

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

**MEDICAL BOARD OF CALIFORNIA**

**May 5-6, 2016**

**Board Meeting**

**Legislative Packet**

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**MEDICAL BOARD OF CALIFORNIA - 2016 TRACKER LIST**  
**April 27, 2016**

<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>POSITION</b>	<b>AMENDED</b>
AB 1977	Wood & Waldron	Opioid Abuse Task Force	Asm. Health	Reco: Support	4/13/16
AB 1992	Jones	Pupil Health: Physical Examinations	Asm. AESTM	Reco: Oppose Unless Amended	
AB 2024	Wood	Critical Access Hospitals: Employment	Asm. Approps	Reco: Neutral	4/11/16
AB 2216	Bonta	Primary Care Residency Programs: Grant Program	Asm. Approps	Reco: Support	4/14/16
AB 2507	Gordon	Telehealth: Access	Assembly	Reco: Neutral	4/26/16
AB 2592	Cooper	Controlled Substances: Medicine Locking Closure Packages: Grant Program	Asm. Approps	Reco: Support	4/25/16
AB 2606	Grove	Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities	Asm. Approps	Reco: Support	
AB 2744	Gordon	Healing Arts: Referrals	Asm. Approps	Reco: Neutral	4/11/16
AB 2745	Holden	Healing Arts: Licensing and Certification	Asm. Approps	Sponsor/Support	4/25/16
SB 22	Roth, Cannella & Galgiani	Residency Training: Funding	Assembly	Reco: Support	2/29/16
SB 482	Lara	Controlled Substances: CURES Database	Assembly	Reco: Support	4/7/16
SB 563	Pan	Workers' Compensation: Utilization Review	Assembly	Support	1/4/16
SB 1033	Hill	Medical Board: Disclosure of Probationary Status	Sen. Approps	Reco: Neutral if Amended	3/17/16
SB 1039	Hill	Professions and Vocations	Sen. Approps	Support BPM	4/21/16

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

**MEDICAL BOARD OF CALIFORNIA - 2016 TRACKER LIST**  
**April 27, 2016**

	Provisions				
<b>SB 1174</b>	McGuire	Medi-Cal: Children: Prescribing Patterns: Psychotropic Medications	Sen. Approps	Reco: Support if Amended	3/28/16
<b>SB 1177</b>	Galgiani	Physician and Suregon Health and Wellness Program	Sen. Approps	Reco: Support	4/20/16
<b>SB 1189</b>	Pan & Jackson	Postmortem Examinations or Autopsies	Senate	Reco: Support	4/26/16
<b>SB 1195</b>	Hill	Professions and Vocations: Board Actions: Competitive Impact	Sen. Approps		4/6/16
<b>SB 1261</b>	Stone	Physicians and Surgeons: Licensure Exemption	Sen. Approps	Reco: Oppose	
<b>SB 1471</b>	Hernandez	Health Professions Development: Loan Repayment	Sen. Health	Reco: Support	4/21/16
<b>SB 1478</b>	Sen. B&P	Health Omnibus	Sen. Approps	Sponsor/Support MBC Provisions	

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

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 1977  
**Author:** Wood and Waldron  
**Bill Date:** April 13, 2016, Amended  
**Subject:** Opioid Abuse Task Force  
**Sponsor:** Author

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would establish an Opioid Abuse Task Force (Task Force) to develop recommendations regarding the abuse and misuse of opioids.

**BACKGROUND**

The issue of preventing inappropriate prescribing and misuse and abuse of opioids is of great importance to the Medical Board of California (Board). In September 2014, the Board hosted a free continuing medical education course in Los Angeles on Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy that was developed by the U.S. Food and Drug Administration. In November 2014, after numerous Prescribing Task Force meetings with interested parties, significant public comment, and discussions with experts in the field of pain management, the Board approved a new document entitled *Guidelines for Prescribing Controlled Substances for Pain* (Guidelines). These Guidelines are intended to educate physicians on effective prescribing for pain in California by avoiding under treatment, overtreatment or other inappropriate treatment of a patient's pain. The Guidelines' primary objective is improved patient outcomes and reduction of prescription overdose deaths. Lastly, the Board produced two public service announcements (PSAs) that address the issue of prescription drug abuse and misuse. One was directed towards physicians and one was directed towards consumers and featured gold medalist Natalie Coughlin. These PSAs have been aired on television stations throughout California and are posted on the Board's website.

**ANALYSIS**

This bill would make findings and declarations regarding opioid abuse and misuse in California and the number of drug overdose deaths involving prescription opioid pain relievers.

This bill would require, on or before February 1, 2017, health care service plans and health insurer representatives, in collaboration with advocates, experts, health care professionals, and other entities and stakeholders that they deem appropriate, to convene a Task Force. The Task Force would be required to develop recommendations regarding the abuse and misuse of opioids as a serious problem that affects the health, social welfare, and economic welfare of persons in California. The Task Force shall address the following:

- Interventions that have been scientifically validated and have demonstrated clinical

efficacy.

- Interventions that have measurable treatment outcomes.
- Collaborative, evidence-based approaches to resolving opioid abuse and misuse that incorporate both the provider and the patient into the solution.
- Education that engages and encourages providers to be prudent in prescribing opioids and to be proactive in defining care plans that include a plan to taper and stop opioid use.
- Review and consideration of medication coverage policies and formulary management and development of an interdisciplinary case management program that addresses quality, fraud, waste, and abuse.

This bill would require the Task Force to submit a report detailing its findings and recommendations to the Governor, the President pro Tempore of the Senate, the Speaker of the Assembly, and Assembly and Senate Health Committees by December 31, 2017. The Task Force is required to be dissolved by June 1, 2018.

This bill furthers the Board's mission of consumer protection and is in line with the Board's work on the important issue of preventing misuse and abuse and inappropriate prescribing of prescription drugs. Board staff thinks the issues assigned to the Task Force would be helpful to the Board's work as well, and Board staff would like to participate in the Task Force if this bill is signed into law to ensure the discussions are in line with the Board's Guidelines. Board staff suggests that the Board support this bill.

**FISCAL:** None

**SUPPORT:** None on file

**OPPOSITION:** None on file

**POSITION:** Recommendation: Support

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1977**

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**Introduced by Assembly Members Wood and Waldron**

February 16, 2016

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An act to ~~add Sections 2241.8 and 4069 to the Business and Professions Code, to add Section 1367.217 to add and repeal Division 10.10 (commencing with Section 11999.30) to the Health and Safety Code, and to add Section 10123.203 to the Insurance Code,~~ relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1977, as amended, Wood. ~~Healing arts: prescriptions: health coverage: abuse-deterrent opioid analgesics: Opioid Abuse Task Force.~~

~~(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. A violation of specified provisions of the Medical Practice Act is a crime.~~

~~This bill would prohibit a physician and surgeon from prescribing more than a 5-day supply of an opioid analgesic drug product to a patient the first time that physician and surgeon prescribes a patient such an opioid for acute pain due to surgery or injury. The bill would apply that 5-day supply limitation even if the patient has previously been prescribed such an opioid from a different physician and surgeon. Because the violation of those limitation requirements would be a crime under the Medical Practice Act, the bill would impose a state-mandated local program.~~

~~(2) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy.~~

~~This bill would require a pharmacist to inform a patient receiving for the first time an opioid analgesic drug product on proper storage and disposal of the drug. The bill would also require the California State Board of Pharmacy to adopt regulations to implement that requirement.~~

~~Because a knowing violation of these provisions would be a crime, this bill would impose a state-mandated local program.~~

~~(3) Existing~~

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. These provisions require specified services and drugs to be covered by the various health care service plans and health insurers.~~

~~This bill would require an individual or group health care service plan or disability insurance policy issued, amended, or renewed after January 1, to provide coverage on its formulary, drug list, or other lists of similar construct for at least one abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient. The bill would require that the total amount of copayments and coinsurance an enrollee or insured is required to pay for brand name abuse-deterrent opioid analgesic drug products covered pursuant to the bill not exceed the lowest cost-sharing level applied to brand name or generic prescription drugs covered under the applicable health care service plan or insurer, as specified. The bill would prohibit a health care service plan or insurer from requiring an enrollee or an insured to first use a non-abuse-deterrent opioid analgesic drug product before providing coverage for an abuse-deterrent opioid analgesic drug product, subject to uniformly applied utilization review requirements described in the bill. *require health care service plans and health insurers representatives, in collaboration with certain entities, to convene an Opioid Abuse Task Force on or before February 1, 2017, for the purpose of developing recommendations regarding the abuse and misuse of opioids, as specified. The bill would require the task force to submit a report detailing its findings and recommendations to specified government entities on or before December 31, 2017. The bill would require the task force to be dissolved on June 1, 2018. The bill would provide that a violation of these provisions by a health care service plan does not constitute a crime under the Knox-Keene Health*~~

*Care Service Plan Act of 1975. The bill would make related legislative findings and declarations.*

~~Because a willful violation of these requirements with respect to health care service plans would be a crime, this bill would impose a state-mandated local program.~~

~~(4) 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~~-no.  
State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) Abuse and misuse of opioids is a serious problem that affects  
3 the health, social, and economic welfare of the state.

4 (b) After alcohol, prescription drugs are the most commonly  
5 abused substances by Americans over 12 years of age.

6 (c) Almost 2,000,000 people in the United States suffer from  
7 substance use disorders related to prescription opioid pain relievers.

8 (d) Nonmedical use of prescription opioid pain relievers can be  
9 particularly dangerous when the products are manipulated for  
10 snorting, injection, or combination with other drugs.

11 (e) Deaths involving prescription opioid pain relievers represent  
12 the largest proportion of drug overdose deaths, greater than the  
13 number of overdose deaths involving heroin or cocaine.

14 (f) The number of unintentional overdose deaths involving  
15 prescription opioid pain relievers has more than quadrupled since  
16 1999.

17 ~~SEC. 2. Section 2241.8 is added to the Business and Professions~~  
18 ~~Code, to read:~~

19 ~~2241.8. (a) (1) No physician and surgeon shall prescribe more~~  
20 ~~than a five-day supply of an opioid analgesic drug product to a~~  
21 ~~patient the first time that physician and surgeon prescribes a patient~~  
22 ~~such an opioid for acute pain due to surgery or injury.~~

23 ~~(2) The initial prescription in paragraph (1) may be for a~~  
24 ~~non-abuse-deterrent opioid analgesic drug product and the five-day~~  
25 ~~supply limitation shall still apply.~~

1 ~~(3) This subdivision does not apply to an opioid prescription~~  
2 ~~for a patient in chronic pain.~~

3 ~~(b) Subdivision (a) shall apply even if the patient has previously~~  
4 ~~been prescribed such an opioid from a different physician and~~  
5 ~~surgeon.~~

6 ~~(c) For the purposes of this section, “opioid analgesic drug~~  
7 ~~product” has the same meaning as defined in Section 1367.217 of~~  
8 ~~the Health and Safety Code.~~

9 ~~SEC. 3. Section 4069 is added to the Business and Professions~~  
10 ~~Code, to read:~~

11 ~~4069. (a) A pharmacist shall inform a patient receiving for the~~  
12 ~~first time an opioid analgesic drug product on proper storage and~~  
13 ~~disposal of the drug. The board shall adopt regulations to~~  
14 ~~implement this section.~~

15 ~~(b) For the purposes of this section, “opioid analgesic drug~~  
16 ~~product” has the same meaning as defined in Section 1367.217 of~~  
17 ~~the Health and Safety Code.~~

18 ~~SEC. 4. Section 1367.217 is added to the Health and Safety~~  
19 ~~Code, immediately following Section 1367.215, to read:~~

20 ~~1367.217. (a) Notwithstanding any other law, an individual~~  
21 ~~or group health care service plan issued, amended, or renewed on~~  
22 ~~or after January 1, that provides coverage for an opioid analgesic~~  
23 ~~drug product shall comply with all of the following:~~

24 ~~(1) The plan shall provide coverage on its formulary, drug list,~~  
25 ~~or other lists of similar construct for at least one abuse-deterrent~~  
26 ~~opioid analgesic drug product per opioid analgesic active~~  
27 ~~ingredient.~~

28 ~~(2) Notwithstanding any deductible, the total amount of~~  
29 ~~copayments and coinsurance an enrollee is required to pay for~~  
30 ~~brand name abuse-deterrent opioid analgesic drug products covered~~  
31 ~~pursuant to this section shall not exceed the lowest cost-sharing~~  
32 ~~level applied to brand name prescription drugs covered under the~~  
33 ~~applicable health care service plan.~~

34 ~~(3) Notwithstanding any deductible, the total amount of~~  
35 ~~copayments and coinsurance an enrollee is required to pay for~~  
36 ~~generic abuse-deterrent opioid analgesic drug products covered~~  
37 ~~pursuant to this section shall not exceed the lowest cost-sharing~~  
38 ~~level applied to generic prescription drugs covered under the~~  
39 ~~applicable health care service plan.~~

1 ~~(4) The plan shall not require an enrollee to first use a~~  
2 ~~non-abuse-deterrent opioid analgesic drug product before providing~~  
3 ~~coverage for an abuse-deterrent opioid analgesic drug product.~~  
4 ~~This paragraph shall not be construed to prevent a health care~~  
5 ~~service plan from applying utilization review requirements,~~  
6 ~~including prior authorization, to abuse-deterrent opioid analgesic~~  
7 ~~drug products, provided that those requirements are applied to all~~  
8 ~~opioid analgesic drug products with the same type of drug release,~~  
9 ~~immediate or extended. This paragraph shall not be construed to~~  
10 ~~preclude the use of a non-abuse-deterrent opioid for the initial~~  
11 ~~prescription for a five-day supply.~~

12 ~~(b) The following definitions shall apply for purposes of this~~  
13 ~~section:~~

14 ~~(1) "Abuse-deterrent opioid analgesic drug product" means a~~  
15 ~~brand or generic opioid analgesic drug product approved by the~~  
16 ~~federal Food and Drug Administration (FDA) with~~  
17 ~~abuse-deterrence labeling claims indicating its abuse-deterrent~~  
18 ~~properties are expected to deter or reduce its abuse.~~

19 ~~(2) "Cost sharing" means any coverage limit, copayment,~~  
20 ~~coinsurance, deductible, or other out-of-pocket expense~~  
21 ~~requirement.~~

22 ~~(3) "Opioid analgesic drug product" means a drug product that~~  
23 ~~contains an opioid agonist and that is indicated by the FDA for the~~  
24 ~~treatment of pain, whether in an immediate release or extended~~  
25 ~~release formulation and whether or not the drug product contains~~  
26 ~~any other drug substance.~~

27 ~~SEC. 5. Section 10123.203 is added to the Insurance Code, to~~  
28 ~~read:~~

29 ~~10123.203. (a) Notwithstanding any other law, an insurer~~  
30 ~~issuing, amending, or renewing a policy of individual or group~~  
31 ~~disability insurance on or after January 1, that provides coverage~~  
32 ~~for an opioid analgesic drug product shall comply with all of the~~  
33 ~~following:~~

34 ~~(1) The insurer shall provide coverage on its formulary, drug~~  
35 ~~list, or other lists of similar construct for at least one~~  
36 ~~abuse-deterrent opioid analgesic drug product per opioid analgesic~~  
37 ~~active ingredient.~~

38 ~~(2) Notwithstanding any deductible, the total amount of~~  
39 ~~copayments and coinsurance an insured is required to pay for brand~~  
40 ~~name abuse-deterrent opioid analgesic drug products covered~~

1 pursuant to this section shall not exceed the lowest cost-sharing  
2 level applied to brand name prescription drugs covered under the  
3 applicable policy.

4 (3) Notwithstanding any deductible, the total amount of  
5 copayments and coinsurance an insured is required to pay for  
6 generic abuse-deterrent opioid analgesic drug products covered  
7 pursuant to this section shall not exceed the lowest cost-sharing  
8 level applied to generic prescription drugs covered under the  
9 applicable policy.

10 (4) The insurer shall not require an insured to first use a  
11 non-abuse-deterrent opioid analgesic drug product before providing  
12 coverage for an abuse-deterrent opioid analgesic drug product.  
13 This paragraph shall not be construed to prevent an insurer from  
14 applying utilization review requirements, including prior  
15 authorization, to abuse-deterrent opioid analgesic drug products,  
16 provided that those requirements are applied to all opioid analgesic  
17 drug products with the same type of drug release, immediate or  
18 extended. This paragraph shall not be construed to preclude the  
19 use of a non-abuse-deterrent opioid for the initial prescription for  
20 a five-day supply.

21 (b) The following definitions shall apply for purposes of this  
22 section:

23 (1) “Abuse-deterrent opioid analgesic drug product” means a  
24 brand or generic opioid analgesic drug product approved by the  
25 federal Food and Drug Administration (FDA) with  
26 abuse-deterrence labeling claims indicating its abuse-deterrent  
27 properties are expected to deter or reduce its abuse.

28 (2) “Cost sharing” means any coverage limit, copayment,  
29 coinsurance, deductible, or other out-of-pocket expense  
30 requirement.

31 (3) “Opioid analgesic drug product” means a drug product that  
32 contains an opioid agonist and that is indicated by the FDA for the  
33 treatment of pain, whether in an immediate release or extended  
34 release formulation and whether or not the drug product contains  
35 any other drug substance.

36 SEC. 6. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

1 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
2 ~~the Government Code, or changes the definition of a crime within~~  
3 ~~the meaning of Section 6 of Article XIII B of the California~~  
4 ~~Constitution.~~

5 *SEC. 2. Division 10.10 (commencing with Section 11999.30)*  
6 *is added to the Health and Safety Code, to read:*

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*DIVISION 10.10. OPIOID ABUSE TASK FORCE*

10 *11999.30. (a) On or before February 1, 2017, health care*  
11 *service plans and health insurer representatives, in collaboration*  
12 *with advocates, experts, health care professionals, and other*  
13 *entities and stakeholders that they deem appropriate, shall convene*  
14 *an Opioid Abuse Task Force. The task force shall develop*  
15 *recommendations regarding the abuse and misuse of opioids as a*  
16 *serious problem that affects the health, social welfare, and*  
17 *economic welfare of persons in the state. The task force shall*  
18 *address all of the following:*

19 *(1) Interventions that have been scientifically validated and*  
20 *have demonstrated clinical efficacy.*

21 *(2) Interventions that have measurable treatment outcomes.*

22 *(3) Collaborative, evidence-based approaches to resolving*  
23 *opioid abuse and misuse that incorporate both the provider and*  
24 *the patient into the solution.*

25 *(4) Education that engages and encourages providers to be*  
26 *prudent in prescribing opioids and to be proactive in defining care*  
27 *plans that include a plan to taper and stop opioid use.*

28 *(5) Review and consideration of medication coverage policies*  
29 *and formulary management and development of an*  
30 *interdisciplinary case management program that addresses quality,*  
31 *fraud, waste, and abuse.*

32 *(b) On or before December 31, 2017, the task force shall submit*  
33 *a report detailing its findings and recommendations to the*  
34 *Governor, the President pro Tempore of the Senate, the Speaker*  
35 *of the Assembly, the Senate Committee on Health, and the Assembly*  
36 *Committee on Health.*

37 *(c) The task force shall be dissolved and shall cease to exist on*  
38 *June 1, 2018.*

39 *(d) A violation of this section is not subject to Section 1390.*

1     11999.31. *This division shall remain in effect only until January*  
2 *1, 2019, and as of that date is repealed, unless a later enacted*  
3 *statute, that is enacted before January 1, 2019, deletes or extends*  
4 *that date.*

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 1992  
**Author:** Jones  
**Bill Date:** February 16, 2016, Introduced  
**Subject:** Pupil Health: Physical Examinations  
**Sponsor:** California Chiropractic Association

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would allow doctors of chiropractic, naturopathic doctors, and nurse practitioners to perform physical examinations for students in interscholastic athletic programs.

**ANALYSIS:**

The California Interscholastic Federation (CIF) oversees the protocols related to physical examinations for school interscholastic athletic programs. Existing law only allows these exams to be performed by a physician or a physician assistant in Section 49458 of the Education Code. In the past, schools have allowed chiropractors to execute sports physical forms. However, the Schools Insurance Authority published an Informational Review of the Use of Chiropractors in School Sports Programs and raised concerns about the use of chiropractors for these physical exams, as the examinations may exceed the chiropractic scope. The review also brings up a concern that possibly an injury could have possibly been avoided through an examination by a physician, so the school may have liability if it has accepted a sports physical form from a chiropractor. Because of this review and existing law, schools in California currently do not allow chiropractors to perform sports physicals.

The sponsor of this bill believes that doctors of chiropractic can practice chiropractic as taught in chiropractic schools and colleges. According to the sponsor, doctors of chiropractic are highly trained in the evaluation and management for concussions; this is the foundation for the argument that doctors of chiropractic can go beyond the chiropractic scope of practice. The fact sheet for this bill states, “Since 1922, doctors of chiropractic in California are authorized and licensed to diagnose and treat any condition, disease, or injury in any patient and to serve as portal of entry/primary care providers”.

As noted by the California Attorney General, a chiropractor must not engage in any care or treatment that is not based on “...a system of treatment by manipulation of the joints of the human body, by manipulation of anatomical displacements, articulation of the spinal column, including its vertebrae and cord, and he may use all necessary, mechanical, hygienic and sanitary measures incident to the care of the body in connection with said system of treatment, but not for the purpose of treatment, and not including measures as would constitute the practice of medicine, surgery, osteopathy, dentistry, or optometry, and without the use of

any drug or medicine included in materia medica.” 59 Op.Atty.Gen 420, 8-26-76, citing *Crees* at p. 214.

Chiropractors are authorized to perform certain types of limited examinations and evaluations, but there is currently no authorization for a chiropractor to perform sports physicals for student athletes. Existing law only allows physician assistants and physician and surgeons to perform physical examinations for interscholastic athletic programs. These sports physicals require a review of cardiac, neurologic and internal organ functioning, which is outside of the chiropractic scope of practice. Allowing a chiropractor to perform and sign off on these examinations, which include an evaluation and possible diagnosis, could negatively impact the students receiving these examinations, as chiropractors do not receive the same level of medical education and training as physicians. The Board’s primary mission is consumer protection and the Board should oppose this change. However, allowing a nurse practitioner, who is under the supervision of a physician, to perform these examinations, , seems reasonable. Physician assistants are already allowed to perform these examinations in existing law. Board staff suggests that the Board oppose this bill unless it is amended to only add nurse practitioners to the list of providers who can perform the physical examinations for student athletes.

**FISCAL:** None

**SUPPORT:** California Chiropractic Association  
Board of Chiropractic Examiners

**OPPOSITION:** California Medical Association

**POSITION:** Recommendation: Oppose Unless Amended

**ASSEMBLY BILL**

**No. 1992**

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**Introduced by Assembly Member Jones**

February 16, 2016

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An act to amend Section 49458 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1992, as introduced, Jones. Pupil health: physical examinations.

Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for participation in an interscholastic athletic program, as specified.

This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 49458 of the Education Code is amended  
2 to read:  
3 49458. When a school district or a county superintendent of  
4 schools requires a physical examination as a condition of  
5 participation in an interscholastic athletic program, the physical  
6 examination may be performed by a physician and ~~surgeon or~~  
7 *surgeon*, physician assistant practicing in compliance with Chapter  
8 7.7 (commencing with Section 3500) of Division 2 of the Business  
9 and Professions ~~Code~~. *Code, doctor of chiropractic practicing in*

1 *compliance with Chapter 2 (commencing with Section 1000) of*  
2 *Division 2 of the Business and Professions Code, naturopathic*  
3 *doctor practicing in compliance with Chapter 8.2 (commencing*  
4 *with Section 3610) of Division 2 of the Business and Professions*  
5 *Code, or nurse practitioner practicing in compliance with Article*  
6 *8 (commencing with Section 2834) of Chapter 6 of Division 2 of*  
7 *the Business and Professions Code.*

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2024  
**Author:** Wood  
**Bill Date:** April 11, 2016, amended  
**Subject:** Critical Access Hospitals: Employment  
**Sponsor:** Author

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would authorize, until January 1, 2024, a federally certified critical access hospital (CAH) to employ physicians and charge for professional services. This bill would specify that the CAH must not interfere with, control or otherwise direct the professional judgement of a physician. This bill would require the Legislative Analyst, on or before July 1, 2023, to provide a report to the Legislature regarding the impact of CAH's employing physicians.

