | | 17 | 13 |
| RDO - Pending Applications Business | N/A | | | 14 | 26 |
| CLS - Out-of-State - Business Registrations Issued | N/A | | | 0 | 0 |
| CLS - Pending Out of State Applications -Business | N/A | | | 1 | 1 |
| Spectacle Lens Registrations Issued | N/A | | | 62 | 62 |
| Spectacle Lens - Pending Applications | N/A | | | 45 | 35 |
| Contact Lens Registrations Issued | N/A | | | 18 | 26 |
| Contact Lens - Pending Applications | N/A | | | 13 | 5 |
| Spectacle Lens Registrations Renewed | N/A | | | 239 | 287 |
| Contact Lens Registrations Renewed | N/A | | | 111 | 130 |

| POLYSOM FY 14/15 | | | | | |
|---|---|---|---|---|---|
| | FY 14/15 | Q1 | Q2 | Q3 | Q4 |
| Polysomnographic Trainee Applications Received | N/A | | | 19 | 8 |
| Polysomnographic Trainee Registrations Pending | N/A | | | 29 | 30 |
| Polysomnographic Trainee Registrations Issued | N/A | | | 3 | 4 |
| Polysomnographic Technician Applications Received | N/A | | | 10 | 5 |
| Polysomnographic Technician Registrations Pending | N/A | | | 42 | 37 |
| Polysomnographic Technician Registrations Issued | N/A | | | 5 | 4 |
| Polysomnogrpahic Technologist Applications Received | N/A | | | 7 | 9 |
| Polysomnogrpahic Technologist Applications Pending | N/A | | | 69 | 64 |
| Polysomnogrpahic Technologist Registrations Issued | N/A | | | 10 | 19 |

## SPECIAL PROGRAMS
## FY 14/15

| Permit | Applications Received | | | | Applications Reviewed | | | | Permits Issued | | | | Permits Renewed | | | | Total Pending | | | | Applications Withdrawn or Denied | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 |
| 2111 | 18 | 10 | 3 | 6 | 16 | 12 | 7 | 6 | 12 | 11 | 10 | 4 | 11 | 13 | 3 | 6 | 15 | 14 | 7 | 9 | 0 | 0 | 0 | 0 |
| 2112 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 2113 | 1 | 3 | 6 | 6 | 11 | 3 | 4 | 8 | 8 | 9 | 4 | 5 | 21 | 12 | 7 | 12 | 17 | 11 | 13 | 14 | 0 | 0 | 0 | 0 |
| 2168 | 0 | 2 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 3 | 0 | 4 | 3 | 1 | 4 | 3 | 5 | 2 | 2 | 0 | 0 | 0 | 0 |
| 2072 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1327 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

2111 - Visiting Fellow (doesn't satisfy postgraduate training required for licensure)

2112 - Hospital Fellowship Program Non-Citizen (does not satisfy postgraduate training required for licensure)

2113 - Medical School Faculty Member (may satisfy postgraduate training required for licensure)

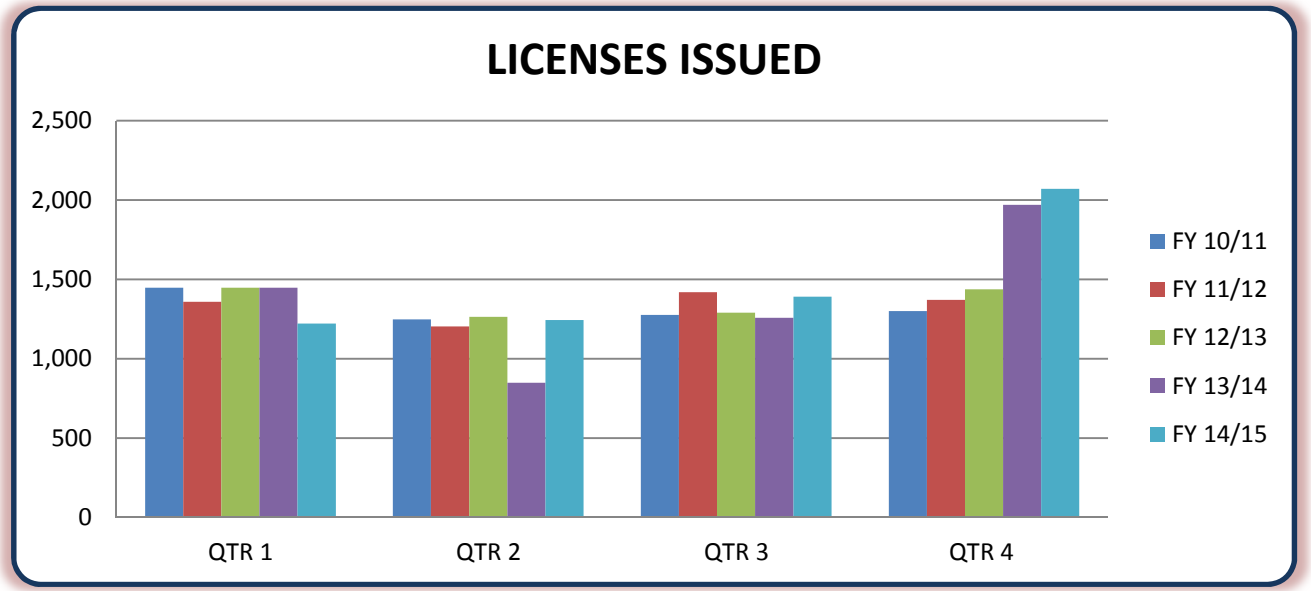
2168 - Special Faculty Permit (academically eminent; unrestricted practice within sponsoring medical school - not eligible for licensure)