**BACKGROUND:**

Current law (commonly referred to as the "Corporate Practice of Medicine" - B&P Code section 2400) generally prohibits corporations or other entities that are not controlled by physicians from practicing medicine, to ensure that lay persons are not controlling or influencing the professional judgment and practice of medicine by physicians.

Most states, including California, allow exemptions for some professional medical corporations to employ physicians. For example, California allows physician employees at teaching hospitals, some community clinics, and certain non-profit organizations. California is one of only a few states that prohibits the employment of physicians by hospitals.

SB 376 (Chesbro, Chapter 411, Statutes of 2003) directed the Board to establish a pilot program to provide for the direct employment of physicians by qualified district hospitals. The bill was sponsored by the Association of California Healthcare Districts to enable qualified district hospitals to recruit, hire, and employ physicians as full-time, paid staff in rural or underserved communities meeting specified criteria. The goal of the legislation was to improve the ability of district hospitals to attract physicians. However, participation in the pilot was very limited, only five participating hospitals and six participating physicians, and the Board was hindered in making a full evaluation due to lack of participation. The pilot expired on January 1, 2011.

**ANALYSIS**

This bill would establish a pilot program for federally certified CAHs to employ physicians and would require the Legislative Analyst to provide a report to the Legislature

containing data about the impact of CAH's employing physicians. The report would be due on or before July 1, 2023 and the pilot program would end on January 1, 2024. This bill would specify that the CAH shall not interfere with, control, or otherwise direct the professional judgment of a physician in a manner prohibited by the ban on the corporate practice of medicine.

The author states that he is sympathetic to the concerns about interference with the clinical judgment of any health care provider. There are a number of exceptions to the ban on the corporate practice of medicine currently allowed. The 26 CAHs are in rural communities that have difficulty recruiting and retaining physicians. Allowing these CAHs to employ physicians will help to provide economic security adequate to recruit physicians who will have to relocate to these rural communities where CAHs are located.

The Board has always believed that the ban on the corporate practice of medicine provides a very important protection for patients and physicians from inappropriate intrusions into the practice of medicine. That being said, CAHs are in remote, rural areas and this bill would help these hospitals to recruit and retain physicians, which will improve access to care in these rural communities. In addition, this bill is a pilot program that will be evaluated and the bill makes it clear that the CAH must not interfere with, control or otherwise direct the professional judgement of a physician. As such, Board staff is suggesting that the Board take a neutral position on this bill.

**FISCAL:** None

**SUPPORT:** Banner Lassen Medical Center; California Hospital Association; Catalina Island Medical Center; Fairchild Medical Center; Healdsburg District Hospital; Health Access California; Rural County Representatives of California; Jerold Phelps Community Hospital; Last Frontier Healthcare District Modoc Medical Center; Mayers Memorial Hospital District; Plumas District Hospital; San Bernardino Mountains Community Hospital; Santa Ynez Valley Cottage Hospital; St. Helena Hospital Clear Lake; Sutter Health; and Trinity Hospital

**OPPOSITION:** None on file

**POSITION:** Recommendation: Neutral

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2024**

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**Introduced by Assembly Member Wood  
(Coauthors: Assembly Members Bigelow, Dahle, Gallagher, and  
Oberholte)**

February 16, 2016

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An act to amend Section 2401 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2024, as amended, Wood. Critical access hospitals: employment. Existing law, the Medical Practice Act, restricts the employment of physicians and surgeons and doctors of podiatric medicine by a corporation or other artificial legal entity to entities that do not charge for professional services rendered to patients and are approved by the Medical Board of California, subject to specified exemptions.

This bill, until January 1, 2024, would also authorize a federally certified critical access hospital to employ those medical professionals and charge for professional services rendered by those medical professionals, and would prohibit the critical access hospital from directing or interfering with the professional judgment of a physician and surgeon, as specified. *The bill would require the Legislative Analyst, on or before July 1, 2023, to provide a report to the Legislature containing data on the impact of this authorization on federally certified critical access hospitals.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 2401 of the Business and Professions  
2 Code is amended to read:

3 2401. (a) Notwithstanding Section 2400, a clinic operated  
4 primarily for the purpose of medical education by a public or  
5 private nonprofit university medical school, which is approved by  
6 the board or the Osteopathic Medical Board of California, may  
7 charge for professional services rendered to teaching patients by  
8 licensees who hold academic appointments on the faculty of the  
9 university, if the charges are approved by the physician and surgeon  
10 in whose name the charges are made.

11 (b) Notwithstanding Section 2400, a clinic operated under  
12 subdivision (p) of Section 1206 of the Health and Safety Code  
13 may employ licensees and charge for professional services rendered  
14 by those licensees. However, the clinic shall not interfere with,  
15 control, or otherwise direct the professional judgment of a  
16 physician and surgeon in a manner prohibited by Section 2400 or  
17 any other law.

18 (c) Notwithstanding Section 2400, a narcotic treatment program  
19 operated under Section 11876 of the Health and Safety Code and  
20 regulated by the State Department of Health Care Services, may  
21 employ licensees and charge for professional services rendered by  
22 those licensees. However, the narcotic treatment program shall  
23 not interfere with, control, or otherwise direct the professional  
24 judgment of a physician and surgeon in a manner prohibited by  
25 Section 2400 or any other law.

26 (d) Notwithstanding Section 2400, a hospital that is owned and  
27 operated by a licensed charitable organization, that offers only  
28 pediatric subspecialty care, that, prior to January 1, 2013, employed  
29 licensees on a salary basis, and that has not charged for professional  
30 services rendered to patients may, commencing January 1, 2013,  
31 charge for professional services rendered to patients, provided the  
32 following conditions are met:

33 (1) The hospital does not increase the number of salaried  
34 licensees by more than five licensees each year.

35 (2) The hospital does not expand its scope of services beyond  
36 pediatric subspecialty care.

1 (3) The hospital accepts each patient needing its scope of  
2 services regardless of his or her ability to pay, including whether  
3 the patient has any form of health care coverage.

4 (4) The medical staff concur by an affirmative vote that the  
5 licensee’s employment is in the best interest of the communities  
6 served by the hospital.

7 (5) The hospital does not interfere with, control, or otherwise  
8 direct a physician and surgeon’s professional judgment in a manner  
9 prohibited by Section 2400 or any other law.

10 (e) (1) Notwithstanding Section 2400, *until January 1, 2024*,  
11 a federally certified critical access hospital may employ licensees  
12 and charge for professional services rendered by those licensees.  
13 However, the critical access hospital shall not interfere with,  
14 control, or otherwise direct the professional judgment of a  
15 physician and surgeon in a manner prohibited by Section 2400 or  
16 any other law.

17 (2) *On or before July 1, 2023, the Legislative Analyst shall*  
18 *provide a report to the Legislature containing data about the*  
19 *impact of paragraph (1) on federally certified critical access*  
20 *hospitals between January 1, 2017, and January 1, 2024, inclusive.*

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2216  
**Author:** Bonta  
**Bill Date:** April 14, 2016, Amended  
**Subject:** Primary Care Residency Programs: Grant Program  
**Sponsor:** California Primary Care Association (CPCA)

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would establish the Teaching Health Center Primary Care Graduate Medical Education Fund (Fund) for purposes of funding primary care residency programs.

**BACKGROUND**

Graduate medical education (GME) or residency training, is the second phase of the educational process that prepares physicians for independent practice. Resident physicians typically spend three to seven years in GME training. Medicare has been the largest single funder of GME, but in 1997 Congress capped the number of residency slots for which hospitals could receive Medicare GME funding and has not increased this cap. In California, there are many more individuals that would like a residency slot in California, than there are residency positions available.

The Teaching Health Center Graduate Medical Education (THCGME) Program has been funded since 2011, and is set to expire in 2015. The THCGME has increased the number of primary care physicians and dentists training to care for underserved populations nationwide. Teaching Health Centers (THCs) were created under the Patient Protection and Affordable Care Act and since their creation, six THCs have opened in California. They are located in Modesto, Fresno, San Bernardino, Redding, Bakersfield, and San Diego. Without continued federal funding, most of the Teaching Health Centers (THCs) report they would be unlikely to continue current residency recruitment and enrollment, threatening the viability of the THCGME Program.

**ANALYSIS**

This bill would establish the Fund in the State Treasury and would require the Director of the Office of Statewide Health Planning and Development (OSHPD) to award planning and development grants from the Fund to THCs for the purpose of establishing new accredited or expanded primary care residency programs. This bill would provide that the grants awarded must not be for more than three years and that the maximum award to a THC must not be more than \$500,000. This bill would specify that grants be used to cover the costs of establishing or expanding a primary care residency training program, including costs associated with curriculum development, recruitment, training, retention of residents and faculty, accreditation,

faculty salaries during the development phase, and technical assistance. This bill would define a sustaining grant as a grant awarded to ensure the continued operation of an accredited THC, whether that accreditation was first awarded by this bill or prior to the enactment of this bill. This bill would require OSHPD, subject to an appropriation by the Legislature, to award grants from the Fund to the THC's operating accredited primary care residency programs, and would require OSHPD to determine the amount of grants awarded per resident by taking into account the direct and indirect costs of graduate medical education.

According to the author, THCs are a proven model for addressing the primary care provider shortage that six of nine California regions face and notes that 40% of THC graduates enter into primary care practice in nonprofit community health centers in underserved communities. The author believes that this bill will help ensure California has a sufficient supply of health workforce professionals to serve the needs of this diverse state.

This bill will increase funding for residency programs in California, which will help promote the Board's mission of increasing access to care for consumers. Board staff is suggesting that the Board take a support position on this bill.

**FISCAL:** None

**SUPPORT:** CPCA (sponsor); Alameda Health Consortium; AltaMed Services Corporation; Ampla Health; Association of California Healthcare Districts; Community Clinic Association of Los Angeles County; California School Employees Association; Clinica Sierra Vista; Community Clinic Consortium; Community Health Center Network; County Health Executives Association of California; Family Health Centers of San Diego; Health Alliance of Northern California; Health and Life Organization, Inc.; Kheir Center; Marin Community Clinics; Mountain Valleys Health Centers; North Coast Clinics Network; North County Health Services; Omni Family Health; Open Door Community Health Centers; Ravenswood Family Health Center; Redwood Community Health Coalition, SanYsidro Health Center; St. John's Well Child and Family Center; Tiburcio Vasquez Health Center, Inc.; Valley Community Healthcare; Western Sierra Medical Clinic; and White Memorial Community Health Center

**OPPOSITION:** California Right to Life Committee, Inc.

**POSITION:** Recommendation: Support

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2216**

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**Introduced by Assembly Member Bonta**

February 18, 2016

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An act to add Article 1.5 (commencing with Section 128245) to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, relating to health workforce development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2216, as amended, Bonta. Primary care residency programs: grant program.

Existing federal and state laws contain programs that authorize loan forgiveness to physicians, dentists, and individuals enrolled in a postsecondary institution studying medicine or dentistry who agree to practice in medically or dentally underserved areas. Under existing law, the Teaching Health Center Graduate Medical Education (THCGME) program was created by the federal Patient Protection and Affordable Care Act for the purpose of awarding grants to teaching health centers for the purpose of establishing new accredited or expanded primary care residency programs.

This bill would establish the Teaching Health Center Primary Care Graduate Medical Education Fund for purposes of funding primary care residency programs, as specified, subject to appropriation by the Legislature. The bill would establish criteria for the awarding of grants under these provisions to teaching health centers, as defined. The bill would require the Office of Statewide Health Planning and Development

and the Director of Statewide Health Planning and Development to administer these provisions, as specified. The bill would require the office to adopt emergency regulations to implement these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Article 1.5 (commencing with Section 128245)  
2 is added to Chapter 4 of Part 3 of Division 107 of the Health and  
3 Safety Code, to read:

4  
5 Article 1.5. Teaching Health Center Primary Care Graduate  
6 Medical Education Act of 2016  
7

8 128245. For purposes of this article, the following terms have  
9 the following meanings:

10 (a) "Director" means the Director of Statewide Health Planning  
11 and Development.

12 (b) "Fund" means the Teaching Health Center Primary Care  
13 Graduate Medical Education Fund.

14 (c) "Office" means the Office of Statewide Health Planning and  
15 Development.

16 (d) *"Sustaining grant" means a grant awarded to ensure the*  
17 *continued operation of an accredited teaching health center,*  
18 *whether that accreditation was first awarded pursuant to the*  
19 *process created by this article or the accreditation was awarded*  
20 *prior to the enactment of this article.*

21 ~~(d)~~  
22 (e) "Teaching health center" has the same meaning as defined  
23 in Article 1 (commencing with Section 128200).

24 128246. There is in the State Treasury the Teaching Health  
25 Center Primary Care Graduate Medical Education Fund, which  
26 fund is hereby created.

27 128247. (a) Subject to appropriation by the Legislature, the  
28 director shall award planning and development grants from the  
29 fund to teaching health centers for the purpose of establishing new  
30 accredited or expanded primary care residency programs.

31 (b) Grants awarded under this section shall be for a term of not  
32 more than three years and the maximum award to a teaching health

1 center shall not be more than five hundred thousand dollars  
2 (\$500,000).

3 (c) A grant awarded pursuant to this section shall be used to  
4 cover the costs of establishing or expanding a primary care  
5 residency training program described in subdivision (a), including  
6 costs associated with curriculum development, recruitment,  
7 training, and retention of residents and faculty, accreditation by  
8 the Accreditation Council for Graduate Medical Education  
9 (ACGME), the American Dental Association (ADA), or the  
10 American Osteopathic Association (AOA), faculty salaries during  
11 the development phase, and technical assistance.

12 (d) A teaching health center seeking a grant under this section  
13 shall submit an application to the office in the format prescribed  
14 by the office. The director shall evaluate those applications and  
15 award grants based on criteria consistent with a teaching health  
16 center's readiness and other factors indicating the likelihood of  
17 success at implementing a primary care residency program.

18 128248. (a) Subject to appropriation by the Legislature, the  
19 director shall award sustaining grants from the fund to teaching  
20 health centers operating primary care residency programs  
21 accredited by the Accreditation Council for Graduate Medical  
22 Education (ACGME), the American Dental Association (ADA),  
23 or the American Osteopathic Association (AOA).

24 (b) The office shall determine the amount of grants awarded  
25 per resident by taking into account the direct and indirect costs of  
26 graduate medical education. The amount of grants awarded per  
27 resident shall be updated, as appropriate, on an annual basis.

28 128249. The office shall promulgate emergency regulations  
29 to implement this article.

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2507  
**Author:** Gordon  
**Bill Date:** April 26, 2016, Amended  
**Subject:** Telehealth: Access  
**Sponsor:** Stanford Health Care

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would provide a minor expansion to existing telehealth laws in the Medical Practice Act.

**BACKGROUND**

Telehealth is the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management and self-management of a patient's health care while the patient is at the originating site (e.g. patient's home) and the health care provider is at a distant site (e.g. clinic).

Telehealth is seen as a tool in medical practice, not a separate form of medicine. There are no legal prohibitions to using technology in the practice of medicine, as long as the practice is done by a California licensed physician. The standard of care is the same whether the patient is seen in-person, through telehealth or other methods of electronically enabled health care. Physicians need not reside in California, as long as they have a valid, current California license.

**ANALYSIS**

This bill would specify that the definition of telehealth includes video and telephone communications. The bill would allow the acceptable forms of prior consent to include digital consent, in addition to the verbal and oral consent allowed in existing law. This bill would prohibit health care providers from requiring the use of telehealth when it is not appropriate. This bill would specify that a patient shall not be precluded from receiving in-person health care delivery services.

This bill would also provide a telehealth reimbursement infrastructure and would require the same coverage and reimbursement for services provided to a patient through telehealth as is required when the patient receives equivalent services in person. This bill would specify that all laws regarding the confidentiality of health care information and a patient's right to his or her medical information shall apply to telehealth services.

According to the author, there have been rapid developments in recent years in the delivery of health care through telehealth and telehealth offers improved access to quality health care for all. The author believes this bill will remove barriers to health care services provided via telehealth and ensure patient access, choice and convenience. Per the author, the intent of this bill is to provide access, patient choice, cost savings and innovations, but this bill does not change what services are covered; it clarifies that telehealth should be treated and reimbursed the same as an equivalent in-person service.

Board staff believes the changes this bill would make to existing telehealth law will not have a negative impact on consumer protection and may increase access to care. Board staff recommends that the Board take a neutral position on this bill.

**FISCAL:** None

**SUPPORT:** Stanford Health Care (Sponsor); Adventist Health; ALS Association Golden West Chapter; American Association for Marriage and Family Therapy; Association of California Healthcare Districts; California Academy of Family Physicians; California Children’s Hospital Association; California Life Sciences Association; California Medical Association; California Primary Care Association; Center for Information Technology Research in the Interest of Society; Center for Technology and Aging; El Camino Hospital; Health Care Interpreter Network; John Muir Health; Lucile Packard Children’s Hospital; National Multiple Sclerosis Society – CA Action Network; Occupational Therapy Association of California; Providence Health & Services; Sutter Health; and the Children’s Partnership

**OPPOSITION:** America’s Health Insurance Plans  
Association of California Life and Health Insurance Companies  
California Association of Health Plans  
California Chamber of Commerce  
California Right to Life Committee

**POSITION:** Recommendation: Neutral

AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2507**

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**Introduced by Assembly Member Gordon**

February 19, 2016

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An act to amend Section 2290.5 of the Business and Professions Code, to amend Section 1374.13 of the Health and Safety Code, and to amend Section 10123.85 of the Insurance Code, relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as amended, Gordon. Telehealth: access.

(1) Existing law defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site, and that facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. Existing law requires that prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth inform the patient about the use of telehealth and obtain documented verbal or written consent from the patient for the use of telehealth.

This bill would add video—communications, telephone communications, email communications, and synchronous text or chat conferencing communications and telephone communications to the definition of telehealth. The bill would also provide that the required prior consent for telehealth services may be digital as well as oral or written.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits health care service plans and health insurers from limiting the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee, insured, subscriber, or policyholder and the plan or insurer, and between the plan or insurer and its participating providers or provider groups.

This bill would also prohibit a health care provider from requiring the use of telehealth when a patient prefers to receive health care services ~~in person~~ *it is not appropriate* and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified. The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider. The bill would prohibit a health care service plan or a health insurer from ~~interfering with the physician-patient~~ *altering the provider-patient* relationship based on the modality utilized for services appropriately provided through telehealth. *The bill would provide that all laws regarding the confidentiality of health care information and a patient's right to his or her medical information shall apply to telehealth services.*

Because a willful violation of the bill's provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

(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: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 2290.5 of the Business and Professions  
2 Code is amended to read:

3 2290.5. (a) For purposes of this division, the following  
4 definitions apply:

5 (1) “Asynchronous store and forward” means the transmission  
6 of a patient’s medical information from an originating site to the  
7 health care provider at a distant site without the presence of the  
8 patient.

9 (2) “Distant site” means a site where a health care provider who  
10 provides health care services is located while providing these  
11 services via a telecommunications system.

12 (3) “Health care provider” means either of the following:

13 (A) A person who is licensed under this division.

14 (B) A marriage and family therapist intern or trainee functioning  
15 pursuant to Section 4980.43.

16 (4) “Originating site” means a site where a patient is located at  
17 the time health care services are provided via a telecommunications  
18 system or where the asynchronous store and forward service  
19 originates.

20 (5) “Synchronous interaction” means a real-time interaction  
21 between a patient and a health care provider located at a distant  
22 site.

23 (6) “Telehealth” means the mode of delivering health care  
24 services and public health via information and communication  
25 technologies to facilitate the diagnosis, consultation, treatment,  
26 education, care management, and self-management of a patient’s  
27 health care while the patient is at the originating site and the health  
28 care provider is at a distant site. Telehealth facilitates patient  
29 self-management and caregiver support for patients and includes  
30 synchronous interactions and asynchronous store and forward  
31 transfers, ~~including, but not limited to, including~~ video  
32 ~~communications, telephone communications, email~~  
33 ~~communications, and synchronous text or chat conferencing.~~  
34 *communications and telephone communications.*

35 (b) Prior to the delivery of health care via telehealth, the health  
36 care provider initiating the use of telehealth shall inform the patient  
37 about the use of telehealth and obtain oral, written, or digital  
38 consent from the patient for the use of telehealth as an acceptable

1 mode of delivering health care services and public health. The  
2 consent shall be documented.

3 (c) Nothing in this section shall preclude a patient from receiving  
4 in-person health care delivery services during a specified course  
5 of health care and treatment after agreeing to receive services via  
6 telehealth.

7 (d) The failure of a health care provider to comply with this  
8 section shall constitute unprofessional conduct. Section 2314 shall  
9 not apply to this section.

10 (e) This section shall not be construed to alter the scope of  
11 practice of any health care provider or authorize the delivery of  
12 health care services in a setting, or in a manner, not otherwise  
13 authorized by law.

14 (f) All laws regarding the confidentiality of health care  
15 information and a patient's rights to his or her medical information  
16 shall apply to telehealth interactions.

17 (g) This section shall not apply to a patient under the jurisdiction  
18 of the Department of Corrections and Rehabilitation or any other  
19 correctional facility.

20 (h) (1) Notwithstanding any other provision of law and for  
21 purposes of this section, the governing body of the hospital whose  
22 patients are receiving the telehealth services may grant privileges  
23 to, and verify and approve credentials for, providers of telehealth  
24 services based on its medical staff recommendations that rely on  
25 information provided by the distant-site hospital or telehealth  
26 entity, as described in Sections 482.12, 482.22, and 485.616 of  
27 Title 42 of the Code of Federal Regulations.

28 (2) By enacting this subdivision, it is the intent of the Legislature  
29 to authorize a hospital to grant privileges to, and verify and approve  
30 credentials for, providers of telehealth services as described in  
31 paragraph (1).

32 (3) For the purposes of this subdivision, "telehealth" shall  
33 include "telemedicine" as the term is referenced in Sections 482.12,  
34 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

35 SEC. 2. Section 1374.13 of the Health and Safety Code is  
36 amended to read:

37 1374.13. (a) For the purposes of this section, the definitions  
38 in subdivision (a) of Section 2290.5 of the Business and Professions  
39 Code apply.

1 (b) It is the intent of the Legislature to recognize the practice  
2 of telehealth as a legitimate means by which an individual may  
3 receive health care services from a health care provider without  
4 in-person contact with the health care provider.

5 (c) A health care service plan shall not require that in-person  
6 contact occur between a health care provider and a patient before  
7 payment is made for the covered services appropriately provided  
8 through telehealth, subject to the terms and conditions of the  
9 contract entered into between the enrollee or subscriber and the  
10 health care service plan, and between the health care service plan  
11 and its participating providers or provider groups.

12 (d) A health care service plan shall not limit the type of setting  
13 where services are provided for the patient or by the health care  
14 provider before payment is made for the covered services  
15 appropriately provided through telehealth, subject to the terms and  
16 conditions of the contract entered into between the enrollee or  
17 subscriber and the health care service plan, and between the health  
18 care service plan and its participating providers or provider groups.

19 (e) The requirements of this section shall also apply to health  
20 care service plan and Medi-Cal managed care plan contracts with  
21 the State Department of Health Care Services pursuant to Chapter  
22 7 (commencing with Section 14000) or Chapter 8 (commencing  
23 with Section 14200) of Part 3 of Division 9 of the Welfare and  
24 Institutions Code.

25 (f) Notwithstanding any law, this section shall not be interpreted  
26 to authorize a health care service plan to require the use of  
27 telehealth when the health care provider has determined that it is  
28 not appropriate.

29 (g) Notwithstanding any law, this section shall not be interpreted  
30 to authorize a health care provider to require the use of telehealth  
31 when ~~a patient prefers to be treated in an in-person setting.~~  
32 ~~Telehealth services should be physician- or practitioner-guided~~  
33 ~~and patient-preferred. it is not appropriate. Nothing in this section~~  
34 ~~shall preclude a patient from receiving in-person health care~~  
35 ~~delivery services.~~

36 (h) A health care service plan shall include in its plan contract  
37 coverage and reimbursement for services provided to a patient  
38 through telehealth to the same extent as though provided in person  
39 or by some other means.

1 (1) A health care service plan shall reimburse the health care  
2 provider for the diagnosis, consultation, or treatment of the enrollee  
3 when the service is delivered through telehealth at a rate that is at  
4 least as favorable to the health care provider as those established  
5 for the equivalent services when provided in person or by some  
6 other means.

7 (2) A health care service plan may subject the coverage of  
8 services delivered via telehealth to copayments, coinsurance, or  
9 deductible provided that the amounts charged are at least as  
10 favorable to the enrollee as those established for the equivalent  
11 services when provided in person or by some other means.

12 (i) A health care service plan shall not limit coverage or  
13 reimbursement based on a contract entered into between the health  
14 care service plan and an independent telehealth provider or ~~interfere~~  
15 ~~with the physician-patient~~ *alter the provider-patient* relationship  
16 based on the modality utilized for services appropriately provided  
17 through telehealth.

18 (j) *Notwithstanding any other law, this section shall not be*  
19 *interpreted to prohibit a health care service plan from undertaking*  
20 *a utilization review of telehealth services, provided that the*  
21 *utilization review is made in the same manner as a utilization*  
22 *review for equivalent services when provided in person or by other*  
23 *means.*

24 (k) *This section shall not be construed to alter the scope of*  
25 *practice of any health care provider or authorize the delivery of*  
26 *health care services in a setting, or in a manner, not otherwise*  
27 *authorized by law.*

28 (l) *All laws regarding the confidentiality of health care*  
29 *information and a patient's right to his or her medical information*  
30 *shall apply to telehealth services.*

31 SEC. 3. Section 10123.85 of the Insurance Code is amended  
32 to read:

33 10123.85. (a) For purposes of this section, the definitions in  
34 subdivision (a) of Section 2290.5 of the Business and Professions  
35 Code shall apply.

36 (b) It is the intent of the Legislature to recognize the practice  
37 of telehealth as a legitimate means by which an individual may  
38 receive health care services from a health care provider without  
39 in-person contact with the health care provider.

1 (c) No health insurer shall require that in-person contact occur  
2 between a health care provider and a patient before payment is  
3 made for the services appropriately provided through telehealth,  
4 subject to the terms and conditions of the contract entered into  
5 between the policyholder or contractholder and the insurer, and  
6 between the insurer and its participating providers or provider  
7 groups.

8 (d) No health insurer shall limit the type of setting where  
9 services are provided for the patient or by the health care provider  
10 before payment is made for the covered services appropriately  
11 provided by telehealth, subject to the terms and conditions of the  
12 contract between the policyholder or contract holder and the  
13 insurer, and between the insurer and its participating providers or  
14 provider groups.

15 (e) Notwithstanding any other provision, this section shall not  
16 be interpreted to authorize a health insurer to require the use of  
17 telehealth when the health care provider has determined that it is  
18 not appropriate.

19 (f) Notwithstanding any law, this section shall not be interpreted  
20 to authorize a health care provider to require the use of telehealth  
21 when a patient prefers to be treated in an in-person setting.  
22 ~~Telehealth services should be physician- or practitioner-guided~~  
23 ~~and patient-preferred. it is not appropriate. Nothing in this section~~  
24 ~~shall preclude a patient from receiving in-person health care~~  
25 ~~delivery services.~~

26 (g) A health insurer shall include in its policy coverage and  
27 reimbursement for services provided to a patient through telehealth  
28 to the same extent as though provided in person or by some other  
29 means.

30 (1) A health insurer shall reimburse the health care provider for  
31 the diagnosis, consultation, or treatment of the insured when the  
32 service is delivered through telehealth at a rate that is at least as  
33 favorable to the health care provider as those established for the  
34 equivalent services when provided in person or by some other  
35 means.

36 (2) A health insurer may subject the coverage of services  
37 delivered via telehealth to copayments, coinsurance, or deductible  
38 provided that the amounts charged are at least as favorable to the  
39 insured as those established for the equivalent services when  
40 provided in person or by some other means.

1 (h) A health insurer shall not limit coverage or reimbursement  
 2 based on a contract entered into between the health insurer and an  
 3 independent telehealth provider or ~~interfere with the~~  
 4 ~~physician-patient~~ *alter the provider-patient* relationship based on  
 5 the modality utilized for services appropriately provided through  
 6 telehealth.

7 (i) *Notwithstanding any other law, this section shall not be*  
 8 *interpreted to prohibit a health insurer from undertaking a*  
 9 *utilization review of telehealth services, provided that the*  
 10 *utilization review is made in the same manner as a utilization*  
 11 *review for equivalent services when provided in person or by other*  
 12 *means.*

13 (j) *This section shall not be construed to alter the scope of*  
 14 *practice of any health care provider or authorize the delivery of*  
 15 *health care services in a setting, or in a manner, not otherwise*  
 16 *authorized by law.*

17 (k) *All laws regarding the confidentiality of health care*  
 18 *information and a patient’s right to his or her medical information*  
 19 *shall apply to telehealth services.*

20 SEC. 4. No reimbursement is required by this act pursuant to  
 21 Section 6 of Article XIII B of the California Constitution because  
 22 the only costs that may be incurred by a local agency or school  
 23 district will be incurred because this act creates a new crime or  
 24 infraction, eliminates a crime or infraction, or changes the penalty  
 25 for a crime or infraction, within the meaning of Section 17556 of  
 26 the Government Code, or changes the definition of a crime within  
 27 the meaning of Section 6 of Article XIII B of the California  
 28 Constitution.

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2592  
**Author:** Cooper  
**Bill Date:** April 25, 2016, Amended  
**Subject:** Controlled Substances: Medicine Locking Closure Packages: Grant Program  
**Sponsor:** Gatekeeper Innovations

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would authorize the California Department of Public Health (CDPH), to the extent funding is available, to establish a pilot program to award grants to combat opioid abuse through the safe maintenance of opioids.

**BACKGROUND**

The issue of preventing inappropriate prescribing and misuse and abuse of opioids is of great importance to the Medical Board of California (Board). In September 2014, the Board hosted a free continuing medical education course in Los Angeles on Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy that was developed by the U.S. Food and Drug Administration. In November 2014, after numerous Prescribing Task Force meetings with interested parties, significant public comment, and discussions with experts in the field of pain management, the Board approved a new document entitled *Guidelines for Prescribing Controlled Substances for Pain* (Guidelines). These Guidelines are intended to educate physicians on effective prescribing for pain in California by avoiding under treatment, overtreatment or other inappropriate treatment of a patient's pain. The Guidelines' primary objective is improved patient outcomes and reduction of prescription overdose deaths. Lastly, the Board produced two public service announcements (PSAs) that address the issue of prescription drug abuse and misuse. One was directed towards physicians and one was directed towards consumers and featured gold medalist Natalie Coughlin. These PSAs have been aired on television stations throughout California and are posted on the Board's website.

**ANALYSIS**

This bill would make findings and declarations regarding opioid abuse and misuse in California and the grant recently received by CDPH of more than \$3.7 million to improve the safe prescribing of opioid painkillers.

This bill would authorize CDPH to establish a pilot program, if funding is available, to award grants to combat opioid abuse through the safe maintenance of opioids. CDPH would determine the amount of grants to award to individual pharmacies that choose to participate in the program. Grants must target areas where the prevalence of prescription drug abuse is high,

as determined by data that has been collected by CDPH and the California Health Care Foundation. A pharmacy that applies for and receives a grant, would be required to offer all patients who are prescribed an opioid a medicine locking closure package. A patient would not receive the medicine locking closure package unless he or she consents either orally or in writing . This bill would define a medicine locking closure package as a locking closure container, accessible only by the designated patient with a passcode, an alphanumeric code, a key, or by another secure mechanism. A medicine locking closure package includes, but is not limited to, an amber prescription container combined with a resettable alphanumeric code.

This bill would specify that CDPH shall not expend General Fund moneys on this program unless those moneys are specifically appropriated for this purpose. This bill would allow CDPH to seek funds from private entities, including foundations and nonprofit organizations, and CDPH may apply for federal or other grants to fund this pilot program. This bill would require CDPH to evaluate the effectiveness of the pilot program and to report its findings to the Legislature no later than December 31, 2019. This bill would sunset the pilot program on January 1, 2020.

According to the sponsor, California has taken steps to address the prescription drug abuse epidemic, but there is one prevention initiative that has gone widely unaddressed, the safe storage of prescription medications. The purpose of this bill is to examine whether increasing the safe storage of prescription drugs would reduce the number of drug abuse cases amongst teens and young adults. This bill is permissive for both the pharmacy and the patient, and it may help to address access to prescription drugs in the home. This bill furthers the Board's mission of consumer protection and is in line with the Board's work on the important issue of preventing misuse and abuse of prescription drugs. For these reasons, Board staff suggests that the Board support this bill.

**FISCAL:** None

**SUPPORT:** Gatekeeper Innovations, Inc. (Sponsor)  
Capitol Health Network  
C.O.R.E. Medical Clinic, Inc.

**OPPOSITION:** None on File

**POSITION:** Recommendation: Support

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2592**

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**Introduced by Assembly Member Cooper**

February 19, 2016

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An act to add and repeal Section 11209.3 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2592, as amended, Cooper. Controlled substances: medicine locking closure packages: grant program.

Existing law, the California Uniform Controlled Substances Act, specifies the proper uses of, and means of prescribing, controlled substances, as defined. Existing law prohibits a person other than a pharmacist or an intern pharmacist, as specified, from compounding, preparing, filling, or dispensing a prescription for a controlled substance. A violation of these provisions is generally a misdemeanor unless another punishment is specifically provided.

Existing law establishes the State Department of Public Health, which has authority over various programs promoting public health and which may investigate, apply for, and enter into agreements to secure federal or nongovernmental funding opportunities for the purposes of advancing public health.

This bill, until January 1, 2020, would ~~require~~ *authorize* the department to establish a pilot program, as specified, to award grants to combat opioid abuse through the safe prescribing of opioids. The bill

would require the department to award grants, in an amount to be determined by the department, to individual pharmacies that choose to participate in the program. The bill would require a pharmacy that applies for and receives a grant to offer all patients who are prescribed an opioid a medicine locking closure package, as defined. The bill would prohibit the department from using General Fund moneys on this program unless those moneys are specifically appropriated for this purpose. The bill would require the department to evaluate the effectiveness of the program and report its findings to the Legislature no later than December 31, 2019.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the  
 2 following:

3 (a) More than 4,300 people died from drug poisoning in  
 4 California in 2013.

5 (b) Most drug poisonings stem from prescription medications,  
 6 and opioids are the most commonly prescribed.

7 (c) Recent research by the federal Centers for Disease Control  
 8 and Prevention finds that 98 percent of all sources for abused  
 9 prescription drugs originate within the home. Only 3 percent of  
 10 homes lock up their medications.

11 (d) The State Department of Public Health recently received a  
 12 new grant of more than \$3.7 million to improve the safe prescribing  
 13 of opioid painkillers.

14 SEC. 2. Section 11209.3 is added to the Health and Safety  
 15 Code, to read:

16 11209.3. (a) The State Department of Public Health ~~shall~~, *may*,  
 17 to the extent funding is available, establish a pilot program to award  
 18 grants to combat opioid abuse through the safe prescribing of  
 19 opioids. Grants, in an amount determined by the department, shall  
 20 be awarded to individual pharmacies that choose to participate in  
 21 the program. Grants shall target areas where the prevalence of  
 22 prescription drug abuse is high as determined by data that have  
 23 been collected by the department and the California Health Care  
 24 Foundation.

1 (b) A pharmacy that applies for and receives a grant pursuant  
2 to this section shall offer all patients who are prescribed an opioid  
3 a medicine locking closure package. A patient shall not receive a  
4 medicine locking closure package unless he or she consents either  
5 orally or in writing. Every medicine locking closure package shall  
6 be dispensed with instructions for patient use unless the patient  
7 indicates orally or in writing that instructions are not needed.

8 (c) The State Department of Public Health shall not expend  
9 General Fund moneys on this program unless those moneys are  
10 specifically appropriated for this purpose. The department may  
11 seek funds from private entities, including foundations and  
12 nonprofit organizations, and may apply for federal or other grants,  
13 to fund the grant program.

14 (d) For purposes of this section, “medicine locking closure  
15 package” means a locking closure container, ~~unlocked only with~~  
16 ~~a user-generated code, that only allows the person with the~~  
17 ~~prescription to access the medicine.~~ *accessible only by the*  
18 *designated patient with a passcode, an alphanumeric code, a key,*  
19 *or by another secure mechanism.* A medicine locking closure  
20 package includes, but is not limited to, an amber prescription  
21 container combined with a resettable alphanumeric code.

22 (e) The department shall evaluate the effectiveness of the pilot  
23 program to combat prescription drug abuse in targeted areas and  
24 report its findings to the Legislature no later than December 31,  
25 2019. The report shall be submitted in compliance with Section  
26 9795 of the Government Code.

27 (f) This section shall remain in effect only until January 1,  
28 2020, and as of that date is repealed, unless a later enacted statute,  
29 that is enacted before January 1, 2020, deletes or extends that date.

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2606  
**Author:** Grove  
**Bill Date:** February 19, 2016, Introduced  
**Subject:** Crimes Against Children, Elders, Dependent Adults and Persons with Disabilities  
**Sponsor:** The Arc & United Cerebral Palsy California Collaboration

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would require law enforcement to send a copy of a report alleging specified crimes committed against elderly or developmentally disabled people to state licensing agencies, including the Medical Board of California (Board).

**ANALYSIS**

This bill would require a law enforcement agency that receives or makes a report of the commission of specified crimes by a person who holds a state professional or occupational credential, license, or permit allowing the person to provide services to children, elders, dependent adults, or persons with disabilities, to provide a copy of that report to the state agency which issued the credential, license, or permit. This bill would apply the reporting requirements to the following crimes:

- Sexual exploitation by a physician and surgeon, psychotherapist, or drug/alcohol abuse counselor;
- Rape and other sex crimes;
- Elder or dependent adult abuse, failure to report by a mandated reporter, or interfering with a report;
- A hate crime motivated by anti-disability bias;
- Sexual abuse, as specified; and
- Child abuse, failure to report by a mandated reporter, or interfering with a report.

According to the author, the developmentally disabled, elderly, and children are the most vulnerable members of the State's community and the State has an obligation to help protect them. People with disabilities are subject to violent crimes at much higher rates than the general population and many of these crimes are committed by caretakers. Those who are not arrested or convicted are only fired and are legally free to go on to other jobs and continue their abuse because their licenses are not affected. The purpose of this bill is to address this problem by strengthening the law protecting mandated reporters from anyone who would impede their reports or retaliate against them for making the reports. Additionally, it requires law enforcement agencies to cross-report abuse, neglect, and sexual misconduct to the provider's state licensing agency.

Board staff believes that this information would be very helpful to the Board to identify physicians that could possibly pose a threat to vulnerable consumers and need Board review. Once the Board receives this information, it would still go through the Board's normal complaint and investigation process, which is confidential. This bill will further the Board's mission of consumer protection and Board staff suggests that the Board support this bill.

**FISCAL:** Minor and absorbable

**SUPPORT:** The Arc & United Cerebral Palsy California Collaboration (Sponsor)  
The Arc of Riverside County  
Association of Regional Center Agencies  
California Advocates for Nursing Home Reform  
California Long-Term Care Ombudsman Association  
Disability Rights California  
The Alliance

**OPPOSITION:** California Association of Psychiatric Technicians  
California Attorneys for Criminal Justice  
California Public Defenders Association  
California State Sheriffs' Association  
Legal Services for Prisoners with Children

**POSITION:** Recommendation: Support

**ASSEMBLY BILL**

**No. 2606**

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**Introduced by Assembly Member Grove**

February 19, 2016

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An act to add Chapter 14 (commencing with Section 368.7) to Title 9 of Part 1 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2606, as introduced, Grove. Crimes against children, elders, dependent adults, and persons with disabilities.

The Child Abuse and Neglect Reporting Act requires a law enforcement agency that receives a report of child abuse to report to an appropriate licensing agency every known or suspected instance of child abuse or neglect that occurs while the child is being cared for in a child day care facility or community care facility or that involves a licensed staff person of the facility.

Existing law proscribes the commission of certain crimes against elders and dependent adults, including, but not limited to, inflicting upon an elder or dependent adult unjustifiable physical pain or mental suffering, as specified. Existing law proscribes the commission of a hate crime, as defined, against certain categories of persons, including disabled persons.

Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee

engages in specified sexual acts with a patient, client, or former patient or client.

This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state licensing agency that issued the credential, license, or permit. By imposing additional duties on law enforcement agencies, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Chapter 14 (commencing with Section 368.7) is  
2 added to Title 9 of Part 1 of the Penal Code, to read:

3  
4 CHAPTER 14. REPORTING CRIMES AGAINST CHILDREN, ELDERS,  
5 DEPENDENT ADULTS, AND PERSONS WITH DISABILITIES

6  
7 368.7. If a law enforcement agency receives a report, or if a  
8 law enforcement officer makes a report, that a person who holds  
9 a state professional or occupational credential, license, or permit  
10 that allows the person to provide services to children, elders,  
11 dependent adults, or persons with disabilities is alleged to have  
12 committed one or more of the crimes described in subdivisions (a)  
13 to (f), inclusive, the law enforcement agency shall promptly send  
14 a copy of the report to the state agency that issued the credential,  
15 license, or permit.

1 (a) Sexual exploitation by a physician and surgeon,  
2 psychotherapist, or drug or alcohol abuse counselor, as described  
3 in Section 729 of the Business and Professions Code.

4 (b) Rape or other crimes described in Chapter 1 (commencing  
5 with Section 261).

6 (c) Elder or dependent adult abuse, failure to report elder or  
7 dependent adult abuse, interfering with a report of elder or  
8 dependent adult abuse or other crimes, as described in Chapter 13.

9 (d) A hate crime motivated by antidisability bias, as described  
10 in Chapter 1 (commencing with Section 422.55) of Title 11.6.

11 (e) Sexual abuse, as defined in Section 11165.1.

12 (f) Child abuse, failure to report child abuse, or interfering with  
13 a report of child abuse.

14 SEC. 2. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2744  
**Author:** Gordon  
**Bill Date:** April 11, 2016, Amended  
**Subject:** Healing Arts: Referrals  
**Sponsor:** The Internet Association

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would specify that the payment or receipt of consideration for advertising where a licensee offers or sells services on the internet shall not constitute a referral of patients that is prohibited in existing law.

**BACKGROUND**

Existing law, Business and Professions Code Section 650, prohibits the offer of a commission as compensation for referring a patient. Existing law does allow payment for services other than the referral of a patient. This statute is several decades old, and was put into place before online advertising became available. In the past, if a physician wanted to advertise for his or her services, they could take out an advertisement in the yellow pages, a newspaper, a billboard, or run a commercial on radio or television. In these instances, the advertisement could include a coupon or special offer.

Now, physicians and other healthcare professionals can advertise online and offer purchase vouchers for service in online market places such as Groupon, Living Social, and others. For online voucher advertising companies, the healthcare professional decides whether to advertise and what service to make available for purchase (which is not an essential health benefit), the cost of the service, how many vouchers to offer, and for how long. The healthcare professional pays the online advertising network for making the offer available, generally a percentage of the price of the purchased service. Once a consumer purchases a voucher through this form of online advertising, the consumer contacts the health care professional to set an appointment, just as they would if responding to any other form of advertisement.

Per a 1994 Attorney General Opinion, a referral exists when a third party independent entity who individually has contact with a person in need of health care selects a professional to render the same. Online marketplaces do not select a healthcare professional, but rather make the advertisements and vouchers available on its website.

**ANALYSIS**

This bill would expressly provide that payment or receipt of consideration for advertising, where a licensee offers or sells services on the Internet, shall not constitute a

referral of patients. This bill would require the licensee to fully refund the purchaser if, after consultation, the licensee determines the service is not appropriate for the purchaser. This bill would specify that it does not apply to basic health care services or essential health benefits. This bill would require the entity that provides the advertising to demonstrate that the licensee consented in writing to the requirements of this bill.

Board staff has already looked at the issue of Internet advertising for physicians with companies like Groupon and Living Social, and does not believe that these arrangement are in violation of existing referral law. This bill would make it clear that this type of advertising is not in violation of existing law and would add protections for consumers to be refunded if the service is not appropriate. For these reasons, Board staff suggests that the Board take a neutral position on this bill.

**FISCAL:** None

**SUPPORT:** The Internet Association (Sponsor)  
Groupon

**OPPOSITION:** None on file

**POSITION:** Recommendation: Neutral

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2744**

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**Introduced by Assembly Member Gordon**  
(Coauthor: Senator Hill)

February 19, 2016

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An act to amend Section 650 of the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, as amended, Gordon. Healing arts: referrals.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells ~~prepaid services~~, *services on an Internet platform*, does not constitute a referral of ~~services~~ *patients*. *The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser. The bill would specify*

*that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions.*

Vote: majority. 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 650 of the Business and Professions Code  
 2 is amended to read:  
 3 650. (a) Except as provided in Chapter 2.3 (commencing with  
 4 Section 1400) of Division 2 of the Health and Safety Code, the  
 5 offer, delivery, receipt, or acceptance by any person licensed under  
 6 this division or the Chiropractic Initiative Act of any rebate, refund,  
 7 commission, preference, patronage dividend, discount, or other  
 8 consideration, whether in the form of money or otherwise, as  
 9 compensation or inducement for referring patients, clients, or  
 10 customers to any person, irrespective of any membership,  
 11 proprietary interest, or coownership in or with any person to whom  
 12 these patients, clients, or customers are referred is unlawful.  
 13 (b) The payment or receipt of consideration for services other  
 14 than the referral of patients which is based on a percentage of gross  
 15 revenue or similar type of contractual arrangement shall not be  
 16 unlawful if the consideration is commensurate with the value of  
 17 the services furnished or with the fair rental value of any premises  
 18 or equipment leased or provided by the recipient to the payer.  
 19 (c) The offer, delivery, receipt, or acceptance of any  
 20 consideration between a federally qualified health center, as defined  
 21 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,  
 22 and any individual or entity providing goods, items, services,  
 23 donations, loans, or a combination thereof to the health center  
 24 entity pursuant to a contract, lease, grant, loan, or other agreement,  
 25 if that agreement contributes to the ability of the health center  
 26 entity to maintain or increase the availability, or enhance the  
 27 quality, of services provided to a medically underserved population  
 28 served by the health center, shall be permitted only to the extent  
 29 sanctioned or permitted by federal law.  
 30 (d) Except as provided in Chapter 2.3 (commencing with Section  
 31 1400) of Division 2 of the Health and Safety Code and in Sections

1 654.1 and 654.2 of this code, it shall not be unlawful for any person  
2 licensed under this division to refer a person to any laboratory,  
3 pharmacy, clinic (including entities exempt from licensure pursuant  
4 to Section 1206 of the Health and Safety Code), or health care  
5 facility solely because the licensee has a proprietary interest or  
6 coownership in the laboratory, pharmacy, clinic, or health care  
7 facility, provided, however, that the licensee's return on investment  
8 for that proprietary interest or coownership shall be based upon  
9 the amount of the capital investment or proportional ownership of  
10 the licensee which ownership interest is not based on the number  
11 or value of any patients referred. Any referral excepted under this  
12 section shall be unlawful if the prosecutor proves that there was  
13 no valid medical need for the referral.