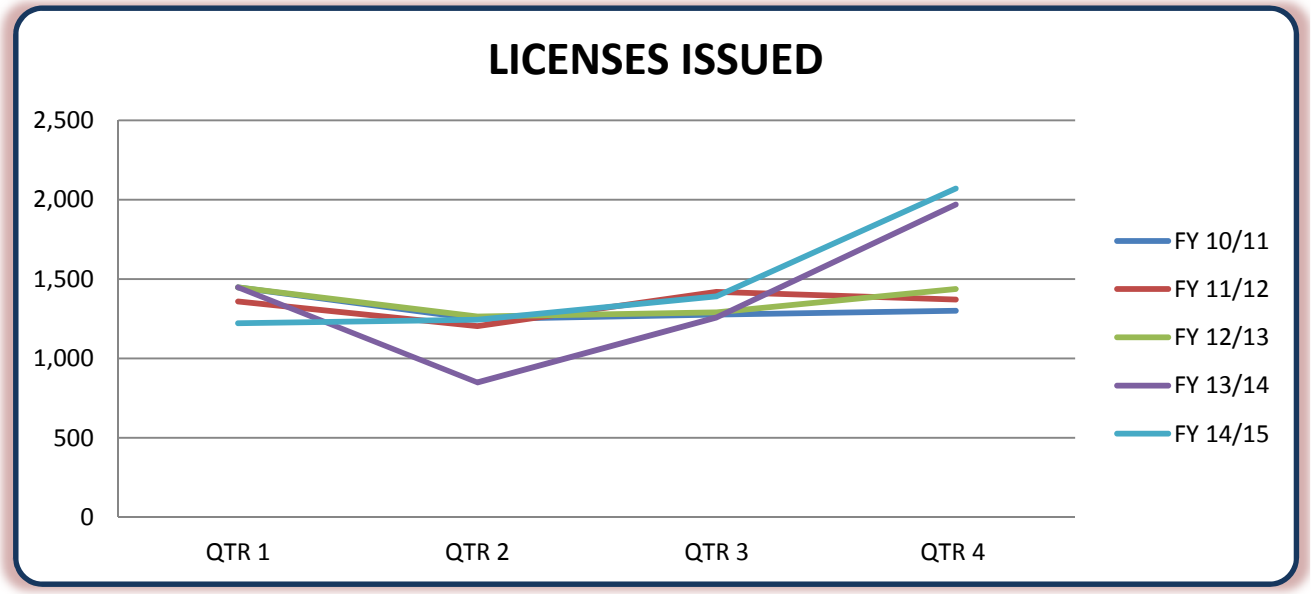
2072 - Special Permit - Correctional Facility

1327 - Medical Student Rotations - Non-ACGME Hospital Rotation

**PHYSICIAN'S AND SURGEON'S LICENSES ISSUED**
**Five Fiscal Year History**

| Fiscal Year | QTR 1 | QTR 2 | QTR 3 | QTR 4 | TOTAL |
|---|---|---|---|---|---|
| FY 14/15 | 1,222 | 1,243 | 1,391 | 2,071 | ***5,927*** |
| FY 13/14 | 1,447 | 849 | 1,257 | 1,969 | ***5,522*** |
| FY 12/13 | 1,447 | 1,264 | 1,291 | 1,438 | ***5,440*** |
| FY 11/12 | 1,358 | 1,203 | 1,419 | 1,371 | ***5,351*** |
| FY 10/11 | 1,447 | 1,248 | 1,277 | 1,300 | ***5,272*** |