14 (e) Except as provided in Chapter 2.3 (commencing with Section  
15 1400) of Division 2 of the Health and Safety Code and in Sections  
16 654.1 and 654.2 of this code, it shall not be unlawful to provide  
17 nonmonetary remuneration, in the form of hardware, software, or  
18 information technology and training services, as described in  
19 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code  
20 of Federal Regulations, as amended October 4, 2007, as published  
21 in the Federal Register (72 Fed. Reg. 56632 and 56644), and  
22 subsequently amended versions.

23 (f) "Health care facility" means a general acute care hospital,  
24 acute psychiatric hospital, skilled nursing facility, intermediate  
25 care facility, and any other health facility licensed by the State  
26 Department of Public Health under Chapter 2 (commencing with  
27 Section 1250) of Division 2 of the Health and Safety Code.

28 (g) The payment or receipt of consideration for advertising,  
29 wherein a licensee offers or sells ~~prepaid services~~, *services on an*  
30 *Internet platform*, shall not constitute a referral of patients. To the  
31 extent the licensee determines, after consultation with the purchaser  
32 of the ~~prepaid~~ service, that a ~~prepaid~~ *the* service is not appropriate  
33 for the purchaser, the licensee shall provide the purchaser *shall*  
34 *receive* a refund of the full purchase price. *This subdivision shall*  
35 *not apply to basic health care services, as defined in subdivision*  
36 *(b) of Section 1345 of the Health and Safety Code, or essential*  
37 *health benefits, as defined in Section 1367.005 of the Health and*  
38 *Safety Code and Section 10112.27 of the Insurance Code. The*  
39 *entity that provides the advertising shall be able to demonstrate*

1 *that the licensee consented in writing to the requirements of this*  
2 *subdivision.*

3 (h) A violation of this section is a public offense and is  
4 punishable upon a first conviction by imprisonment in a county  
5 jail for not more than one year, or by imprisonment pursuant to  
6 subdivision (h) of Section 1170 of the Penal Code, or by a fine not  
7 exceeding fifty thousand dollars (\$50,000), or by both that  
8 imprisonment and fine. A second or subsequent conviction is  
9 punishable by imprisonment pursuant to subdivision (h) of Section  
10 1170 of the Penal Code, or by that imprisonment and a fine of fifty  
11 thousand dollars (\$50,000).

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** AB 2745  
**Author:** Holden  
**Bill Date:** April 25, 2016, Amended  
**Subject:** Healing Arts: Licensing and Certification  
**Sponsor:** Medical Board of California (Board)  
**Position:** Sponsor/Support

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would make clarifying changes to existing law to assist the Board in its licensing and enforcement functions.

**ANALYSIS**

This bill would clarify the Board's authority for the allied health licensees licensed by the Board. It would allow the Board to revoke or deny a license for registered sex offenders, allow the Board to take disciplinary action for excessive use of drugs or alcohol, allow allied health licensees to petition the Board for license reinstatement, and would allow the Board to use probation as a disciplinary option for allied health licensees.

Existing law only allows new physician and surgeon applicants and disabled status licensees to apply for a limited practice license (LPL). This bill would allow all physician and surgeon licensees to apply for a LPL at any time. This bill would ensure that physicians who have a disabled status license and want to change to a LPL meet the same requirements in existing law for a LPL.

This bill would clarify that the Board can deny a post graduate training authorization letter for the same reasons it can deny a physician applicant's license in existing law.

This bill would clarify existing law related to investigations of a deceased patient. Existing law allows the Board to obtain a copy of the medical records of a deceased patient without the approval of the next of kin if the Board is unsuccessful in locating or contacting the patients' next of kin after reasonable efforts. Existing law requires the Board to contact the physician that owns the records, however, in many cases the records do not reside with the physician. This bill would allow the Board to send a written request for medical records to the facility where the care occurred or where the records are located. This will ensure that the Board's investigation is not hindered.

This bill would clean up existing law to ensure that the Board's authority to perform its regulatory oversight of licensees is clearly defined and aligned with current law. This is a Board-sponsored bill.

**FISCAL:** None

**SUPPORT:** Medical Board of California (Sponsor)

**OPPOSITION:** None on file

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2745**

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**Introduced by Assembly Member Holden**

February 19, 2016

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An act to amend Sections 2088, 2221, 2225, 2441, 2519, 2520, 2529, 3576, and 3577 of, and to add Sections 2522, 2523, 2529.1, 2529.6, 3576.1, 3576.2, and 3576.3 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2745, as amended, Holden. Healing arts: licensing and certification.

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes an applicant for a physician's and surgeon's license who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability to receive a limited license if the applicant pays the license ~~renewal~~ fee and signs an agreement agreeing to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the board. Existing law makes any person who knowingly provides false information in this agreement subject to any sanctions available to the board. Existing law authorizes the board to require the applicant to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving the limited license. Violation

of the act is a crime. Existing law establishes the Contingent Fund of the Medical Board of California, a continuously appropriated fund.

This bill would specify that a licensee who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability is authorized to receive the limited license if the above-described conditions are ~~met~~ *met, including payment of the appropriate fee*. By adding fees for deposit into the Contingent Fund of the Medical Board of California, this bill would make an appropriation.

This bill would also authorize the board to deny a postgraduate training authorization to an applicant who is guilty of unprofessional conduct or of any cause for revocation or suspension of a license.

(2) Existing law authorizes a licensee who demonstrates that he or she is unable to practice medicine due to a disability to request a waiver of the license renewal fee. Under existing law, a licensee granted that waiver is prohibited from practicing medicine until he or she establishes that the disability no longer exists or signs an agreement, under penalty of perjury, agreeing to limit his or her practice in the manner prescribed by the reviewing physician.

This bill would require the board to agree to this limit, would authorize the board to require an independent clinical evaluation, and would subject a person who knowingly provides false information in the agreement to sanctions. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) Existing law authorizes the board, in any investigation that involves the death of a patient, to inspect and copy the medical records of the deceased patient without the authorization of the beneficiary or personal representative of the deceased patient or a court order solely to determine the extent to which the death was the result of the physician and surgeon's violation of the Medical Practice Act, if the board provides a written request to the physician and surgeon that includes a declaration that the board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts.

This bill would authorize the board to provide the written request to the facility where the medical records are located or the care to the deceased patient was provided.

(4) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensing and regulation of midwives by the Board of Licensing of the Medical Board of California. Under the act, the board

is authorized to suspend or revoke the license of a midwife for specified conduct, including unprofessional conduct consisting of, among other things, incompetence or gross negligence in carrying out the usual functions of a licensed midwife. A violation of the act is a crime.

This bill would authorize the board to place a license on probation and establish a fee for monitoring a licensee on probation. The bill would also authorize a person whose license has been voluntarily surrendered while under investigation or while charges are pending or whose license has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a license for a person required to register as a sex offender, except as specified.

(5) 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, as specified.

The bill would include within the definition of unprofessional conduct, among other things, the use of any controlled substance, or the use of any dangerous drugs, as specified, or of alcoholic beverages, as specified. The bill would also require the revocation of a registration for a person required to register as a sex offender, except as specified.

(6) Existing law prohibits a person from using the title “certified polysomnographic technologist” or engaging in the practice of polysomnography unless he or she is registered as a certified polysomnographic technologist, is supervised and directed by a licensed physician and surgeon, and meets certain other requirements. Existing law requires polysomnographic technologists to apply to and register with the Medical Board of California and to pay specified fees to be fixed by the board at no more than \$100 each, and to renew their registration biennially for a fee of no more than \$150. Existing law requires the deposit of those fees in the Contingent Fund of the Medical Board of California. Existing law authorizes a registration to be suspended, revoked, or otherwise subject to discipline for specified conduct.

This bill would also authorize a registration to be placed on probation if a registrant engages in that conduct and would establish a fee for monitoring a registrant on probation. By increasing fees for deposit into the Contingent Fund, this bill would make an appropriation. The bill

would authorize a person whose registration has been voluntarily surrendered while under investigation or while charges are pending or whose registration has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a registration for a person required to register as a sex offender, except as specified. The bill would authorize the suspension or revocation of a registration for unprofessional conduct, as defined.

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

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

1 SECTION 1. Section 2088 of the Business and Professions  
2 Code is amended to read:

3 2088. (a) An applicant for a physician’s and surgeon’s license  
4 or a physician’s and surgeon’s licensee who is otherwise eligible  
5 for that license but is unable to practice some aspects of medicine  
6 safely due to a disability may receive a limited license if he or she  
7 does both of the following:

- 8 (1) Pays the appropriate initial or renewal license fee.
- 9 (2) Signs an agreement on a form prescribed by the board in  
10 which the applicant or licensee agrees to limit his or her practice  
11 in the manner prescribed by the reviewing physician and agreed  
12 to by the board.

13 (b) The board may require the applicant or licensee described  
14 in subdivision (a) to obtain an independent clinical evaluation of  
15 his or her ability to practice medicine safely as a condition of  
16 receiving a limited license under this section.

17 (c) Any person who knowingly provides false information in  
18 the agreement submitted pursuant to subdivision (a) shall be subject  
19 to any sanctions available to the board.

20 SEC. 2. Section 2221 of the Business and Professions Code is  
21 amended to read:

1 2221. (a) The board may deny a physician's and surgeon's  
2 certificate or postgraduate training authorization letter to an  
3 applicant guilty of unprofessional conduct or of any cause that  
4 would subject a licensee to revocation or suspension of his or her  
5 license. The board in its sole discretion, may issue a probationary  
6 physician's and surgeon's certificate to an applicant subject to  
7 terms and conditions, including, but not limited to, any of the  
8 following conditions of probation:

9 (1) Practice limited to a supervised, structured environment  
10 where the licensee's activities shall be supervised by another  
11 physician and surgeon.

12 (2) Total or partial restrictions on drug prescribing privileges  
13 for controlled substances.

14 (3) Continuing medical or psychiatric treatment.

15 (4) Ongoing participation in a specified rehabilitation program.

16 (5) Enrollment and successful completion of a clinical training  
17 program.

18 (6) Abstention from the use of alcohol or drugs.

19 (7) Restrictions against engaging in certain types of medical  
20 practice.

21 (8) Compliance with all provisions of this chapter.

22 (9) Payment of the cost of probation monitoring.

23 (b) The board may modify or terminate the terms and conditions  
24 imposed on the probationary certificate upon receipt of a petition  
25 from the licensee. The board may assign the petition to an  
26 administrative law judge designated in Section 11371 of the  
27 Government Code. After a hearing on the petition, the  
28 administrative law judge shall provide a proposed decision to the  
29 board.

30 (c) The board shall deny a physician's and surgeon's certificate  
31 to an applicant who is required to register pursuant to Section 290  
32 of the Penal Code. This subdivision does not apply to an applicant  
33 who is required to register as a sex offender pursuant to Section  
34 290 of the Penal Code solely because of a misdemeanor conviction  
35 under Section 314 of the Penal Code.

36 (d) An applicant shall not be eligible to reapply for a physician's  
37 and surgeon's certificate for a minimum of three years from the  
38 effective date of the denial of his or her application, except that  
39 the board may, in its discretion and for good cause demonstrated,

1 permit reapplication after not less than one year has elapsed from  
2 the effective date of the denial.

3 SEC. 3. Section 2225 of the Business and Professions Code is  
4 amended to read:

5 2225. (a) Notwithstanding Section 2263 and any other law  
6 making a communication between a physician and surgeon or a  
7 doctor of podiatric medicine and his or her patients a privileged  
8 communication, those provisions shall not apply to investigations  
9 or proceedings conducted under this chapter. Members of the  
10 board, the Senior Assistant Attorney General of the Health Quality  
11 Enforcement Section, members of the California Board of Podiatric  
12 Medicine, and deputies, employees, agents, and representatives of  
13 the board or the California Board of Podiatric Medicine and the  
14 Senior Assistant Attorney General of the Health Quality  
15 Enforcement Section shall keep in confidence during the course  
16 of investigations, the names of any patients whose records are  
17 reviewed and shall not disclose or reveal those names, except as  
18 is necessary during the course of an investigation, unless and until  
19 proceedings are instituted. The authority of the board or the  
20 California Board of Podiatric Medicine and the Health Quality  
21 Enforcement Section to examine records of patients in the office  
22 of a physician and surgeon or a doctor of podiatric medicine is  
23 limited to records of patients who have complained to the board  
24 or the California Board of Podiatric Medicine about that licensee.

25 (b) Notwithstanding any other law, the Attorney General and  
26 his or her investigative agents, and investigators and representatives  
27 of the board or the California Board of Podiatric Medicine, may  
28 inquire into any alleged violation of the Medical Practice Act or  
29 any other federal or state law, regulation, or rule relevant to the  
30 practice of medicine or podiatric medicine, whichever is applicable,  
31 and may inspect documents relevant to those investigations in  
32 accordance with the following procedures:

33 (1) Any document relevant to an investigation may be inspected,  
34 and copies may be obtained, where patient consent is given.

35 (2) Any document relevant to the business operations of a  
36 licensee, and not involving medical records attributable to  
37 identifiable patients, may be inspected and copied if relevant to  
38 an investigation of a licensee.

39 (c) (1) Notwithstanding subdivision (b) or any other law, in  
40 any investigation that involves the death of a patient, the board

1 may inspect and copy the medical records of the deceased patient  
2 without the authorization of the beneficiary or personal  
3 representative of the deceased patient or a court order solely for  
4 the purpose of determining the extent to which the death was the  
5 result of the physician and surgeon's conduct in violation of the  
6 Medical Practice Act, if the board provides a written request to  
7 either the physician and surgeon or the facility where the medical  
8 records are located or the care to the deceased patient was provided,  
9 that includes a declaration that the board has been unsuccessful in  
10 locating or contacting the deceased patient's beneficiary or personal  
11 representative after reasonable efforts. Nothing in this subdivision  
12 shall be construed to allow the board to inspect and copy the  
13 medical records of a deceased patient without a court order when  
14 the beneficiary or personal representative of the deceased patient  
15 has been located and contacted but has refused to consent to the  
16 board inspecting and copying the medical records of the deceased  
17 patient.

18 (2) The Legislature finds and declares that the authority created  
19 in the board pursuant to this section, and a physician and surgeon's  
20 compliance with this section, are consistent with the public interest  
21 and benefit activities of the federal Health Insurance Portability  
22 and Accountability Act (HIPAA).

23 (d) In all cases in which documents are inspected or copies of  
24 those documents are received, their acquisition or review shall be  
25 arranged so as not to unnecessarily disrupt the medical and business  
26 operations of the licensee or of the facility where the records are  
27 kept or used.

28 (e) If documents are lawfully requested from licensees in  
29 accordance with this section by the Attorney General or his or her  
30 agents or deputies, or investigators of the board or the California  
31 Board of Podiatric Medicine, the documents shall be provided  
32 within 15 business days of receipt of the request, unless the licensee  
33 is unable to provide the documents within this time period for good  
34 cause, including, but not limited to, physical inability to access  
35 the records in the time allowed due to illness or travel. Failure to  
36 produce requested documents or copies thereof, after being  
37 informed of the required deadline, shall constitute unprofessional  
38 conduct. The board may use its authority to cite and fine a  
39 physician and surgeon for any violation of this section. This remedy

1 is in addition to any other authority of the board to sanction a  
2 licensee for a delay in producing requested records.

3 (f) Searches conducted of the office or medical facility of any  
4 licensee shall not interfere with the recordkeeping format or  
5 preservation needs of any licensee necessary for the lawful care  
6 of patients.

7 SEC. 4. Section 2441 of the Business and Professions Code is  
8 amended to read:

9 2441. (a) Any licensee who demonstrates to the satisfaction  
10 of the board that he or she is unable to practice medicine due to a  
11 disability may request a waiver of the license renewal fee. The  
12 granting of a waiver shall be at the discretion of the board and may  
13 be terminated at any time. Waivers shall be based on the inability  
14 of a licensee to practice medicine. A licensee whose renewal fee  
15 has been waived pursuant to this section shall not engage in the  
16 practice of medicine unless and until the licensee pays the current  
17 renewal fee and does either of the following:

18 (1) Establishes to the satisfaction of the board, on a form  
19 prescribed by the board and signed under penalty of perjury, that  
20 the licensee’s disability either no longer exists or does not affect  
21 his or her ability to practice medicine safely.

22 (2) Signs an agreement on a form prescribed by the board, signed  
23 under penalty of perjury, in which the licensee agrees to limit his  
24 or her practice in the manner prescribed by the reviewing physician  
25 and agreed to by the board.

26 (b) The board may require the licensee described in paragraph  
27 (2) of subdivision (a) to obtain an independent clinical evaluation  
28 of his or her ability to practice medicine safely as a condition of  
29 receiving a ~~disability~~ *disabled status* license under this section.

30 (c) Any person who knowingly provides false information in  
31 the agreement submitted pursuant to paragraph (2) of subdivision  
32 (a) shall be subject to any sanctions available to the board.

33 SEC. 5. Section 2519 of the Business and Professions Code is  
34 amended to read:

35 2519. The board may suspend, revoke, or place on probation  
36 the license of a midwife for any of the following:

37 (a) Unprofessional conduct, which includes, but is not limited  
38 to, all of the following:

39 (1) Incompetence or gross negligence in carrying out the usual  
40 functions of a licensed midwife.

- 1 (2) Conviction of a violation of Section 2052, in which event,  
2 the record of the conviction shall be conclusive evidence thereof.
- 3 (3) The use of advertising that is fraudulent or misleading.
- 4 (4) Obtaining or possessing in violation of law, or prescribing,  
5 or except as directed by a licensed physician and surgeon, dentist,  
6 or podiatrist administering to himself or herself, or furnishing or  
7 administering to another, any controlled substance as defined in  
8 Division 10 (commencing with Section 11000) of the Health and  
9 Safety Code or any dangerous drug as defined in Article 8  
10 (commencing with Section 4210) of Chapter 9 of Division 2 of  
11 the Business and Professions Code.
- 12 (5) The use of any controlled substance as defined in Division  
13 10 (commencing with Section 11000) of the Health and Safety  
14 Code, or any dangerous drug as defined in Article 8 (commencing  
15 with Section 4210) of Chapter 9 of Division 2 of the Business and  
16 Professions Code, or alcoholic beverages, to an extent or in a  
17 manner dangerous or injurious to himself or herself, any other  
18 person, or the public or to the extent that this use impairs his or  
19 her ability to conduct with safety to the public the practice  
20 authorized by his or her license.
- 21 (6) Conviction of a criminal offense involving the prescription,  
22 consumption, or self-administration of any of the substances  
23 described in paragraphs (4) and (5), or the possession of, or  
24 falsification of, a record pertaining to, the substances described in  
25 paragraph (4), in which event the record of the conviction is  
26 conclusive evidence thereof.
- 27 (7) Commitment or confinement by a court of competent  
28 jurisdiction for intemperate use of or addiction to the use of any  
29 of the substances described in paragraphs (4) and (5), in which  
30 event the court order of commitment or confinement is prima facie  
31 evidence of such commitment or confinement.
- 32 (8) Falsifying, or making grossly incorrect, grossly inconsistent,  
33 or unintelligible entries in any hospital, patient, or other record  
34 pertaining to the substances described in subdivision (a).
- 35 (b) Procuring a license by fraud or misrepresentation.
- 36 (c) Conviction of a crime substantially related to the  
37 qualifications, functions, and duties of a midwife, as determined  
38 by the board.
- 39 (d) Procuring, aiding, abetting, attempting, agreeing to procure,  
40 offering to procure, or assisting at, a criminal abortion.

1 (e) Violating or attempting to violate, directly or indirectly, or  
2 assisting in or abetting the violation of, or conspiring to violate  
3 any provision or term of this chapter.

4 (f) Making or giving any false statement or information in  
5 connection with the application for issuance of a license.

6 (g) Impersonating any applicant or acting as proxy for an  
7 applicant in any examination required under this chapter for the  
8 issuance of a license or a certificate.

9 (h) Impersonating another licensed practitioner, or permitting  
10 or allowing another person to use his or her license or certificate  
11 for the purpose of providing midwifery services.

12 (i) Aiding or assisting, or agreeing to aid or assist any person  
13 or persons, whether a licensed physician or not, in the performance  
14 of or arranging for a violation of any of the provisions of Article  
15 12 (commencing with Section 2221) of Chapter 5.

16 (j) Failing to do any of the following when required pursuant  
17 to Section 2507:

18 (1) Consult with a physician and surgeon.

19 (2) Refer a client to a physician and surgeon.

20 (3) Transfer a client to a hospital.

21 SEC. 6. Section 2520 of the Business and Professions Code is  
22 amended to read:

23 2520. (a) (1) The fee to be paid upon the filing of a license  
24 application shall be fixed by the board at not less than seventy-five  
25 dollars (\$75) nor more than three hundred dollars (\$300).

26 (2) The fee for renewal of the midwife license shall be fixed by  
27 the board at not less than fifty dollars (\$50) nor more than two  
28 hundred dollars (\$200).

29 (3) The delinquency fee for renewal of the midwife license shall  
30 be 50 percent of the renewal fee in effect on the date of the renewal  
31 of the license, but not less than twenty-five dollars (\$25) nor more  
32 than fifty dollars (\$50).

33 (4) The fee for the examination shall be the cost of administering  
34 the examination to the applicant, as determined by the organization  
35 that has entered into a contract with the board for the purposes set  
36 forth in subdivision (a) of Section 2512.5. Notwithstanding  
37 subdivision (c), that fee may be collected and retained by that  
38 organization.

39 (b) The fee for monitoring a licensee on probation shall be the  
40 cost of monitoring, as fixed by the board.

1 (c) The fees prescribed by this article shall be deposited in the  
2 Licensed Midwifery Fund, which is hereby established, and shall  
3 be available, upon appropriation, to the board for the purposes of  
4 this article.

5 SEC. 7. Section 2522 is added to the Business and Professions  
6 Code, to read:

7 2522. (a) A person whose license has been voluntarily  
8 surrendered while under investigation or while charges are pending  
9 or whose license has been revoked or suspended or placed on  
10 probation, may petition the board for reinstatement or modification  
11 of penalty, including modification or termination of probation.

12 (b) The person may file the petition after a period of not less  
13 than the following minimum periods have elapsed from the  
14 effective date of the surrender of the license or the decision  
15 ordering that disciplinary action:

16 (1) At least three years for reinstatement of a license surrendered  
17 or revoked for unprofessional conduct, except that the board may,  
18 for good cause shown, specify in a revocation order that a petition  
19 for reinstatement may be filed after two years.

20 (2) At least two years for early termination of probation of three  
21 years or more.

22 (3) At least one year for modification of a condition, or  
23 reinstatement of a license surrendered or revoked for mental or  
24 physical illness, or termination of probation of less than three years.

25 (c) The petition shall state any facts as may be required by the  
26 board. The petition shall be accompanied by at least two verified  
27 recommendations from midwives licensed in any state who have  
28 personal knowledge of the activities of the petitioner since the  
29 disciplinary penalty was imposed.

30 (d) The petition may be heard by a panel of the board. The board  
31 may assign the petition to an administrative law judge designated  
32 in Section 11371 of the Government Code. After a hearing on the  
33 petition, the administrative law judge shall provide a proposed  
34 decision to the board, which shall be acted upon in accordance  
35 with Section 2335.

36 (e) The panel of the board or the administrative law judge  
37 hearing the petition may consider all activities of the petitioner  
38 since the disciplinary action was taken, the offense for which the  
39 petitioner was disciplined, the petitioner's activities during the  
40 time the license was in good standing, and the petitioner's

1 rehabilitative efforts, general reputation for truth, and professional  
2 ability. The hearing may be continued from time to time as the  
3 administrative law judge designated in Section 11371 of the  
4 Government Code finds necessary.

5 (f) The administrative law judge designated in Section 11371  
6 of the Government Code reinstating a license or modifying a  
7 penalty may recommend the imposition of any terms and conditions  
8 deemed necessary.

9 (g) No petition shall be considered while the petitioner is under  
10 sentence for any criminal offense, including any period during  
11 which the petitioner is on court-imposed probation or parole. No  
12 petition shall be considered while there is an accusation or petition  
13 to revoke probation pending against the person. The board may  
14 deny without a hearing or argument any petition filed pursuant to  
15 this section within a period of two years from the effective date  
16 of the prior decision following a hearing under this section.

17 SEC. 8. Section 2523 is added to the Business and Professions  
18 Code, to read:

19 2523. (a) Except as provided in subdivisions (b) and (c), the  
20 board shall revoke the license of any person who has been required  
21 to register as a sex offender pursuant to Section 290 of the Penal  
22 Code for conduct that occurred on or after January 1, 2017.

23 (b) This section shall not apply to a person who is required to  
24 register as a sex offender pursuant to Section 290 of the Penal  
25 Code solely because of a misdemeanor conviction under Section  
26 314 of the Penal Code.

27 (c) This section shall not apply to a person who has been relieved  
28 under Section 290.5 of the Penal Code of his or her duty to register  
29 as a sex offender, or whose duty to register has otherwise been  
30 formally terminated under California law.

31 (d) A proceeding to revoke a license pursuant to this section  
32 shall be conducted in accordance with chapter 5 (commencing  
33 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
34 Government Code.

35 SEC. 9. Section 2529 of the Business and Professions Code is  
36 amended to read:

37 2529. (a) Graduates of the Southern California Psychoanalytic  
38 Institute, the Los Angeles Psychoanalytic Society and Institute,  
39 the San Francisco Psychoanalytic Institute, the San Diego  
40 Psychoanalytic Center, or institutes deemed equivalent by the

1 Medical Board of California who have completed clinical training  
2 in psychoanalysis may engage in psychoanalysis as an adjunct to  
3 teaching, training, or research and hold themselves out to the public  
4 as psychoanalysts, and students in those institutes may engage in  
5 psychoanalysis under supervision, if the students and graduates  
6 do not hold themselves out to the public by any title or description  
7 of services incorporating the words “psychological,”  
8 “psychologist,” “psychology,” “psychometrists,” “psychometrics,”  
9 or “psychometry,” or that they do not state or imply that they are  
10 licensed to practice psychology.

11 (b) Those students and graduates seeking to engage in  
12 psychoanalysis under this chapter shall register with the Medical  
13 Board of California, presenting evidence of their student or  
14 graduate status. The board may suspend or revoke the exemption  
15 of those persons for unprofessional conduct as defined in Sections  
16 726, 2234, 2235, and 2529.1

17 SEC. 10. Section 2529.1 is added to the Business and  
18 Professions Code, to read:

19 2529.1. (a) The use of any controlled substance or the use of  
20 any of the dangerous drugs specified in Section 4022, or of  
21 alcoholic beverages, to the extent, or in such a manner as to be  
22 dangerous or injurious to the registrant, or to any other person or  
23 to the public, or to the extent that this use impairs the ability of  
24 the registrant to practice safely or more than one misdemeanor or  
25 any felony conviction involving the use, consumption, or  
26 self-administration of any of the substances referred to in this  
27 section, or any combination thereof, constitutes unprofessional  
28 conduct. The record of the conviction is conclusive evidence of  
29 this unprofessional conduct.

30 (b) A plea or verdict of guilty or a conviction following a plea  
31 of nolo contendere is deemed to be a conviction within the meaning  
32 of this section. The board may order discipline of the registrant in  
33 accordance with Section 2227 or may order the denial of the  
34 registration when the time for appeal has elapsed or the judgment  
35 of conviction has been affirmed on appeal or when an order  
36 granting probation is made suspending imposition of sentence,  
37 irrespective of a subsequent order under the provisions of Section  
38 1203.4 of the Penal Code allowing this person to withdraw his or  
39 her plea of guilty and to enter a plea of not guilty, or setting aside

1 the verdict of guilty, or dismissing the accusation, complaint,  
2 information, or indictment.

3 SEC. 11. Section 2529.6 is added to the Business and  
4 Professions Code, to read:

5 2529.6. (a) Except as provided in subdivisions (b) and (c), the  
6 board shall revoke the registration of any person who has been  
7 required to register as a sex offender pursuant to Section 290 of  
8 the Penal Code for conduct that occurred on or after January 1,  
9 2017.

10 (b) This section shall not apply to a person who is required to  
11 register as a sex offender pursuant to Section 290 of the Penal  
12 Code solely because of a misdemeanor conviction under Section  
13 314 of the Penal Code.

14 (c) This section shall not apply to a person who has been relieved  
15 under Section 290.5 of the Penal Code of his or her duty to register  
16 as a sex offender, or whose duty to register has otherwise been  
17 formally terminated under California law.

18 (d) A proceeding to revoke a registration pursuant to this section  
19 shall be conducted in accordance with ~~chapter~~ *Chapter 5*  
20 (commencing with Section 11500) of Part 1 of Division 3 of Title  
21 2 of the Government Code.

22 SEC. 12. Section 3576 of the Business and Professions Code  
23 is amended to read:

24 3576. (a) A registration under this chapter may be denied,  
25 suspended, revoked, placed on probation, or otherwise subjected  
26 to discipline for any of the following by the holder:

27 (1) Incompetence, gross negligence, or repeated similar  
28 negligent acts performed by the registrant.

29 (2) An act of dishonesty or fraud.

30 (3) Committing any act or being convicted of a crime  
31 constituting grounds for denial of licensure or registration under  
32 Section 480.

33 (4) Violating or attempting to violate this chapter or any  
34 regulation adopted under this chapter.

35 (b) Proceedings under this section shall be conducted in  
36 accordance with Chapter 5 (commencing with Section 11500) of  
37 Part 1 of Division 3 of Title 2 of the Government Code, and the  
38 board shall have all powers granted therein.

39 SEC. 13. Section 3576.1 is added to the Business and  
40 Professions Code, to read:

1 3576.1. (a) A person whose registration has been voluntarily  
2 surrendered while under investigation or while charges are pending  
3 or whose registration has been revoked or suspended or placed on  
4 probation, may petition the board for reinstatement or modification  
5 of penalty, including modification or termination of probation.

6 (b) The person may file the petition after a period of not less  
7 than the following minimum periods have elapsed from the  
8 effective date of the surrender of the registration or the decision  
9 ordering that disciplinary action:

10 (1) At least three years for reinstatement of a registration  
11 surrendered or revoked for unprofessional conduct, except that the  
12 board may, for good cause shown, specify in a revocation order  
13 that a petition for reinstatement may be filed after two years.

14 (2) At least two years for early termination of probation of three  
15 years or more.

16 (3) At least one year for modification of a condition, or  
17 reinstatement of a registration surrendered or revoked for mental  
18 or physical illness, or termination of probation of less than three  
19 years.

20 (c) The petition shall state any facts as may be required by the  
21 board. The petition shall be accompanied by at least two verified  
22 recommendations from polysomnographic technologists registered  
23 in any state who have personal knowledge of the activities of the  
24 petitioner since the disciplinary penalty was imposed.

25 (d) The petition may be heard by a panel of the board. The board  
26 may assign the petition to an administrative law judge designated  
27 in Section 11371 of the Government Code. After a hearing on the  
28 petition, the administrative law judge shall provide a proposed  
29 decision to the board, which shall be acted upon in accordance  
30 with Section 2335.

31 (e) The panel of the board or the administrative law judge  
32 hearing the petition may consider all activities of the petitioner  
33 since the disciplinary action was taken, the offense for which the  
34 petitioner was disciplined, the petitioner's activities during the  
35 time the registration was in good standing, and the petitioner's  
36 rehabilitative efforts, general reputation for truth, and professional  
37 ability. The hearing may be continued from time to time as the  
38 administrative law judge designated in Section 11371 of the  
39 Government Code finds necessary.

1 (f) The administrative law judge designated in Section 11371  
2 of the Government Code reinstating a registration or modifying a  
3 penalty may recommend the imposition of any terms and conditions  
4 deemed necessary.

5 (g) No petition shall be considered while the petitioner is under  
6 sentence for any criminal offense, including any period during  
7 which the petitioner is on court-imposed probation or parole. No  
8 petition shall be considered while there is an accusation or petition  
9 to revoke probation pending against the person. The board may  
10 deny without a hearing or argument any petition filed pursuant to  
11 this section within a period of two years from the effective date  
12 of the prior decision following a hearing under this section.

13 SEC. 14. Section 3576.2 is added to the Business and  
14 Professions Code, to read:

15 3576.2. (a) Except as provided in subdivisions (b) and (c), the  
16 board shall revoke the registration of any person who has been  
17 required to register as a sex offender pursuant to Section 290 of  
18 the Penal for conduct that occurred on or after January 1, 2017.

19 (b) This section shall not apply to a person who is required to  
20 register as a sex offender pursuant to Section 290 of the Penal  
21 Code solely because of a misdemeanor conviction under Section  
22 314 of the Penal Code.

23 (c) This section shall not apply to a person who has been relieved  
24 under Section 290.5 of the Penal Code of his or her duty to register  
25 as a sex offender, or whose duty to register has otherwise been  
26 formally terminated under California law.

27 (d) A proceeding to revoke a registration pursuant to this section  
28 shall be conducted in accordance with ~~chapter~~ *Chapter 5*  
29 (commencing with Section 11500) of Part 1 of Division 3 of Title  
30 2 of the Government Code.

31 SEC. 15. Section 3576.3 is added to the Business and  
32 Professions Code, to read:

33 3576.3. (a) The board may suspend or revoke the registration  
34 of a polysomnographic technologist, polysomnographic technician,  
35 or polysomnographic trainee for unprofessional conduct as  
36 described in this section.

37 (b) The use of any controlled substance or the use of any of the  
38 dangerous drugs specified in Section 4022, or of alcoholic  
39 beverages, to the extent, or in such a manner as to be dangerous  
40 or injurious to the registrant, or to any other person or to the public,

1 or to the extent that this use impairs the ability of the registrant to  
2 practice safely or more than one misdemeanor or any felony  
3 conviction involving the use, consumption, or self-administration  
4 of any of the substances referred to in this section, or any  
5 combination thereof, constitutes unprofessional conduct. The record  
6 of the conviction is conclusive evidence of this unprofessional  
7 conduct.

8 (c) A plea or verdict of guilty or a conviction following a plea  
9 of nolo contendere is deemed to be a conviction within the meaning  
10 of this section. The board may order discipline of the registrant in  
11 accordance with Section 2227 or may order the denial of the  
12 registration when the time for appeal has elapsed or the judgment  
13 of conviction has been affirmed on appeal or when an order  
14 granting probation is made suspending imposition of sentence,  
15 irrespective of a subsequent order under the provisions of Section  
16 1203.4 of the Penal Code allowing this person to withdraw his or  
17 her plea of guilty and to enter a plea of not guilty, or setting aside  
18 the verdict of guilty, or dismissing the accusation, complaint,  
19 information, or indictment.

20 SEC. 16. Section 3577 of the Business and Professions Code  
21 is amended to read:

22 3577. (a) Each person who applies for registration under this  
23 chapter shall pay into the Contingent Fund of the Medical Board  
24 of California a fee to be fixed by the board at a sum not in excess  
25 of one hundred dollars (\$100).

26 (b) Each person to whom registration is granted under this  
27 chapter shall pay into the Contingent Fund of the Medical Board  
28 of California a fee to be fixed by the board at a sum not in excess  
29 of one hundred dollars (\$100).

30 (c) The registration shall expire after two years. The registration  
31 may be renewed biennially at a fee which shall be paid into the  
32 Contingent Fund of the Medical Board of California to be fixed  
33 by the board at a sum not in excess of one hundred fifty dollars  
34 (\$150).

35 (d) The fee for monitoring a licensee *registrant* on probation  
36 shall be the cost of monitoring, as fixed by the board.

37 (e) The money in the Contingent Fund of the Medical Board of  
38 California that is collected pursuant to this section shall be used  
39 for the administration of this chapter.

1     SEC. 17. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 22  
**Author:** Roth, Cannella and Galgiani  
**Bill Date:** February 29, 2016, Amended  
**Subject:** Residency Training: Funding  
**Sponsor:** Author  
**Position:** Support

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill was substantially amended since the last Board Meeting. This bill would make findings and declarations regarding the availability of primary care residency positions in California and the shortage of primary care physicians in California. This bill would appropriate \$300,000,000 from the General Fund to the Office of Statewide Health Planning and Development (OSHPD) to fund physician residency positions in California.

**BACKGROUND**

Graduate medical education (GME) or residency training, is the second phase of the educational process that prepares physicians for independent practice. Resident physicians typically spend three to seven years in GME training. Medicare has been the largest single funder of GME, but in 1997 Congress capped the number of residency slots for which hospitals could receive Medicare GME funding and has not increased this cap. In California, there are many more individuals that would like a residency slot in California, than there are residency positions available.

The Song-Brown Health Care Workforce Training Act was established in 1973 to increase the number of family physicians to provide needed medical services to the people of California. The program encourages universities and primary care health professionals to provide healthcare in medically underserved areas, and provides financial support to family medicine, internal medicine, OB/GYN, and pediatric residency programs, family nurse practitioner, physician assistant, and registered nurse education programs throughout California. The Song-Brown program is aided by the California Healthcare Workforce Policy Commission (CHWPC). CHWPC is a 15-member citizen advisory board that provides expert guidance and statewide perspectives on health professional education issues, reviews applications and recommends contract awards to the Director of OSHPD. The CHWPC meets four times annually and OSHPD provides administrative support to the CHWPC and the accredited training programs.

**ANALYSIS**

This bill would make the following findings and declarations:

- More than \$40 million of funding for the training of California's primary care physicians is expiring in 2016.
- Each year in California, only 368 slots are available to the thousands of medical students seeking to train in family medicine. If the funding is not replaced, 158 of those slots will be lost, creating a deficit of primary care physicians in California's underserved communities.
- Only 36 percent of California's active patient care physicians practice primary care. Twenty-three of California's 58 counties fall below the minimum required primary care physician to population ratio.
- As of 2010, California needed an estimated additional 8,243 primary care physicians by 2030 to prevent projected shortages in the state, which is about 412 new primary care physicians per year.
- More than 32 percent of California's practicing primary care physicians are 60 years of age or older.
- States with higher ratios of primary care physicians to population have better health outcomes, including decreased mortality from cancer, heart disease, and stroke.
- The Song-Brown Program provides an existing state infrastructure to support an increase in the number of primary care providers serving California's underserved populations. By investing in Song-Brown, California will realize an immediate return on investment as each primary care resident provides an average of 600 additional patient visits per physician per year during training alone.
- California's long-term workforce will also grow significantly as the vast majority of physicians who train in a region stay there to practice. California leads all fifty states in the percentage of residency program graduates who stay in the state in which they are trained.

This bill would continuously appropriate \$300 million from the General Fund (over a three-year period) to OSHPD for the purpose of funding new and existing graduate medical education physician residency positions, and supporting training faculty, pursuant to the Song-Brown Health Care Workforce Training Act.

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. As such, Board staff is suggesting that the Board continue to support this bill.

**FISCAL:** None

**SUPPORT:** (Verified 1/26/16) - AARP; Association of California Healthcare Districts; California Academy of Physician Assistants; California Chapter of the American College of Emergency Physicians; California Physical Therapy Association; California Primary Care Association; and Community Clinic Association of Los Angeles County

**OPPOSITION:** (Verified 1/26/16) - None on file

**POSITION:** Recommendation: Support

AMENDED IN ASSEMBLY FEBRUARY 29, 2016

AMENDED IN SENATE JANUARY 25, 2016

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**

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**Introduced by ~~Senator Roth~~ *Senators Roth, Cannella, and Galgiani***  
*(Principal coauthors: Assembly Members Alejo, Brown, Calderon, Eduardo Garcia, Gipson, Gonzalez, Gray, Jones-Sawyer, Linder, Olsen, Ridley-Thomas, and Salas)*

December 1, 2014

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An act to add Article 7 (commencing with Section 128590) to Chapter 5 of 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~~. *training: funding.*

*The Song-Brown Health Care Workforce Training Act creates a state medical contract program to increase the number of students and residents receiving quality education and training in specified primary care specialties or in nursing, and to maximize the delivery of primary care and family physician services to specific areas of California where there is a recognized unmet priority need for those services. The act requires the Director of Statewide Health Planning and Development to, among other things, contract with accredited medical schools,*

*teaching health centers, training programs, hospitals, and other health care delivery systems for those purposes, based on recommendations of the California Healthcare Workforce Policy Commission and in conformity with the contract criteria and program standards established by the commission.*

*This bill would appropriate \$300,000,000 from the General Fund to the director for the purpose of funding new and existing graduate medical education physician residency positions, and supporting training faculty, pursuant to the act, for expenditure as specified. The bill would also make related findings and declarations.*

~~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 requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to solicit and receive funds for the purpose of providing financial assistance in the form of scholarships or loans to medical students from underrepresented groups. Under existing law, the foundation also administers other programs for the advancement of health professions, including the Registered Nurse Education Program.~~

~~This bill would establish the Medical Residency Training Advisory Panel, consisting of a total of 13 members to be appointed as specified, within the Health Professions Education Foundation.~~

~~The bill would create the Medical Residency Training Fund in the State Treasury, a continuously appropriated fund, and would require the panel 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 foundation to provide technical support and financial management for the panel and to approve and send panel recommendations for new residency programs to the Office of Statewide Health Planning and Development for~~

~~implementation if specified requirements are met, including sufficient funding. The bill would require the office to enter into contracts with public and private sector institutions and other health agencies and organizations in order to fund and establish recommended 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 panel, in an amount matching the amount deposited into the fund, as specified. 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 <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.~~

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

- 1     SECTION 1. *The Legislature finds and declares as follows:*
- 2     (a) *More than \$40 million of funding for the training of*
- 3     *California’s primary care physicians is expiring in 2016.*
- 4     (b) *Each year in California, only 368 slots are available to the*
- 5     *thousands of medical students seeking to train in family medicine.*
- 6     *If the funding is not replaced, 158 of those slots will be lost,*
- 7     *creating a terrible deficit of primary care physicians in California’s*
- 8     *underserved communities.*
- 9     (c) *Only 36 percent of California’s active patient care physicians*
- 10    *practice primary care. Twenty-three of California’s 58 counties*
- 11    *fall below the minimum required primary care physician to*
- 12    *population ratio.*
- 13    (d) *As of 2010, California needed an estimated additional 8,243*
- 14    *primary care physicians by 2030 to prevent projected shortages*
- 15    *in the state, which is about 412 new primary care physicians per*
- 16    *year.*

1 (e) More than 32 percent of California’s practicing primary  
2 care physicians are 60 years of age or older – only four other  
3 states have a larger percentage of soon-to-rotate physicians.

4 (f) States with higher ratios of primary care physicians to  
5 population have better health outcomes, including decreased  
6 mortality from cancer, heart disease, and stroke.

7 (g) The Song-Brown program provides an existing state  
8 infrastructure to support an increase in the number of primary  
9 care providers serving California’s underserved populations. By  
10 investing in Song-Brown, California will realize an immediate  
11 return on investment as each primary care resident provides an  
12 average of 600 additional patient visits per physician per year  
13 during training alone.

14 (h) California’s long-term workforce will also grow significantly  
15 as the vast majority of physicians who train in a region stay there  
16 to practice. California leads all fifty states in the percentage of  
17 residency program graduates who stay in the state in which they  
18 are trained.

19 SEC. 2. Notwithstanding Section 13340 of the Government  
20 Code, there is hereby continuously appropriated from the General  
21 Fund the sum of three hundred million dollars (\$300,000,000) to  
22 the Director of Statewide Health Planning and Development, for  
23 the purpose of funding new and existing graduate medical  
24 education physician residency positions, and supporting training  
25 faculty, pursuant to the Song-Brown Health Care Workforce  
26 Training Act (Article 1 (commencing with Section 128200) of  
27 Chapter 4 of Part 3 of Division 107 of the Health and Safety Code).  
28 The moneys shall be expended as follows:

29 (a) The sum of one hundred million dollars (\$100,000,000) shall  
30 be expended in the 2016–17 fiscal year.

31 (b) The sum of one hundred million dollars (\$100,000,000) shall  
32 be expended in the 2017–18 fiscal year.

33 (c) The sum of one hundred million dollars (\$100,000,000) shall  
34 be expended in the 2018–19 fiscal year.