***PHYSICIAN'S AND SURGEON'S LICENSE AND PTAL APPLICATIONS RECEIVED**
**Five Fiscal Year History**

| Fiscal Year | QTR 1 | QTR 2 | QTR 3 | QTR 4 | TOTAL |
|---|---|---|---|---|---|
| FY 14/15 | | | 1,967 | 1,516 | **N/A** |
| FY 13/14 | | | | | ***6,308*** |
| FY 12/13 | 1,722 | 1,715 | 1,708 | 1,552 | ***6,697*** |
| FY 11/12 | 1,711 | 1,666 | 1,862 | 1,390 | ***6,629*** |
| FY 10/11* | 1,503 | 1,505 | 1,543 | 1496 | ***6,047*** |

* Applications Received Total and Q4 numbers have been corrected to match the FY 10/11 Annual Report. Previous Reported as: Total 5,914 and Q4 as 1,363 in July 2011 Board Meeting Packet.

**CONTACT:**
cures@doj.ca.gov
(916) 227-3843

**June 30, 2015**

RE: CURES 2.0 Soft Launch and Phased Rollout

The Department of Justice (DOJ) and the Department of Consumer Affairs (DCA) are pleased to announce that the state's new Controlled Substance Utilization Review and Evaluation System – commonly referred to as "**CURES 2.0**" – will go live on July 1, 2015. This upgraded prescription drug monitoring program features a variety of performance improvements and added functionality.

In order to ensure a smooth transition from the current system, CURES 2.0 will be rolled out to users in phases over the next several months, beginning with early adoption by a select group of users who currently use CURES and meet the CURES 2.0 security standards, including minimum browser specifications.[1] DOJ is currently identifying prescribers and dispensers who meet these criteria and will contact and coordinate their enrollment into CURES 2.0. For all other current users, access to CURES 1.0 will not change and no action is needed at this time. For users and entities not currently enrolled in CURES, further notification will be provided in August as to the enrollment/registration process.

Practitioners and health systems should begin to prepare for universal adoption of the system by January 2016, at which point all users will be required to meet CURES 2.0's security standards. If you have any questions please contact cures@doj.ca.gov.

Thank you for your continued support of the CURES program.

[1] CURES 2.0 users will be required to use Microsoft Internet Explorer Version 11.0 or greater, Mozilla FireFox, Google Chrome, or Safari when accessing the system.

# MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 30, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Maternidad La Luz - Challenge Program
STAFF CONTACT: Curtis Worden, Chief, Licensing Program

## REQUESTED ACTION:

After review and consideration, determine whether Maternidad La Luz (MLL) Challenge Program meets the current minimum requirements for approval by the Medical Board of California (Board) pursuant to Business and Professions Code (BPC) section 2513. Staff is recommending approval of the MLL Challenge Program. Should the Members agree, a motion should be made to approve the MLL Challenge Program as meeting the minimum requirements pursuant to BPC section 2513.

## STAFF RECOMMENDATION:

Staff recommends approval of MLL's Challenge Program pursuant to BPC section 2513.

## EXECUTIVE SUMMARY:

BPC section 2513(a) states: "An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the Board. *Beginning January 1, 2015, new licensees shall not substitute clinical experience for formal didactic education." (Emphasis Added)* (Attachment 2).

Prior to January 1, 2015, Board staff contacted MLL requesting documentation to verify the existing MLL - Challenge Program is in compliance with California statute. The Board received written correspondence on August 7, 2014 from MLL advising the Board all Challenge applicants successfully complete the North American Registry of Midwives (NARM) examination which is based on a minimum of a one year program, and MLL provides a study guide to California Challenge Program applicants which includes the course work for an additional fifteen months. The study guide is identical to materials for the students attending the Three-Year program offered by MLL. The written examination process is the same for both the Challenge Program applicants and Three-Year program applicants.

In February 2015, MLL provided Board staff with an updated Challenge Program curriculum that validates it meets the requirements for midwifery certification. Board staff reviewed all materials and determined the MLL – Challenge Program meets the minimum requirements pursuant to BPC section 2513.

FISCAL CONSIDERATIONS:

There is no fiscal impact to the Board in granting approval to MLL to offer students the Challenge Program. If the Board grants approval to the program, this could increase access to midwifery care in California.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

In 2004, the Medical Board approved MLL's three year direct-entry midwifery program and application to add a challenge program as well.

ATTACHMENTS:

Attachment 1 – Business and Professions Code section 2512.5

Attachment 2 – Business and Professions Code section 2513

Attachment 3 – Business and Professions Code section 2514

Attachment 4 – California Code of Regulations, Title 16, Division 13, section 1379.30

Attachment 5 – California Code of Regulations, Title 16, Division 13, section 1379.31

# ATTACHMENT 1

## ARTICLE 24. Licensed Midwives [2505 - 2521]

*( Article 24 repealed and added by Stats. 1993, Ch. 1280, Sec. 3. )*

### 2512.5.

A person is qualified for a license to practice midwifery when he or she satisfies one of the following requirements:

(a) (1) Successful completion of a three-year postsecondary midwifery education program accredited by an accrediting organization approved by the board. Upon successful completion of the education requirements of this article, the applicant shall successfully complete a comprehensive licensing examination adopted by the board which is equivalent, but not identical, to the examination given by the American College of Nurse Midwives. The examination for licensure as a midwife may be conducted by the Division of Licensing under a uniform examination system, and the division may contract with organizations to administer the examination in order to carry out this purpose. The Division of Licensing may, in its discretion, designate additional written examinations for midwifery licensure that the division determines are equivalent to the examination given by the American College of Nurse Midwives.

(2) The midwifery education program curriculum shall consist of not less than 84 semester units or 126 quarter units. The course of instruction shall be presented in semester or quarter units under the following formula:

(A) One hour of instruction in the theory each week throughout a semester or quarter equals one unit.

(B) Three hours of clinical practice each week throughout a semester or quarter equals one unit.

(3) The midwifery education program shall provide both academic and clinical preparation equivalent, but not identical to that provided in programs accredited by the American College of Nurse Midwives, which shall include, but not be limited to, preparation in all of the following areas:

(A) The art and science of midwifery, one-half of which shall be in theory and one-half of which shall be in clinical practice. Theory and clinical practice shall be concurrent in the areas of maternal and child health, including, but not limited to, labor and delivery, neonatal well care, and postpartum care.

(B) Communications skills that include the principles of oral, written, and group communications.

(C) Anatomy and physiology, genetics, obstetrics and gynecology, embryology and fetal development, neonatology, applied microbiology, chemistry, child growth and development, pharmacology, nutrition, laboratory diagnostic tests and procedures, and physical assessment.

(D) Concepts in psychosocial, emotional, and cultural aspects of maternal and child care, human sexuality, counseling and teaching, maternal and infant and family bonding process, breast feeding, family planning, principles of preventive health, and community health.

(E) Aspects of the normal pregnancy, labor and delivery, postpartum period, newborn care, family planning or routine gynecological care in alternative birth centers, homes, and hospitals.

(F) The following shall be integrated throughout the entire curriculum:

(i) Midwifery process.

(ii) Basic intervention skills in preventive, remedial, and supportive midwifery.

(iii) The knowledge and skills required to develop collegial relationships with health care providers from other disciplines.

(iv) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior related to maternal and child health, illness, and wellness.

(G) Instruction shall also be given in personal hygiene, client abuse, cultural diversity, and the legal, social, and ethical aspects of midwifery.

(H) The program shall include the midwifery management process, which shall include all of the following:

(i) Obtaining or updating a defined and relevant data base for assessment of the health status of the client.

(ii) Identifying problems based upon correct interpretation of the data base.

(iii) Preparing a defined needs or problem list, or both, with corroboration from the client.

(iv) Consulting, collaborating with, and referring to, appropriate members of the health care team.

(v) Providing information to enable clients to make appropriate decisions and to assume appropriate responsibility for their own health.

(vi) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(vii) Assuming direct responsibility for implementing the plan of care.

(viii) Initiating appropriate measures for obstetrical and neonatal emergencies.

(ix) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the board has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the board to be equivalent to those adopted by the board pursuant to this article.

*(Amended by Stats. 1999, Ch. 655, Sec. 30. Effective January 1, 2000.)*

# ATTACHMENT 2

**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 2. HEALING ARTS [500 - 4999.129]**

*( Division 2 enacted by Stats. 1937, Ch. 399. )*

**CHAPTER 5. Medicine [2000 - 2521]**

*( Chapter 5 repealed and added by Stats. 1980, Ch. 1313, Sec. 2. )*

## ARTICLE 24. Licensed Midwives [2505 - 2521]

*( Article 24 repealed and added by Stats. 1993, Ch. 1280, Sec. 3. )*

### 2513.

(a) An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the board. Beginning January 1, 2015, new licensees shall not substitute clinical experience for formal didactic education.