35 SECTION 1. ~~Article 7 (commencing with Section 128590) is~~  
36 ~~added to Chapter 5 of Part 3 of Division 107 of the Health and~~  
37 ~~Safety Code, to read:~~

1 Article 7. ~~California Medical Residency Training Program~~

2  
3 128590. ~~As used in this article:~~

4 (a) ~~“Director” means the Director of Statewide Health Planning~~  
5 ~~and Development.~~

6 (b) ~~“Foundation” means the Health Professions Education~~  
7 ~~Foundation.~~

8 (c) ~~“Fund” means the Medical Residency Training Fund.~~

9 (d) ~~“Office” means the Office of Statewide Health Planning and~~  
10 ~~Development.~~

11 (e) ~~“Panel” means the Medical Residency Training Advisory~~  
12 ~~Panel, established pursuant to Section 128591.~~

13 (f) ~~“Primary care” means the medical practice areas of family~~  
14 ~~medicine, general surgery, internal medicine, obstetrics and~~  
15 ~~gynecology, pediatrics, psychiatry, and related specialties and~~  
16 ~~subspecialties as the office deems appropriate.~~

17 (g) ~~“Residency position” means a graduate medical education~~  
18 ~~residency position in the field of primary care.~~

19 128591. (a) (1) ~~There is established within the foundation the~~  
20 ~~Medical Residency Training Advisory Panel.~~

21 (2) ~~The panel shall consist of 13 members. Seven members shall~~  
22 ~~be appointed by the Governor, one member shall be appointed by~~  
23 ~~the Speaker of the Assembly, one member shall be appointed by~~  
24 ~~the Senate Committee on Rules, two members of the Medical~~  
25 ~~Board of California shall be appointed by the Medical Board of~~  
26 ~~California, and two members of the Osteopathic Medical Board~~  
27 ~~of California shall be appointed by the Osteopathic Medical Board~~  
28 ~~of California.~~

29 (3) ~~The members of the panel appointed by the Governor, the~~  
30 ~~Speaker of the Assembly, and the Senate Committee on Rules~~  
31 ~~shall consist of representatives of designated and nondesignated~~  
32 ~~public hospitals, private hospitals, community clinics, public and~~  
33 ~~private health insurance providers, the pharmaceutical industry,~~  
34 ~~associations of health care practitioners, and other appropriate~~  
35 ~~members of health or related professions.~~

36 (4) ~~All persons considered for appointment shall have an interest~~  
37 ~~in increasing the number of medical residencies in the state, an~~  
38 ~~interest in increasing access to health care in underserved areas of~~  
39 ~~California, and the ability and desire to solicit funds for the~~  
40 ~~purposes of this article, as determined by the appointing power.~~

1 ~~(b) The Governor shall appoint the president of the panel from~~  
2 ~~among those members appointed by the Governor, the Speaker of~~  
3 ~~the Assembly, the Senate Committee on Rules, the Medical Board~~  
4 ~~of California, and the Osteopathic Medical Board of California.~~

5 ~~(e) (1) Of the members of the panel first appointed by the~~  
6 ~~Governor, three members shall be appointed to serve a one-year~~  
7 ~~term, three members shall be appointed to serve a two-year term,~~  
8 ~~and one member shall be appointed to serve a three-year term.~~

9 ~~(2) Each member of the panel first appointed by the Speaker of~~  
10 ~~the Assembly and the Senate Committee on Rules shall be~~  
11 ~~appointed to serve a three-year term.~~

12 ~~(3) Each member of the panel appointed by the Medical Board~~  
13 ~~of California and the Osteopathic Medical Board of California~~  
14 ~~shall be appointed to serve a four-year term.~~

15 ~~(4) Upon the expiration of the initial appointments to the panel~~  
16 ~~by the Governor, the Speaker of the Assembly, the Senate~~  
17 ~~Committee on Rules, the Medical Board of California, and the~~  
18 ~~Osteopathic Medical Board of California, each member shall be~~  
19 ~~appointed to serve a four-year term.~~

20 ~~(d) (1) Members of the panel appointed by the Governor, the~~  
21 ~~Speaker of the Assembly, and the Senate Committee on Rules~~  
22 ~~shall serve without compensation, but shall be reimbursed for any~~  
23 ~~actual and necessary expenses incurred in connection with their~~  
24 ~~duties as members of the panel.~~

25 ~~(2) The members appointed by the Medical Board of California~~  
26 ~~and the Osteopathic Medical Board of California shall serve~~  
27 ~~without compensation, but shall be reimbursed by the Medical~~  
28 ~~Board of California and the Osteopathic Medical Board of~~  
29 ~~California, respectively, for any actual and necessary expenses~~  
30 ~~incurred in connection with their duties as members of the panel.~~

31 ~~(e) Notwithstanding any law relating to incompatible activities,~~  
32 ~~no member of the panel shall be considered to be engaged in~~  
33 ~~activities inconsistent and incompatible with his or her duties solely~~  
34 ~~as a result of membership on the Medical Board of California or~~  
35 ~~the Osteopathic Medical Board of California.~~

36 ~~(f) The panel shall be subject to the Nonprofit Public Benefit~~  
37 ~~Corporation Law (Part 2 (commencing with Section 5110) of~~  
38 ~~Division 2 of Title 2 of the Corporations Code), except that if there~~  
39 ~~is a conflict with this article and the Nonprofit Public Benefit~~  
40 ~~Corporation Law (Part 2 (commencing with Section 5110) of~~

1 Division 2 of Title 2 of the Corporations Code), this article shall  
2 prevail.

3 ~~128592. The panel shall do all of the following:~~

4 ~~(a) Solicit and accept funds from business, industry, foundations,~~  
5 ~~and other private or public sources for the purpose of establishing~~  
6 ~~and funding new residency positions in areas of the state described~~  
7 ~~in subdivision (c).~~

8 ~~(b) Encourage public and private sector institutions, including~~  
9 ~~hospitals, colleges, universities, community clinics, and other~~  
10 ~~health agencies and organizations to identify and provide locations~~  
11 ~~for the establishment of new residency positions in areas of the~~  
12 ~~state described in subdivision (c). The panel shall solicit proposals~~  
13 ~~for medical residency programs, as described in subdivision (c);~~  
14 ~~and shall provide to the foundation a copy of all proposals it~~  
15 ~~receives.~~

16 ~~(c) Upon the sufficient solicitation of funds and at the panel's~~  
17 ~~discretion, recommend to the foundation the establishment of new~~  
18 ~~residency positions. A recommendation shall include all pertinent~~  
19 ~~information required to enter into the necessary contracts to~~  
20 ~~establish the residency positions. The panel shall only approve and~~  
21 ~~recommend to the foundation proposals that would establish~~  
22 ~~residency positions that will serve in any of the following medical~~  
23 ~~service areas:~~

24 ~~(1) A service area that is designated as a primary care shortage~~  
25 ~~area by the office.~~

26 ~~(2) A service area that is designated as a health professional~~  
27 ~~shortage area for primary care, by either population or geographic~~  
28 ~~designation, by the Health Resources and Services Administration~~  
29 ~~of the United States Department of Health and Human Services.~~

30 ~~(3) A service area that is designated as a medically underserved~~  
31 ~~area or medically underserved population by the Health Resources~~  
32 ~~and Services Administration of the United States Department of~~  
33 ~~Health and Human Services.~~

34 ~~(d) Upon foundation approval of a recommendation, deposit~~  
35 ~~into the fund necessary moneys required to establish and fund the~~  
36 ~~residency position.~~

37 ~~(e) Recommend to the director that a portion of the funds~~  
38 ~~solicited from the private sector be used for the administrative~~  
39 ~~requirements of the panel and the foundation.~~

1 (f) Prepare and submit an annual report to the Legislature  
2 documenting the amount of money solicited, the amount of money  
3 deposited by the panel into the fund, the recommendations for the  
4 location and fields of practice of residency positions, total  
5 expenditures for the year, and prospective fundraising goals.

6 128593. The foundation shall do all of the following:

7 (a) Provide technical and staff support to the panel in meeting  
8 all of its responsibilities.

9 (b) Upon receipt of a recommendation made by the panel  
10 pursuant to subdivision (e) of Section 128592, approve the  
11 recommendation if the recommendation fulfills the requirements  
12 of subdivision (e) of Section 128592 and the recommendation  
13 fulfills the goals of this article. Upon sufficient funds being  
14 available, an approval shall be sent to the office for implementation  
15 pursuant to Section 128594.

16 128594. The office shall do all of the following:

17 (a) Establish a uniform process by which the panel may solicit  
18 proposals from public and private sector institutions, including  
19 hospitals, colleges, universities, community clinics, and other  
20 health agencies and organizations that train primary care residents.  
21 The office shall require that the proposals contain all necessary  
22 and pertinent information, including, but not limited to, all of the  
23 following:

24 (1) The location of the proposed residency position.

25 (2) The medical practice area of the proposed residency position.

26 (3) Information that demonstrates the area's need for the  
27 proposed residency position and for additional primary care  
28 practitioners.

29 (4) The amount of funding required to establish and operate the  
30 residency position.

31 (b) Enter into contracts with public and private sector  
32 institutions, including hospitals, colleges, universities, community  
33 clinics, and other health agencies and organizations in order to  
34 fund and establish residency positions at, or in association with,  
35 these institutions.

36 (c) Ensure that the residency position has been, or will be,  
37 approved by the Accreditation Council for Graduate Medical  
38 Education.

39 (d) Provide all of the following information to the panel and the  
40 foundation as requested:

1 ~~(1) The areas of the state that are deficient in primary care~~  
2 ~~services:~~  
3 ~~(2) The areas of the state that have the highest number of~~  
4 ~~Medi-Cal enrollees and persons eligible to enroll in Medi-Cal, by~~  
5 ~~proportion of population.~~  
6 ~~(3) Other information relevant to assist the panel and the~~  
7 ~~foundation in making recommendations on possible locations for~~  
8 ~~new residency positions:~~  
9 ~~(e) Monitor the residencies established pursuant to this article.~~  
10 ~~(f) (1) Prepare and submit an annual report to the panel, the~~  
11 ~~foundation, and the Legislature documenting the amount of money~~  
12 ~~contributed to the fund by the panel, the amount of money~~  
13 ~~expended from the fund, the purposes of those expenditures, the~~  
14 ~~number and location of residency positions established and funded,~~  
15 ~~and recommendations for the location of future residency positions.~~  
16 ~~(2) The report pursuant to paragraph (1) shall be made to the~~  
17 ~~Legislature pursuant to Section 9795 of the Government Code.~~  
18 ~~128595. (a) The Medical Residency Training Fund is hereby~~  
19 ~~created within the State Treasury.~~  
20 ~~(b) The primary purpose of the fund is to allocate funding for~~  
21 ~~new residency positions throughout the state. Money in the fund~~  
22 ~~shall also be used to pay for the cost of administering the goals of~~  
23 ~~the panel and the foundation as established by this article, and for~~  
24 ~~any other purpose authorized by this article.~~  
25 ~~(c) The level of expenditure by the office for the administrative~~  
26 ~~support of the panel and the foundation is subject to review and~~  
27 ~~approval annually through the state budget process.~~  
28 ~~(d) In addition to funds raised by the panel, the office and the~~  
29 ~~foundation may solicit and accept public and private donations to~~  
30 ~~be deposited into the fund. All money in the fund is continuously~~  
31 ~~appropriated to the office for the purposes of this article. The office~~  
32 ~~shall manage this fund prudently in accordance with applicable~~  
33 ~~laws.~~  
34 ~~128596. Any regulations the office adopts to implement this~~  
35 ~~article shall be adopted as emergency regulations in accordance~~  
36 ~~with Section 11346.1 of the Government Code, except that the~~  
37 ~~regulations shall be exempt from the requirements of subdivisions~~  
38 ~~(e), (f), and (g) of that section. The regulations shall be deemed to~~  
39 ~~be emergency regulations for the purposes of Section 11346.1 of~~  
40 ~~the Government Code.~~

1 128597. Notwithstanding any other law, the office may exempt  
2 from public disclosure any document in the possession of the office  
3 that pertains to a donation made pursuant to this article if the donor  
4 has requested anonymity.

5 128598. (a) The Governor may include in the annual budget  
6 proposal an amount, as he or she deems reasonable, to be  
7 appropriated to the office to be used as provided in this article.

8 (b) If the Legislature appropriates money for purposes of this  
9 article, the money shall be appropriated to the office, which shall  
10 hold the money for distribution to the fund.

11 (c) Funds appropriated to the office shall be paid into the fund,  
12 upon request of the panel, in an amount matching the amount  
13 deposited into the fund by the panel or by the foundation and office  
14 pursuant to subdivision (d) of Section 128595 for the purposes of  
15 this article. Any money that was appropriated to the office and  
16 that has not been distributed to the fund at the end of each fiscal  
17 year shall be returned to the General Fund.

18 SEC. 2. The Legislature finds and declares that Section 1 of  
19 this act, which adds Article 7 (commencing with Section 128590)  
20 to Chapter 5 of Part 3 of Division 107 of the Health and Safety  
21 Code, imposes a limitation on the public's right of access to the  
22 meetings of public bodies or the writings of public officials and  
23 agencies within the meaning of Section 3 of Article I of the  
24 California Constitution. Pursuant to that constitutional provision,  
25 the Legislature makes the following findings to demonstrate the  
26 interest protected by this limitation and the need for protecting  
27 that interest:

28 The need to protect individual privacy of donations made by a  
29 donor to fund new medical residency positions in underserved  
30 areas of the state outweighs the interest in the public disclosure of  
31 that information.

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 482  
**Author:** Lara  
**Bill Date:** April 7, 2016, Amended  
**Subject:** Controlled Substances: CURES Database  
**Sponsor:** Consumer Attorneys of California and  
California Narcotics Officers  
**Position:** Support if Amended

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would require all prescribers issuing Schedule II and III drugs to access and consult the CURES database before prescribing a Schedule II or III controlled substance under specified conditions.

**BACKGROUND:**

The CURES Program is currently housed in the Department of Justice (DOJ) and is a state database of dispensed prescription drugs that have a high potential for misuse and abuse. CURES provides for electronic transmission of specified prescription data to DOJ. In September 2009, DOJ launched the CURES Prescription Drug Monitoring Program (PDMP) system allowing pre-registered users, including licensed health care prescribers eligible to prescribe controlled substances, pharmacists authorized to dispense controlled substances, law enforcement, and regulatory boards, to access patient controlled substance history information through a secure website. SB 809 (DeSaulnier, Chapter 400) was signed into law in 2013 and included a provision to collect funds from boards that license prescribers and dispensers, for purposes of funding and upgrading the CURES system. This bill also required all prescribers to register with CURES by January 1, 2016, but the law was amended to extend the registration deadline to July 1, 2016. The new CURES 2.0 system, which is a modernized system that has been updated to more efficiently serve prescribers, pharmacists and other entities is now operational and available online, as long as the prescriber uses the compliant browser.

According to the Centers for Disease Control and Prevention, drug overdoses are the top cause of accidental death in the United States and nearly 23,000 people died from an overdose of pharmaceuticals in 2013, more than 70% of them from opiate prescription painkillers. According to the California Attorney General's Office, if doctors and pharmacies have access to controlled substance history information at the point of care, it will help them make better prescribing decisions and cut down on prescription drug abuse in California.

According to the author's office, other states that have required prescribers to check their drug monitoring systems have seen significantly improved public health outcomes. In 2012, Tennessee required prescribers to check the state's PDMP before prescribing painkillers and within one year, they saw a 36% drop in patients who were

seeing multiple prescribers to obtain the same drugs. In Virginia, the number of doctor-shoppers fell by 73% after use of the database became mandatory. In Oklahoma, which requires mandatory checks for methadone, overdoses fell about 21% in one year. New York also requires prescribers to check their state drug monitoring systems and has seen dramatic decreases in drug overdoses and deaths.

## **ANALYSIS**

This bill would require a prescriber to 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 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 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.

This bill would specify that failure by a prescriber to consult a patient's electronic history as required by this bill would be cause for disciplinary action by the respective licensing board of the prescriber. The licensing boards of all prescribers authorized to write prescriptions for controlled substances shall notify licensees of the requirements of this bill.

This bill would specify that a prescriber is not liable in a civil action solely for failing to consult the CURES database as required by this bill.

This bill would specify that the requirement to consult the CURES database does not apply if any of the following conditions are met:

- The CURES database is suspended or inaccessible, the Internet is not operational, the data in the CURES database is inaccurate or incomplete, or it is not possible to query the CURES database in a timely manner because of an emergency.
- The controlled substance is prescribed to a patient receiving hospice care.
- The controlled substance is prescribed to a patient as part of a surgical procedure that has or will occur in a licensed health care facility and the prescription is non-refillable.
- The controlled substance is directly administered to the patient by the prescriber or another person authorized to prescribe a controlled substance.

This bill would specify that is not operative until DOJ certifies that the CURES database is ready for statewide use. DOJ would be required to notify the Secretary of State and the Office of Legislative Counsel of the date of that certification.

This bill would specify that the provisions of the bill are severable and if any provision is held invalid, that invalidity shall not affect other provisions of this bill.

The Board believes CURES is a very important enforcement tool and an effective aid for physicians to use to prevent "doctor shopping". Requiring all

prescribers to consult the CURES system will allow prescribers to make informed decisions about their patient's care. This bill only requires the CURES database to be checked for an initial prescription of a Schedule II or III controlled substance, on an annual basis if that controlled substance is still being prescribed, or if the same controlled substance has already been prescribed. This bill would also ensure that the CURES system will have the capacity to handle this workload before the bill becomes operative.

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. For these reasons, Board staff is suggesting that the Board support this bill.

**FISCAL:** Minimal and absorbable fiscal impact

**SUPPORT:** Consumer Attorneys of California (Sponsor); California Narcotics Officers (Sponsor); California Association of Code Enforcement Officers; California College and University Police Chiefs Association; California Conference Board of the Amalgamated Transit Union; California Conference of Machinists; California Correctional Supervisors Organization; California Teamsters Public Affairs Council; Consumer Federation of California; Consumer Watchdog; Engineers and Scientists of California; IFPTE Local 20, AFL-CIO; International Faith Based Coalition; International Longshore and Warehouse Union; Los Angeles Police Protective League; Professional and Technical Engineers, IFPTE Local 21, AFL-CIO; Riverside Sheriffs Organization; UNITE-HERE, AFL-CIO; and Utility Workers Union of America

**OPPOSITION:** California Medical Association and The Doctor's Company

**POSITION:** Recommendation: Support

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 482**

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**Introduced by Senator Lara**

February 26, 2015

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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, to consult a patient's electronic history in the CURES database before prescribing 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 licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber 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.~~ *if a specified condition exists, including any time that the CURES database is suspended or not accessible, an inability to access the CURES database in a timely manner because of an emergency, when the controlled substance is prescribed to a patient receiving hospice care, or when the controlled substance is directly administered to the patient by the person prescribing the controlled substance.* 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:*

1 SECTION 1. Section 11165.4 is added to the Health and Safety  
2 Code, to read:  
3 11165.4. (a) A prescriber shall access and consult the CURES  
4 database for the electronic history of controlled substances  
5 dispensed to a patient under his or her care before prescribing a  
6 Schedule II or Schedule III controlled substance for the first time  
7 to that patient and at least annually when that prescribed controlled  
8 substance remains part of his or her treatment. If the patient has  
9 an existing prescription for a Schedule II or Schedule III controlled  
10 substance, the prescriber shall not prescribe an additional controlled  
11 substance until the prescriber determines that there is a legitimate  
12 need for that controlled substance.  
13 (b) Failure to consult a patient's electronic history as required  
14 by subdivision (a) is cause for disciplinary action by the  
15 prescriber's licensing board. The licensing boards of all prescribers  
16 authorized to write or issue prescriptions for controlled substances  
17 shall notify these licensees of the requirements of this section.

1 ~~(e) Notwithstanding any other law, a prescriber is not in~~  
2 ~~violation of this section during any period of time in which the~~  
3 ~~CURES database is suspended or not accessible or any period of~~  
4 ~~time in which the Internet is not operational.~~

5 *(c) A prescriber is not liable in a civil action solely for failing*  
6 *to consult the CURES database as required pursuant to subdivision*  
7 *(a).*

8 *(d) The requirement in subdivision (a) does not apply, and a*  
9 *prescriber is not in violation of this section, if any of the following*  
10 *conditions are met:*

11 *(1) The CURES database is suspended or inaccessible, the*  
12 *Internet is not operational, the data in the CURES database is*  
13 *inaccurate or incomplete, or it is not possible to query the CURES*  
14 *database in a timely manner because of an emergency.*

15 *(2) The controlled substance is prescribed to a patient receiving*  
16 *hospice care.*

17 *(3) The controlled substance is prescribed to a patient as a part*  
18 *of a surgical procedure that has or will occur in a licensed health*  
19 *care facility and the prescription is nonrefillable.*

20 *(4) The controlled substance is directly administered to the*  
21 *patient by the prescriber or another person authorized to prescribe*  
22 *a controlled substance.*

23 ~~(e)~~

24 *(e) This section shall not become operative until the Department*  
25 *of Justice certifies that the CURES database is ready for statewide*  
26 *use. The department shall notify the Secretary of State and the*  
27 *Office of Legislative Counsel of the date of that certification.*

28 ~~(e)~~

29 *(f) For purposes of this section, “prescriber” means a health care*  
30 *practitioner who is authorized to write or issue prescriptions under*  
31 *Section 11150, excluding veterinarians.*

32 ~~(f)~~

33 *(g) A violation of this section shall not be subject to the*  
34 *provisions of Section 11374.*

35 *(h) All applicable state and federal privacy laws govern the*  
36 *duties required by this section.*

37 *(i) The provisions of this section are severable. If any provision*  
38 *of this section or its application is held invalid, that invalidity shall*

- 1 *not affect other provisions or applications that can be given effect*
- 2 *without the invalid provision or application.*

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 563  
**Author:** Pan  
**Bill Date:** January 4, 2016, Amended  
**Subject:** Workers' Compensation: Utilization Review  
**Sponsor:** California Medical Association (CMA)  
**Position:** Support

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would ensure that physicians involved in authorizing injured worker medical care on behalf of the employer and/or payor are not being inappropriately incentivized to modify, delay, or deny requests for medically necessary services.

**BACKGROUND**

In California's workers' compensation system, an employer or insurer cannot deny treatment. When an employer or insurer receives a request for medical treatment, the employer or insurer can either approve the treatment or, if the employer or insurer believes that a physician's request for treatment is medically unnecessary or harmful, the employer or insurer must send the request to utilization review (UR). UR is the process used by employers or claims administrators to review medical treatment requested for the injured worker, to determine if the proposed treatment is medically necessary. UR is used to decide whether or not to approve medical treatment recommended by a treating physician. In California, the Department of Industrial Relations, Division of Workers' Compensation, does not require physicians performing UR to be licensed in California.

In April 2013, the Medical Board of California (Board) reaffirmed that engaging in UR is the practice of medicine and that the Board will not automatically deem UR complaints as non-jurisdictional; the Board will review UR complaints against California-licensed physicians to determine if a quality of care issue is present, and if so, the complaint will undergo the normal complaint review process.

**ANALYSIS**

This bill would prohibit an employer, or any entity conducting UR on behalf of an employer, from providing any financial incentive or consideration to a physician based on the number of modifications, delays, or denials made by the physician. This bill would give the administrative director the authority to review any compensation agreement, payment schedule, or contract between the employer, or any entity conducting UR on behalf of the employer, and the UR physician.

According to the sponsor, this bill would increase transparency and accountability within the workers' compensation UR process. There is currently no explicit prohibition in law related to UR to ensure that a physician's judgment for medical necessity is not compromised by financial incentives. This bill will promote the Board's mission of consumer protection and the Board took a support position on this bill.

**FISCAL:** None to the Board

**SUPPORT:** California Medical Association (sponsor)  
California Labor Federation, AFL-CIO  
California Orthopedic Association

**OPPOSITION:** None on file

AMENDED IN SENATE JANUARY 4, 2016

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 13, 2015

**SENATE BILL**

**No. 563**

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**Introduced by Senator Pan**

February 26, 2015

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An act to amend Section 4610 of, and to add Section 4610.2 to, of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 563, as amended, Pan. Workers' compensation: utilization review.

Existing law requires every employer, for purposes of workers' compensation, to establish a utilization review process to prospectively, retrospectively, or concurrently review requests by physicians for authorization to provide recommended medical treatment to injured employees. Existing law establishes timeframes for an employer to make a determination regarding a physician's request. Existing law requires the utilization review process to be governed by written policies and procedures, and requires that these policies and procedures be filed with the Administrative Director of the Division of Workers' Compensation and disclosed by the employer to employees, physicians, and the public upon request.

This bill would require that the method of compensation, and any incentive payments contingent upon the approval, modification, or denial of a claim, for an individual or entity providing services pursuant to the utilization review process, as specified, be filed with the administrative director and disclosed by the employer to employees, physicians, and the public upon request. The bill would exempt a request

for medical treatment by a physician to cure or relieve an injured worker from the effect of an industrial injury from these requirements if the request meets specified conditions, including that a final award of permanent disability made by the appeals board specifies the provision of future medical treatment and that the request for medical treatment is for medical treatment that is specified by the award. The bill would also include a statement of legislative intent: *prohibit the employer, or any entity conducting utilization review on behalf of the employer, from offering or providing any financial incentive or consideration to a physician based on the number of modifications, delays, or denials made by the physician. The bill would grant the administrative director authority pursuant to this provision to review any compensation agreement, payment schedule, or contract between the employer, or any entity conducting utilization review on behalf of the employer, and the utilization review physician.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

- 1     SECTION 1. Section 4610 of the Labor Code is amended to  
2     read:
- 3     4610. (a) For purposes of this section, “utilization review”  
4     means utilization review or utilization management functions that  
5     prospectively, retrospectively, or concurrently review and approve,  
6     modify, delay, or deny, based in whole or in part on medical  
7     necessity to cure and relieve, treatment recommendations by  
8     physicians, as defined in Section 3209.3, prior to, retrospectively,  
9     or concurrent with the provision of medical treatment services  
10    pursuant to Section 4600.
- 11    (b) Every employer shall establish a utilization review process  
12    in compliance with this section, either directly or through its insurer  
13    or an entity with which an employer or insurer contracts for these  
14    services.
- 15    (c) Each utilization review process shall be governed by written  
16    policies and procedures. These policies and procedures shall ensure  
17    that decisions based on the medical necessity to cure and relieve  
18    of proposed medical treatment services are consistent with the  
19    schedule for medical treatment utilization adopted pursuant to  
20    Section 5307.27. These policies and procedures, and a description

1 of the utilization process, shall be filed with the administrative  
2 director and shall be disclosed by the employer to employees,  
3 physicians, and the public upon request.

4 (d) If an employer, insurer, or other entity subject to this section  
5 requests medical information from a physician in order to  
6 determine whether to approve, modify, delay, or deny requests for  
7 authorization, the employer shall request only the information  
8 reasonably necessary to make the determination. The employer,  
9 insurer, or other entity shall employ or designate a medical director  
10 who holds an unrestricted license to practice medicine in this state  
11 issued pursuant to Section 2050 or Section 2450 of the Business  
12 and Professions Code. The medical director shall ensure that the  
13 process by which the employer or other entity reviews and  
14 approves, modifies, delays, or denies requests by physicians prior  
15 to, retrospectively, or concurrent with the provision of medical  
16 treatment services, complies with the requirements of this section.  
17 Nothing in this section shall be construed as restricting the existing  
18 authority of the Medical Board of California.

19 (e) No person other than a licensed physician who is competent  
20 to evaluate the specific clinical issues involved in the medical  
21 treatment services, and where these services are within the scope  
22 of the physician's practice, requested by the physician may modify,  
23 delay, or deny requests for authorization of medical treatment for  
24 reasons of medical necessity to cure and relieve. *The employer, or*  
25 *any entity conducting utilization review on behalf of the employer,*  
26 *shall neither offer nor provide any financial incentive or*  
27 *consideration to a physician based on the number of modifications,*  
28 *delays, or denials made by the physician under this section. The*  
29 *administrative director has authority pursuant to this section to*  
30 *review any compensation agreement, payment schedule, or contract*  
31 *between the employer, or any entity conducting utilization review*  
32 *on behalf of the employer, and the utilization review physician.*

33 (f) The criteria or guidelines used in the utilization review  
34 process to determine whether to approve, modify, delay, or deny  
35 medical treatment services shall be all of the following:

36 (1) Developed with involvement from actively practicing  
37 physicians.

38 (2) Consistent with the schedule for medical treatment utilization  
39 adopted pursuant to Section 5307.27.

40 (3) Evaluated at least annually, and updated if necessary.

1 (4) Disclosed to the physician and the employee, if used as the  
2 basis of a decision to modify, delay, or deny services in a specified  
3 case under review.

4 (5) Available to the public upon request. An employer shall  
5 only be required to disclose the criteria or guidelines for the  
6 specific procedures or conditions requested. An employer may  
7 charge members of the public reasonable copying and postage  
8 expenses related to disclosing criteria or guidelines pursuant to  
9 this paragraph. Criteria or guidelines may also be made available  
10 through electronic means. No charge shall be required for an  
11 employee whose physician's request for medical treatment services  
12 is under review.

13 (g) In determining whether to approve, modify, delay, or deny  
14 requests by physicians prior to, retrospectively, or concurrent with  
15 the provisions of medical treatment services to employees all of  
16 the following requirements shall be met:

17 (1) Prospective or concurrent decisions shall be made in a timely  
18 fashion that is appropriate for the nature of the employee's  
19 condition, not to exceed five working days from the receipt of the  
20 information reasonably necessary to make the determination, but  
21 in no event more than 14 days from the date of the medical  
22 treatment recommendation by the physician. In cases where the  
23 review is retrospective, a decision resulting in denial of all or part  
24 of the medical treatment service shall be communicated to the  
25 individual who received services, or to the individual's designee,  
26 within 30 days of receipt of information that is reasonably  
27 necessary to make this determination. If payment for a medical  
28 treatment service is made within the time prescribed by Section  
29 4603.2, a retrospective decision to approve the service need not  
30 otherwise be communicated.

31 (2) When the employee's condition is such that the employee  
32 faces an imminent and serious threat to his or her health, including,  
33 but not limited to, the potential loss of life, limb, or other major  
34 bodily function, or the normal timeframe for the decisionmaking  
35 process, as described in paragraph (1), would be detrimental to the  
36 employee's life or health or could jeopardize the employee's ability  
37 to regain maximum function, decisions to approve, modify, delay,  
38 or deny requests by physicians prior to, or concurrent with, the  
39 provision of medical treatment services to employees shall be made  
40 in a timely fashion that is appropriate for the nature of the

1 employee's condition, but not to exceed 72 hours after the receipt  
2 of the information reasonably necessary to make the determination.

3 (3) (A) Decisions to approve, modify, delay, or deny requests  
4 by physicians for authorization prior to, or concurrent with, the  
5 provision of medical treatment services to employees shall be  
6 communicated to the requesting physician within 24 hours of the  
7 decision. Decisions resulting in modification, delay, or denial of  
8 all or part of the requested health care service shall be  
9 communicated to physicians initially by telephone or facsimile,  
10 and to the physician and employee in writing within 24 hours for  
11 concurrent review, or within two business days of the decision for  
12 prospective review, as prescribed by the administrative director.  
13 If the request is not approved in full, disputes shall be resolved in  
14 accordance with Section 4610.5, if applicable, or otherwise in  
15 accordance with Section 4062.

16 (B) In the case of concurrent review, medical care shall not be  
17 discontinued until the employee's physician has been notified of  
18 the decision and a care plan has been agreed upon by the physician  
19 that is appropriate for the medical needs of the employee. Medical  
20 care provided during a concurrent review shall be care that is  
21 medically necessary to cure and relieve, and an insurer or  
22 self-insured employer shall only be liable for those services  
23 determined medically necessary to cure and relieve. If the insurer  
24 or self-insured employer disputes whether or not one or more  
25 services offered concurrently with a utilization review were  
26 medically necessary to cure and relieve, the dispute shall be  
27 resolved pursuant to Section 4610.5, if applicable, or otherwise  
28 pursuant to Section 4062. Any compromise between the parties  
29 that an insurer or self-insured employer believes may result in  
30 payment for services that were not medically necessary to cure  
31 and relieve shall be reported by the insurer or the self-insured  
32 employer to the licensing board of the provider or providers who  
33 received the payments, in a manner set forth by the respective  
34 board and in such a way as to minimize reporting costs both to the  
35 board and to the insurer or self-insured employer, for evaluation  
36 as to possible violations of the statutes governing appropriate  
37 professional practices. No fees shall be levied upon insurers or  
38 self-insured employers making reports required by this section.

39 (4) Communications regarding decisions to approve requests  
40 by physicians shall specify the specific medical treatment service

1 approved. Responses regarding decisions to modify, delay, or deny  
2 medical treatment services requested by physicians shall include  
3 a clear and concise explanation of the reasons for the employer's  
4 decision, a description of the criteria or guidelines used, and the  
5 clinical reasons for the decisions regarding medical necessity. If  
6 a utilization review decision to deny or delay a medical service is  
7 due to incomplete or insufficient information, the decision shall  
8 specify the reason for the decision and specify the information that  
9 is needed.

10 (5) If the employer, insurer, or other entity cannot make a  
11 decision within the timeframes specified in paragraph (1) or (2)  
12 because the employer or other entity is not in receipt of all of the  
13 information reasonably necessary and requested, because the  
14 employer requires consultation by an expert reviewer, or because  
15 the employer has asked that an additional examination or test be  
16 performed upon the employee that is reasonable and consistent  
17 with good medical practice, the employer shall immediately notify  
18 the physician and the employee, in writing, that the employer  
19 cannot make a decision within the required timeframe, and specify  
20 the information requested but not received, the expert reviewer to  
21 be consulted, or the additional examinations or tests required. The  
22 employer shall also notify the physician and employee of the  
23 anticipated date on which a decision may be rendered. Upon receipt  
24 of all information reasonably necessary and requested by the  
25 employer, the employer shall approve, modify, or deny the request  
26 for authorization within the timeframes specified in paragraph (1)  
27 or (2).

28 (6) A utilization review decision to modify, delay, or deny a  
29 treatment recommendation shall remain effective for 12 months  
30 from the date of the decision without further action by the employer  
31 with regard to any further recommendation by the same physician  
32 for the same treatment unless the further recommendation is  
33 supported by a documented change in the facts material to the  
34 basis of the utilization review decision.

35 (7) Utilization review of a treatment recommendation shall not  
36 be required while the employer is disputing liability for injury or  
37 treatment of the condition for which treatment is recommended  
38 pursuant to Section 4062.

39 (8) If utilization review is deferred pursuant to paragraph (7),  
40 and it is finally determined that the employer is liable for treatment

1 of the condition for which treatment is recommended, the time for  
2 the employer to conduct retrospective utilization review in  
3 accordance with paragraph (1) shall begin on the date the  
4 determination of the employer's liability becomes final, and the  
5 time for the employer to conduct prospective utilization review  
6 shall commence from the date of the employer's receipt of a  
7 treatment recommendation after the determination of the  
8 employer's liability.

9 (h) Every employer, insurer, or other entity subject to this section  
10 shall maintain telephone access for physicians to request  
11 authorization for health care services.

12 (i) If the administrative director determines that the employer,  
13 insurer, or other entity subject to this section has failed to meet  
14 any of the timeframes in this section, or has failed to meet any  
15 other requirement of this section, the administrative director may  
16 assess, by order, administrative penalties for each failure. A  
17 proceeding for the issuance of an order assessing administrative  
18 penalties shall be subject to appropriate notice to, and an  
19 opportunity for a hearing with regard to, the person affected. The  
20 administrative penalties shall not be deemed to be an exclusive  
21 remedy for the administrative director. These penalties shall be  
22 deposited in the Workers' Compensation Administration Revolving  
23 Fund.

24  
25  
26 **All matter omitted in this version of the bill**  
27 **appears in the bill as amended in the**  
28 **Senate, April 30, 2015. (JR11)**  
29

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1033  
**Author:** Hill  
**Bill Date:** March 17, 2016, Amended  
**Subject:** Medical Board: Disclosure of Probationary Status  
**Sponsor:** Author

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would require physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors and naturopathic doctors to notify patients of their probationary status before seeing a patient for the first time.

**BACKGROUND**

The Medical Board of California's (Board's) Disciplinary Guidelines currently require a licensee to provide a copy of the disciplinary decision and accusation to the Chief of Staff or Chief Executive Officer at every hospital where privileges or membership are extended to the licensee. A copy of the decision or accusation must also be provided at any facility where the licensee engages in the practice of medicine, and to the Chief Executive Officer at every malpractice insurance carrier that extends malpractice insurance coverage to the licensee. Under optional condition 25 in the Board's Disciplinary Guidelines, the Board may require a licensee to provide written notification to patients in circumstances where the licensee is required to have a third-party chaperone present during the consultation, examination, or treatment by the licensee. Notification to patients may also be required if optional condition 26, regarding prohibited practice, is included in the licensee's probationary order.

The Board's website currently includes disciplinary information for all physicians, including if the physician is currently, or has been, on probation. This information is posted on the Board's website indefinitely. In addition, the Board has a call center that members of the public can contact to obtain any public disciplinary information for Board licensees, including probationary status and history.

The Consumers Union Safe Patient Project (CUSPP) petitioned the Board in October of 2015 to amend the Board's Disciplinary Guidelines to require physicians on probation to notify their patients of this fact. At the October 2015 Board Meeting, the Board voted to deny the petition, but established a Patient Notification Task Force to explore options for enhancing and improving the public's awareness of the Board's oversight of physicians and the physician information available on the Board's website. At the Board's January 2016 Board Meeting, the Task Force discussed improving the Board's online license look up on its website, modifying the Notice to Consumers that all physicians are required to post or provide patients, increasing public outreach regarding physicians on probation, and revising the Board's

disciplinary guidelines.

## **ANALYSIS**

This bill requires the Board, the Osteopathic Medical Board of California, the Board of Podiatric Medicine, the California Acupuncture Board, the Board of Chiropractic Examiners, and the Naturopathic Medicine Committee, by July 1, 2018, to include a standardized, single paragraph, plain-language summary that contains the listing of causes that led to the licensee's probation, the length of the probation and the end date, and all practice restrictions placed on the license. This information is required to be included on any Board documents informing the public of probation orders and probationary licenses, including, but not limited to, the Board's Newsletter. This summary information is also required to be posted on the BreEZe licensee profile for each licensee subject to probation.

This bill requires physicians and licensees of the other named boards, to disclose their probationary status to patients or their guardians or health care surrogates prior to the patient's first visit while the licensee is on probation, if the licensee was placed on probation for any of the following:

- Gross negligence;
- Repeated negligent acts involving a departure from the standard of care with multiple patients;
- Repeated acts of inappropriate and excessive prescribing of controlled substances, including, but not limited to, prescribing controlled substances without an appropriate prior examination or without medical reason documented in the medical records;
- Drug or alcohol abuse that threatens to impair a licensee's ability to practice medicine safely, including practicing under the influence of drugs or alcohol;
- Felony conviction arising from or occurring during patient care or treatment; and
- Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice.

These licensees, including physicians, would also be required to disclose their probationary status to patients if their licensing board ordered any of the following in conjunction with placing the licensee on probation:

- That a third party chaperone be present when the licensee examines patients as a result of sexual misconduct;
- That the licensee submit to drug testing as a result of drug or alcohol abuse;
- That the licensee have a monitor;
- Restricting the licensee totally or partially from prescribing controlled substances; or

Licensees would also be required to notify patients that they are on probation if they have not successfully completed a clinical training program or any exams required by the Board as a condition of probation, or if they have been on probation repeatedly.

This bill would require the licensee, including physicians, to obtain from each patient a

signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the Board's website.

This bill does provide an exemption if the patient is unconscious or otherwise unable to comprehend the disclosure and sign the receipt and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt. In these instances, the licensee would be required to disclose his or her probationary status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

The supporters of this bill strongly believe that patients have a right to know if their physician is on probation and that the burden should not be on the patient to look up this information. They believe it should be the responsibility of the physician on probation to notify the patients. Although this bill only requires physicians on probation for specific violations/conditions to notify their patients of their probationary status, the violations and the probation conditions listed in this bill cover the majority of violations that result in probationary orders for physicians or in decisions that include the conditions listed. Per the Board's 2014/15 Annual Report, there are 614 practicing physicians on probation in California.

The probationary status of a physician is public information and available on the Board's website. Ensuring that patients are informed promotes the Board's mission of consumer protection. However, in emergency situations it may not be prudent for physicians to provide this notification, as the circumstance may not allow a patient the opportunity to make an informed decision. There are also instances in which a patient will not know who their physician will be prior to seeing that physician, including being assigned an anesthesiologist for a surgical procedure or being assigned an OB/GYN who is on call for labor and delivery, etc. Again, in these situations the patient may not have the opportunity to make an informed decision. In addition, all health care consumers should have the same right to make an informed decision. It should not be dependent upon what type of health care practitioner is serving them. Therefore, all healing arts boards and licensees should be held to the same notification requirements.

Board staff is recommending that the Board take a neutral position on this bill if it is amended to address the emergency situations and situations in which patients do not know who their physician will be ahead of time and to require all healing arts boards and licensees to comply with the requirements in this bill.

**FISCAL:** This bill will likely result in more cases going to hearing because physicians will not want to agree to probation if they have to notify their patients. Board staff is estimating that cases that result in stipulated settlements of three years of probation or less will go to hearing instead of settling. Board staff is working on obtaining the number of cases that were settled for three years of probation or less in the last year. For those cases, the fiscal would consist of AG costs for going to hearing,

and hearing costs for the Office of Administrative Hearings.

**SUPPORT:**

Californians for Patients' Rights  
CALPIRG  
Center for Public Interest Law  
Consumer Attorneys of California  
Consumer Federation of California  
Consumers Union's Safe Patient Project  
Consumer Watchdog  
One Individual

**OPPOSITION:**

California Academy of Family Physicians  
California Chapter of the American College of Emergency Room  
Physicians (Unless Amended)  
California Medical Association  
California Psychiatric Association

**POSITION:**

Recommendation: Neutral with Amendments

AMENDED IN SENATE MARCH 17, 2016

**SENATE BILL**

**No. 1033**

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**Introduced by Senator Hill**

February 12, 2016

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An act to amend Sections 803.1, 2027, ~~and 2228~~ of 2221, 2221.05, 2228, and 3663 of, and to add Sections 1006 and 4962 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1033, as amended, Hill. Medical Board: disclosure of probationary status.

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. *Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee in the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the licensing and regulation of acupuncturists. Existing law authorizes the board each of these regulatory agencies to discipline a*

~~physician or a surgeon~~ *its licensee* by placing her or him on probation, which may include requiring the physician or surgeon to complete specified trainings, examinations, or community service or restricting the extent, scope, or type of practice, *probation*, as specified.

This bill would require ~~the board~~ *these regulatory entities* to require a ~~physician or surgeon~~ *licensee* to disclose *on a separate document* her or his probationary status to ~~patients before each a patient, the patient's guardian, or the health care surrogate prior to the patient's first visit following the probationary order while the physician or surgeon licensee~~ *an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion finding the physician or surgeon licensee* is on probation under specified circumstances, including ~~the board~~ *an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion finding the physician or surgeon licensee* committed gross negligence or the ~~physician or surgeon licensee~~ *licensee* having been on probation ~~repeatedly, more than once~~, among others. The bill would require the board, by July 1, 2018, to adopt related regulations that include requiring the ~~physician or surgeon licensee~~ *licensee* to obtain from the patient a signed receipt containing specified information following the disclosure. *The bill would exempt a licensee from disclosing her or his probationary status prior to a visit or treatment if the patient is unable to comprehend the disclosure or sign an acknowledgment and a guardian or health care surrogate is unavailable. The bill would require in that instance that the doctor disclose his or her status as soon as either the patient can comprehend and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.*

Existing law requires ~~the board~~ *the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine* to disclose to an inquiring member of the public and to post on ~~its their~~ *their* Internet Web ~~site sites~~ *sites* specified information concerning each ~~physician and surgeon, licensee~~ *physician and surgeon, licensee* including revocations, suspensions, probations, or limitations on practice.

~~This~~

~~The bill would require the board, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Naturopathic Medicine Committee, and the Acupuncture Board by July 1, 2018, to include in each order of probation a written summary containing specified information develop a standardized format for listing specified information related to the probation and to include the summary in the disclosure provide that information to an inquiring~~

member of the public, on any ~~board~~ documents informing the public of probation orders, and on a specified profile ~~web~~ *Internet Web* page of each ~~physician and surgeon licensee~~ subject to ~~probation~~, *probation, 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:*

1 SECTION 1. Section 803.1 of the Business and Professions  
2 Code is amended to read:

3 803.1. (a) Notwithstanding any other provision of law, the  
4 Medical Board of California, the Osteopathic Medical Board of  
5 California, the California Board of Podiatric Medicine, and the  
6 Physician Assistant Board shall disclose to an inquiring member  
7 of the public information regarding any enforcement actions taken  
8 against a licensee, including a former licensee, by the board or by  
9 another state or jurisdiction, including all of the following:

- 10 (1) Temporary restraining orders issued.
- 11 (2) Interim suspension orders issued.
- 12 (3) Revocations, suspensions, probations, or limitations on  
13 practice ordered by the board, including those made part of a  
14 probationary order or stipulated agreement.
- 15 (4) Public letters of reprimand issued.
- 16 (5) Infractions, citations, or fines imposed.

17 (b) Notwithstanding any other provision of law, in addition to  
18 the information provided in subdivision (a), the Medical Board of  
19 California, the Osteopathic Medical Board of California, the  
20 California Board of Podiatric Medicine, and the Physician Assistant  
21 Board shall disclose to an inquiring member of the public all of  
22 the following:

- 23 (1) Civil judgments in any amount, whether or not vacated by  
24 a settlement after entry of the judgment, that were not reversed on  
25 appeal and arbitration awards in any amount of a claim or action  
26 for damages for death or personal injury caused by the physician  
27 and surgeon’s negligence, error, or omission in practice, or by his  
28 or her rendering of unauthorized professional services.
- 29 (2) (A) All settlements in the possession, custody, or control  
30 of the board shall be disclosed for a licensee in the low-risk  
31 category if there are three or more settlements for that licensee

1 within the last 10 years, except for settlements by a licensee  
2 regardless of the amount paid where (i) the settlement is made as  
3 a part of the settlement of a class claim, (ii) the licensee paid in  
4 settlement of the class claim the same amount as the other licensees  
5 in the same class or similarly situated licensees in the same class,  
6 and (iii) the settlement was paid in the context of a case where the  
7 complaint that alleged class liability on behalf of the licensee also  
8 alleged a products liability class action cause of action. All  
9 settlements in the possession, custody, or control of the board shall  
10 be disclosed for a licensee in the high-risk category if there are  
11 four or more settlements for that licensee within the last 10 years  
12 except for settlements by a licensee regardless of the amount paid  
13 where (i) the settlement is made as a part of the settlement of a  
14 class claim, (ii) the licensee paid in settlement of the class claim  
15 the same amount as the other licensees in the same class or  
16 similarly situated licensees in the same class, and (iii) the  
17 settlement was paid in the context of a case where the complaint  
18 that alleged class liability on behalf of the licensee also alleged a  
19 products liability class action cause of action. Classification of a  
20 licensee in either a “high-risk category” or a “low-risk category”  
21 depends upon the specialty or subspecialty practiced by the licensee  
22 and the designation assigned to that specialty or subspecialty by  
23 the Medical Board of California, as described in subdivision (f).  
24 For the purposes of this paragraph, “settlement” means a settlement  
25 of an action described in paragraph (1) entered into by the licensee  
26 on or after January 1, 2003, in an amount of thirty thousand dollars  
27 (\$30,000) or more.

28 (B) The board shall not disclose the actual dollar amount of a  
29 settlement but shall put the number and amount of the settlement  
30 in context by doing the following:

31 (i) Comparing the settlement amount to the experience of other  
32 licensees within the same specialty or subspecialty, indicating if  
33 it is below average, average, or above average for the most recent  
34 10-year period.

35 (ii) Reporting the number of years the licensee has been in  
36 practice.

37 (iii) Reporting the total number of licensees in that specialty or  
38 subspecialty, the number of those who have entered into a  
39 settlement agreement, and the percentage that number represents  
40 of the total number of licensees in the specialty or subspecialty.

1 (3) Current American Board of Medical Specialties certification  
2 or board equivalent as certified by the Medical Board of California,  
3 the Osteopathic Medical Board of California, or the California  
4 Board of Podiatric Medicine.

5 (4) Approved postgraduate training.

6 (5) Status of the license of a licensee. By January 1, 2004, the  
7 Medical Board of California, the Osteopathic Medical Board of  
8 California, and the California Board of Podiatric Medicine shall  
9 adopt regulations defining the status of a licensee. The board shall  
10 employ this definition when disclosing the status of a licensee  
11 pursuant to Section 2027. By July 1, 2018, the Medical Board of  
12 ~~California~~ *California, the Osteopathic Medical Board of California,*  
13 *and the California Board of Podiatric Medicine* shall include the  
14 ~~summary of each probation order as written pursuant to information~~  
15 ~~described in subdivision (e)~~ *(f)* of Section 2228.

16 (6) Any summaries of hospital disciplinary actions that result  
17 in the termination or revocation of a licensee’s staff privileges for  
18 medical disciplinary cause or reason, unless a court finds, in a final  
19 judgment, that the peer review resulting in the disciplinary action  
20 was conducted in bad faith and the licensee notifies the board of  
21 that finding. In addition, any exculpatory or explanatory statements  
22 submitted by the licensee electronically pursuant to subdivision  
23 (f) of that section shall be disclosed. For purposes of this paragraph,  
24 “peer review” has the same meaning as defined in Section 805.

25 (c) Notwithstanding any other provision of law, the Medical  
26 Board of California, the Osteopathic Medical Board of California,  
27 the California Board of Podiatric Medicine, and the Physician  
28 Assistant Board shall disclose to an inquiring member of the public  
29 information received regarding felony convictions of a physician  
30 and surgeon or doctor of podiatric medicine.