(b) Completion of clinical experiences shall be verified by a licensed midwife or certified nurse-midwife, and a physician and surgeon, all of whom shall be current in the knowledge and practice of obstetrics and midwifery. Physicians and surgeons, licensed midwives, and certified nurse-midwives who participate in the verification and evaluation of an applicant's clinical experiences shall show evidence of current practice. The method used to verify clinical experiences shall be approved by the board.

(c) Upon successful completion of the requirements of paragraphs (1) and (2), the applicant shall also complete the licensing examination described in paragraph (1) of subdivision (a) of Section 2512.5.

*(Amended by Stats. 2013, Ch. 665, Sec. 5. Effective January 1, 2014.)*

# ATTACHMENT 3

## ARTICLE 24. Licensed Midwives [2505 - 2521]

*( Article 24 repealed and added by Stats. 1993, Ch. 1280, Sec. 3. )*

**2514.**

(a) Nothing in this chapter shall be construed to prevent a bona fide student from engaging in the practice of midwifery in this state, as part of his or her course of study, if both of the following conditions are met:

(1) The student is under the supervision of a licensed midwife or certified nurse-midwife, who holds a clear and unrestricted license in this state, who is present on the premises at all times client services are provided, and who is practicing pursuant to Section 2507 or 2746.5, or a physician and surgeon.

(2) The client is informed of the student's status.

(b) For the purposes of this section, a "bona fide student" means an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year postsecondary midwifery education program approved by the board.

*(Amended by Stats. 2013, Ch. 515, Sec. 17. Effective January 1, 2014.)*

# ATTACHMENT 4

Barclays Official California Code of Regulations Currentness
Title 16. Professional and Vocational Regulations
Division 13. Medical Board of California [FNA1]
Chapter 4. Licensed Midwives
Article 5. Educational Requirements (Refs & Annos)

16 CCR § 1379.30
**§ 1379.30. Midwifery Education Program.**
The midwifery education program shall prepare the midwife to practice as follows:
(a) Management of the normal pregnancy.
(b) Management of normal labor and delivery in all birth settings, including the following, when indicated:
(1) Administration of intravenous fluids, analgesics, postpartum oxytocics, and RhoGAM.
(2) Amniotomy during labor.
(3) Application of external or internal monitoring devices.
(4) Administration of local anesthesia, paracervical blocks, pudendal blocks, and local infiltration.
(5) Episiotomy.
(6) Repair of episiotomies and lacerations.
(7) Resuscitation of the newborn.
(c) Management of the normal postpartum period.
(d) Management of the normal newborn care, including administration of vitamin K and eye prophylaxis.
(e) Management of family planning and routine gynecological care including barrier methods of contraception such as diaphragms and cervical caps.
Note: Authority cited: Section 2514.5, Business and Professions Code.
Reference: Sections 2512.5 and 2514.5, Business and Professions Code.
HISTORY
1. New article 5 (sections 1379.30-1379.31) and section filed 7-23-98; operative 8-22-98 (Register 98, No. 30).
This database is current through 7/3/15 Register 2015, No. 27
16 CCR § 1379.30, 16 CA ADC § 1379.30

# ATTACHMENT 5

Barclays Official California Code of Regulations Currentness
Title 16. Professional and Vocational Regulations
Division 13. Medical Board of California [FNA1]
Chapter 4. Licensed Midwives
Article 5. Educational Requirements (Refs & Annos)

16 CCR § 1379.31
**§ 1379.31. Evidence of Completion of Educational Requirements.**
For purposes of Section 2515.5 of the code, either of the following shall be deemed satisfactory evidence that an applicant has met the educational standards required for licensure as a midwife:
(a) A diploma issued by a midwifery program approved by the division; or
(b) A notice of successful completion of the challenge program (credit by examination) issued by a program approved by the division.
Note: Authority cited: Section 2514.5, Business and Professions Code.
Reference: Section 2515.5, Business and Professions Code.
HISTORY
1. New section filed 7-23-98; operative 8-22-98 (Register 98, No. 30).
This database is current through 7/3/15 Register 2015, No. 27
16 CCR § 1379.31, 16 CA ADC § 1379.31