31 (d) The Medical Board of California, the Osteopathic Medical  
32 Board of California, the California Board of Podiatric Medicine,  
33 and the Physician Assistant Board may formulate appropriate  
34 disclaimers or explanatory statements to be included with any  
35 information released, and may by regulation establish categories  
36 of information that need not be disclosed to an inquiring member  
37 of the public because that information is unreliable or not  
38 sufficiently related to the licensee’s professional practice. The  
39 Medical Board of California, the Osteopathic Medical Board of  
40 California, the California Board of Podiatric Medicine, and the

1 Physician Assistant Board shall include the following statement  
2 when disclosing information concerning a settlement:

3  
4 “Some studies have shown that there is no significant correlation  
5 between malpractice history and a doctor’s competence. At the  
6 same time, the State of California believes that consumers should  
7 have access to malpractice information. In these profiles, the State  
8 of California has given you information about both the malpractice  
9 settlement history for the doctor’s specialty and the doctor’s history  
10 of settlement payments only if in the last 10 years, the doctor, if  
11 in a low-risk specialty, has three or more settlements or the doctor,  
12 if in a high-risk specialty, has four or more settlements. The State  
13 of California has excluded some class action lawsuits because  
14 those cases are commonly related to systems issues such as product  
15 liability, rather than questions of individual professional  
16 competence and because they are brought on a class basis where  
17 the economic incentive for settlement is great. The State of  
18 California has placed payment amounts into three statistical  
19 categories: below average, average, and above average compared  
20 to others in the doctor’s specialty. To make the best health care  
21 decisions, you should view this information in perspective. You  
22 could miss an opportunity for high-quality care by selecting a  
23 doctor based solely on malpractice history.

24 When considering malpractice data, please keep in mind:

25 Malpractice histories tend to vary by specialty. Some specialties  
26 are more likely than others to be the subject of litigation. This  
27 report compares doctors only to the members of their specialty,  
28 not to all doctors, in order to make an individual doctor’s history  
29 more meaningful.

30 This report reflects data only for settlements made on or after  
31 January 1, 2003. Moreover, it includes information concerning  
32 those settlements for a 10-year period only. Therefore, you should  
33 know that a doctor may have made settlements in the 10 years  
34 immediately preceding January 1, 2003, that are not included in  
35 this report. After January 1, 2013, for doctors practicing less than  
36 10 years, the data covers their total years of practice. You should  
37 take into account the effective date of settlement disclosure as well  
38 as how long the doctor has been in practice when considering  
39 malpractice averages.

1 The incident causing the malpractice claim may have happened  
2 years before a payment is finally made. Sometimes, it takes a long  
3 time for a malpractice lawsuit to settle. Some doctors work  
4 primarily with high-risk patients. These doctors may have  
5 malpractice settlement histories that are higher than average  
6 because they specialize in cases or patients who are at very high  
7 risk for problems.

8 Settlement of a claim may occur for a variety of reasons that do  
9 not necessarily reflect negatively on the professional competence  
10 or conduct of the doctor. A payment in settlement of a medical  
11 malpractice action or claim should not be construed as creating a  
12 presumption that medical malpractice has occurred.

13 You may wish to discuss information in this report and the  
14 general issue of malpractice with your doctor.”

15 (e) The Medical Board of California, the Osteopathic Medical  
16 Board of California, the California Board of Podiatric Medicine,  
17 and the Physician Assistant Board shall, by regulation, develop  
18 standard terminology that accurately describes the different types  
19 of disciplinary filings and actions to take against a licensee as  
20 described in paragraphs (1) to (5), inclusive, of subdivision (a). In  
21 providing the public with information about a licensee via the  
22 Internet pursuant to Section 2027, the Medical Board of California,  
23 the Osteopathic Medical Board of California, the California Board  
24 of Podiatric Medicine, and the Physician Assistant Board shall not  
25 use the terms “enforcement,” “discipline,” or similar language  
26 implying a sanction unless the physician and surgeon has been the  
27 subject of one of the actions described in paragraphs (1) to (5),  
28 inclusive, of subdivision (a).

29 (f) The Medical Board of California shall adopt regulations no  
30 later than July 1, 2003, designating each specialty and subspecialty  
31 practice area as either high risk or low risk. In promulgating these  
32 regulations, the board shall consult with commercial underwriters  
33 of medical malpractice insurance companies, health care systems  
34 that self-insure physicians and surgeons, and representatives of  
35 the California medical specialty societies. The board shall utilize  
36 the carriers’ statewide data to establish the two risk categories and  
37 the averages required by subparagraph (B) of paragraph (2) of  
38 subdivision (b). Prior to issuing regulations, the board shall  
39 convene public meetings with the medical malpractice carriers,  
40 self-insurers, and specialty representatives.

1 (g) The Medical Board of California, the Osteopathic Medical  
2 Board of California, the California Board of Podiatric Medicine,  
3 *and* the Physician Assistant Board shall provide each licensee,  
4 including a former licensee under subdivision (a), with a copy of  
5 the text of any proposed public disclosure authorized by this section  
6 prior to release of the disclosure to the public. The licensee shall  
7 have 10 working days from the date the board provides the copy  
8 of the proposed public disclosure to propose corrections of factual  
9 inaccuracies. Nothing in this section shall prevent the board from  
10 disclosing information to the public prior to the expiration of the  
11 10-day period.

12 (h) Pursuant to subparagraph (A) of paragraph (2) of subdivision  
13 (b), the specialty or subspecialty information required by this  
14 section shall group physicians by specialty board recognized  
15 pursuant to paragraph (5) of subdivision (h) of Section 651 unless  
16 a different grouping would be more valid and the board, in its  
17 statement of reasons for its regulations, explains why the validity  
18 of the grouping would be more valid.

19 (i) By July 1, 2018, ~~the board~~ *Medical Board of California, the*  
20 *Osteopathic Medical Board of California, and the California Board*  
21 *of Podiatric Medicine* shall include ~~each licensee's probation~~  
22 ~~summary written pursuant to subdivision (e)~~ *the information listed*  
23 *in subdivision (f) of Section 2228 on any board documents*  
24 *informing the public of probation orders, orders and probationary*  
25 *licenses*, including, but not limited to, newsletters.

26 *SEC. 2. Section 1006 is added to the Business and Professions*  
27 *Code, to read:*

28 *1006. (a) Except as provided by subdivision (c), the State*  
29 *Board of Chiropractic Examiners shall require a licensee to*  
30 *disclose on a separate document her or his probationary status to*  
31 *a patient, the patient's guardian, or health care surrogate prior*  
32 *to the patient's first visit following the probationary order while*  
33 *the licensee is on probation in any of the following circumstances:*

34 *(1) The accusation alleges, the statement of issues indicates, or*  
35 *the legal conclusions of an administrative law judge find that the*  
36 *licensee is implicated in any of the following:*

37 *(A) Gross negligence.*

38 *(B) Repeated negligent acts involving a departure from the*  
39 *standard of care with multiple patients.*

- 1 (C) *Repeated acts of inappropriate and excessive prescribing*  
2 *of controlled substances, including, but not limited to, prescribing*  
3 *controlled substances without appropriate prior examination or*  
4 *without medical reason documented in medical records.*
- 5 (D) *Drug or alcohol abuse that threatens to impair a licensee’s*  
6 *ability to practice medicine safely, including practicing under the*  
7 *influence of drugs or alcohol.*
- 8 (E) *Felony conviction arising from or occurring during patient*  
9 *care or treatment.*
- 10 (F) *Mental illness or other cognitive impairment that impedes*  
11 *a licensee’s ability to safely practice medicine.*
- 12 (2) *The board ordered any of the following in conjunction with*  
13 *placing the licensee on probation:*
- 14 (A) *That a third-party chaperone be present when the licensee*  
15 *examines patients as a result of sexual misconduct.*
- 16 (B) *That the licensee submit to drug testing as a result of drug*  
17 *or alcohol abuse.*
- 18 (C) *That the licensee have a monitor.*
- 19 (D) *Restricting the licensee totally or partially from prescribing*  
20 *controlled substances.*
- 21 (3) *The licensee has not successfully completed a clinical*  
22 *training program or any associated examinations required by the*  
23 *board as a condition of probation.*
- 24 (4) *The licensee has been on probation more than once.*
- 25 (b) *The licensee shall obtain from each patient a signed receipt*  
26 *following the disclosure that includes a written explanation of how*  
27 *the patient can find further information on the licensee’s probation*  
28 *on the board’s Internet Web site.*
- 29 (c) *The licensee shall not be required to provide the disclosure*  
30 *prior to the visit as required by subdivision (a) if the patient is*  
31 *unconscious or otherwise unable to comprehend the disclosure*  
32 *and sign the receipt pursuant to subdivision (b) and a guardian*  
33 *or health care surrogate is unavailable to comprehend the*  
34 *disclosure and sign the receipt. In that instance, the licensee shall*  
35 *disclose her or his status as soon as either the patient can*  
36 *comprehend the disclosure and sign the receipt or a guardian or*  
37 *health care surrogate is available to comprehend the disclosure*  
38 *and sign the receipt.*

1 (d) By July 1, 2018, the board shall develop a standardized  
 2 format for listing the following information pursuant to subdivision  
 3 (e):

4 (1) The listing of the causes for probation alleged in the  
 5 accusation, the statement of issues, or the legal conclusions of an  
 6 administrative law judge.

7 (2) The length of the probation and the end date.

8 (3) All practice restrictions placed on the licensee by the  
 9 committee.

10 (e) By July 1, 2018, the board shall provide the information  
 11 listed in subdivision (d) as follows:

12 (1) To an inquiring member of the public.

13 (2) On any board documents informing the public of probation  
 14 orders and probationary licenses, including, but not limited to,  
 15 newsletters.

16 (3) Upon availability of a licensee’s BreEZe profile Internet  
 17 Web page on the BreEZe system pursuant to Section 210, in plain  
 18 view on the BreEZe profile Internet Web page of a licensee subject  
 19 to probation or a probationary license.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 2027 of the Business and Professions Code is  
 22 amended to read:

23 2027. (a) The board shall post on its Internet Web site the  
 24 following information on the current status of the license for all  
 25 current and former licensees:

26 (1) Whether or not the licensee is presently in good standing.

27 (2) Current American Board of Medical Specialties certification  
 28 or board equivalent as certified by the board.

29 (3) Any of the following enforcement actions or proceedings  
 30 to which the licensee is actively subjected:

31 (A) Temporary restraining orders.

32 (B) Interim suspension orders.

33 (C) (i) Revocations, suspensions, probations, or limitations on  
 34 practice ordered by the board or the board of another state or  
 35 jurisdiction, including those made part of a probationary order or  
 36 stipulated agreement.

37 (ii) By July 1, 2018, ~~the board~~ *the board, the Osteopathic Medical*  
 38 *Board of California, and the California Board of Podiatric*  
 39 *Medicine* shall include, in plain view on the BreEZe profile ~~web~~  
 40 *Internet Web* page of each licensee subject to ~~probation,~~ *the*

1 ~~summary of each probation order as written pursuant to~~ *probation*  
2 ~~or a probationary license, the information described in~~ subdivision  
3 ~~(e)~~ (f) of Section 2228. For purposes of this subparagraph, a  
4 BreEZe profile ~~web~~ *Internet Web* page is a profile ~~web~~ *Internet*  
5 *Web* page on the BreEZe system pursuant to Section 210.

6 (D) Current accusations filed by the Attorney General, including  
7 those accusations that are on appeal. For purposes of this paragraph,  
8 “current accusation” means an accusation that has not been  
9 dismissed, withdrawn, or settled, and has not been finally decided  
10 upon by an administrative law judge and the board unless an appeal  
11 of that decision is pending.

12 (E) Citations issued that have not been resolved or appealed  
13 within 30 days.

14 (b) The board shall post on its Internet Web site all of the  
15 following historical information in its possession, custody, or  
16 control regarding all current and former licensees:

17 (1) Approved postgraduate training.

18 (2) Any final revocations and suspensions, or other equivalent  
19 actions, taken against the licensee by the board or the board of  
20 another state or jurisdiction or the surrender of a license by the  
21 licensee in relation to a disciplinary action or investigation,  
22 including the operative accusation resulting in the license surrender  
23 or discipline by the board.

24 (3) Probation or other equivalent action ordered by the board,  
25 or the board of another state or jurisdiction, completed or  
26 terminated, including the operative accusation resulting in the  
27 discipline by the board.

28 (4) Any felony convictions. Upon receipt of a certified copy of  
29 an expungement order granted pursuant to Section 1203.4 of the  
30 Penal Code from a licensee, the board shall, within six months of  
31 receipt of the expungement order, post notification of the  
32 expungement order and the date thereof on its Internet Web site.

33 (5) Misdemeanor convictions resulting in a disciplinary action  
34 or accusation that is not subsequently withdrawn or dismissed.  
35 Upon receipt of a certified copy of an expungement order granted  
36 pursuant to Section 1203.4 of the Penal Code from a licensee, the  
37 board shall, within six months of receipt of the expungement order,  
38 post notification of the expungement order and the date thereof on  
39 its Internet Web site.

1 (6) Civil judgments issued in any amount, whether or not  
2 vacated by a settlement after entry of the judgment, that were not  
3 reversed on appeal, and arbitration awards issued in any amount,  
4 for a claim or action for damages for death or personal injury  
5 caused by the physician and surgeon's negligence, error, or  
6 omission in practice, or by his or her rendering of unauthorized  
7 professional services.

8 (7) Except as provided in subparagraphs (A) and (B), a summary  
9 of any final hospital disciplinary actions that resulted in the  
10 termination or revocation of a licensee's hospital staff privileges  
11 for a medical disciplinary cause or reason. The posting shall  
12 provide any additional explanatory or exculpatory information  
13 submitted by the licensee pursuant to subdivision (f) of Section  
14 805. The board shall also post on its Internet Web site a factsheet  
15 that explains and provides information on the reporting  
16 requirements under Section 805.

17 (A) If a licensee's hospital staff privileges are restored and the  
18 licensee notifies the board of the restoration, the information  
19 pertaining to the termination or revocation of those privileges shall  
20 remain posted on the Internet Web site for a period of 10 years  
21 from the restoration date of the privileges, and at the end of that  
22 period shall be removed.

23 (B) If a court finds, in a final judgment, that peer review  
24 resulting in a hospital disciplinary action was conducted in bad  
25 faith and the licensee notifies the board of that finding, the  
26 information concerning that hospital disciplinary action posted on  
27 the Internet Web site shall be immediately removed. For purposes  
28 of this subparagraph, "peer review" has the same meaning as  
29 defined in Section 805.

30 (8) Public letters of reprimand issued within the past 10 years  
31 by the board or the board of another state or jurisdiction, including  
32 the operative accusation, if any, resulting in discipline by the board.

33 (9) Citations issued within the last three years that have been  
34 resolved by payment of the administrative fine or compliance with  
35 the order of abatement.

36 (10) All settlements within the last five years in the possession,  
37 custody, or control of the board shall be disclosed for a licensee  
38 in the low-risk category if there are three or more settlements for  
39 that licensee within the last five years, and for a licensee in the  
40 high-risk category if there are four or more settlements for that

1 licensee within the last five years. Classification of a licensee in  
2 either a “high-risk category” or a “low-risk” category depends  
3 upon the specialty or subspecialty practiced by the licensee and  
4 the designation assigned to that specialty or subspecialty by the  
5 board pursuant to subdivision (f) of Section 803.1.

6 (A) For the purposes of this paragraph, “settlement” means a  
7 settlement in an amount of thirty thousand dollars (\$30,000) or  
8 more of any claim or action for damages for death or personal  
9 injury caused by the physician and surgeon’s negligence, error, or  
10 omission in practice, or by his or her rendering of unauthorized  
11 professional services.

12 (B) For the purposes of this paragraph, “settlement” does not  
13 include a settlement by a licensee, regardless of the amount paid,  
14 when (i) the settlement is made as a part of the settlement of a  
15 class claim, (ii) the amount paid in settlement of the class claim  
16 is the same amount paid by the other licensees in the same class  
17 or similarly situated licensees in the same class, and (iii) the  
18 settlement was paid in the context of a case for which the complaint  
19 that alleged class liability on behalf of the licensee also alleged a  
20 products liability class action cause of action.

21 (C) The board shall not disclose the actual dollar amount of a  
22 settlement, but shall disclose settlement information in the same  
23 manner and with the same disclosures required under subparagraph  
24 (B) of paragraph (2) of subdivision (b) of Section 803.1.

25 (11) Appropriate disclaimers and explanatory statements to  
26 accompany the information described in paragraphs (1) to (10),  
27 inclusive, including an explanation of what types of information  
28 are not disclosed. These disclaimers and statements shall be  
29 developed by the board and shall be adopted by regulation.

30 (c) The board shall provide links to other Internet Web sites  
31 that provide information on board certifications that meet the  
32 requirements of subdivision (h) of Section 651. The board may  
33 also provide links to any other Internet Web sites that provide  
34 information on the affiliations of licensed physicians and surgeons.  
35 The board may provide links to other Internet Web sites on the  
36 Internet that provide information on health care service plans,  
37 health insurers, hospitals, or other facilities.

38 *SEC. 4. Section 2221 of the Business and Professions Code is*  
39 *amended to read:*

1 2221. (a) The board may deny a physician's and surgeon's  
2 certificate to an applicant guilty of unprofessional conduct or of  
3 any cause that would subject a licensee to revocation or suspension  
4 of his or her ~~license~~, or, ~~the~~ *license*.

5 (b) *The* board in its sole discretion, may issue a probationary  
6 physician's and surgeon's certificate to an applicant subject to  
7 terms and conditions, including, but not limited to, any of the  
8 following conditions of probation:

9 (1) Practice limited to a supervised, structured environment  
10 where the licensee's activities shall be supervised by another  
11 physician and surgeon.

12 (2) Total or partial restrictions on drug prescribing privileges  
13 for controlled substances.

14 (3) Continuing medical or psychiatric treatment.

15 (4) Ongoing participation in a specified rehabilitation program.

16 (5) Enrollment and successful completion of a clinical training  
17 program.

18 (6) Abstention from the use of alcohol or drugs.

19 (7) Restrictions against engaging in certain types of medical  
20 practice.

21 (8) Compliance with all provisions of this chapter.

22 (9) Payment of the cost of probation monitoring.

23 (10) *Disclosing probationary license status to patients, pursuant*  
24 *to subdivision (b) of Section 2228.*

25 ~~(b)~~

26 (c) The board may modify or terminate the terms and conditions  
27 imposed on the probationary certificate upon receipt of a petition  
28 from the *licensee*; *however, the provisions of subdivision (b) of*  
29 *Section 2228 are mandatory with any probationary licensee.* The  
30 board may assign the petition to an administrative law judge  
31 designated in Section 11371 of the Government Code. After a  
32 hearing on the petition, the administrative law judge shall provide  
33 a proposed decision to the board.

34 ~~(e)~~

35 (d) The board shall deny a physician's and surgeon's certificate  
36 to an applicant who is required to register pursuant to Section 290  
37 of the Penal Code. This subdivision does not apply to an applicant  
38 who is required to register as a sex offender pursuant to Section  
39 290 of the Penal Code solely because of a misdemeanor conviction  
40 under Section 314 of the Penal Code.

1     ~~(d)~~

2     (e) An applicant shall not be eligible to reapply for a physician's  
3 and surgeon's certificate for a minimum of three years from the  
4 effective date of the denial of his or her application, except that  
5 the board may, in its discretion and for good cause demonstrated,  
6 permit reapplication after not less than one year has elapsed from  
7 the effective date of the denial.

8     *SEC. 5. Section 2221.05 of the Business and Professions Code*  
9 *is amended to read:*

10     2221.05. (a) Notwithstanding ~~subdivision~~ *subdivisions* (a) and  
11 (b) of Section 2221, the board may issue a physician's and  
12 surgeon's certificate to an applicant who has committed minor  
13 violations that the board deems, in its discretion, do not merit the  
14 denial of a certificate or require probationary status under Section  
15 2221, and may concurrently issue a public letter of reprimand.

16     (b) A public letter of reprimand issued concurrently with a  
17 physician's and surgeon's certificate shall be purged three years  
18 from the date of issuance.

19     (c) A public letter of reprimand issued pursuant to this section  
20 shall be disclosed to an inquiring member of the public and shall  
21 be posted on the board's Internet Web site.

22     (d) Nothing in this section shall be construed to affect the  
23 board's authority to issue an unrestricted license.

24     ~~SEC. 3.~~

25     *SEC. 6. Section 2228 of the Business and Professions Code is*  
26 *amended to read:*

27     2228. (a) The authority of the board or the California Board  
28 of Podiatric Medicine to discipline a licensee by placing him or  
29 her on probation includes, but is not limited to, the following:

30     (1) Requiring the licensee to obtain additional professional  
31 training and to pass an examination upon the completion of the  
32 training. The examination may be written or oral, or both, and may  
33 be a practical or clinical examination, or both, at the option of the  
34 board or the administrative law judge.

35     (2) Requiring the licensee to submit to a complete diagnostic  
36 examination by one or more physicians and surgeons appointed  
37 by the board. If an examination is ordered, the board shall receive  
38 and consider any other report of a complete diagnostic examination  
39 given by one or more physicians and surgeons of the licensee's  
40 choice.

1 (3) Restricting or limiting the extent, scope, or type of practice  
2 of the licensee, including requiring notice to applicable patients  
3 that the licensee is unable to perform the indicated treatment, where  
4 appropriate.

5 (4) Providing the option of alternative community service in  
6 cases other than violations relating to quality of care.

7 (b) ~~The board~~ *board or the California Board of Podiatric*  
8 *Medicine* shall require a licensee to disclose *on a separate*  
9 *document* her or his probationary status to ~~patients before each~~  
10 *visit a patient, the patient's guardian, or health care surrogate*  
11 *prior to the patient's first visit following the probationary order*  
12 while the licensee is on probation in any of the following  
13 circumstances:

14 (1) ~~The board made a finding in the probation order~~ *accusation*  
15 *alleges, the statement of issues indicates, or the legal conclusions*  
16 *of an administrative law judge finds* that the licensee ~~committed~~  
17 *is implicated* in any of the following:

18 (A) Gross negligence.

19 (B) Repeated negligent acts involving a departure from the  
20 standard of care with multiple patients.

21 (C) Repeated acts of inappropriate and excessive prescribing  
22 of controlled substances, including, but not limited to, prescribing  
23 controlled substances without appropriate prior examination or  
24 without medical reason documented in medical records.

25 (D) Drug or alcohol abuse that threatens to impair a licensee's  
26 ability to practice medicine safely, including practicing under the  
27 influence of drugs or alcohol.

28 (E) Felony conviction arising from or occurring during patient  
29 care or treatment.

30 (F) *Mental illness or other cognitive impairment that impedes*  
31 *a licensee's ability to safely practice medicine.*

32 (2) The board ordered any of the following in conjunction with  
33 placing the licensee on probation:

34 (A) That a ~~third party~~ *third-party* chaperone be present when  
35 the licensee examines patients as a result of sexual misconduct.

36 (B) That the licensee submit to drug testing as a result of drug  
37 or alcohol abuse.

38 (C) That the licensee have a monitor.

39 (D) Restricting totally or partially the licensee from prescribing  
40 controlled substances.

1 ~~(E) Suspending the licensee from practice in cases related to~~  
2 ~~quality of care.~~

3 (3) The licensee has not successfully completed a clinical  
4 training program or any associated examinations required by the  
5 board as a condition of probation.

6 (4) The licensee has been on probation ~~repeatedly~~; *more than*  
7 *once*.

8 ~~(c) The board shall adopt regulations by July 1, 2018, to~~  
9 ~~implement subdivision (b). The board shall include in these~~  
10 ~~regulations a requirement that the licensee shall obtain from each~~  
11 ~~patient a signed receipt following the disclosure that includes a~~  
12 ~~written explanation of how the patient can find further information~~  
13 ~~on the licensee's discipline probation on the board's Internet Web~~  
14 ~~site.~~

15 *(d) A licensee shall not be required to provide the disclosure*  
16 *prior to a visit as required by subdivision (b) if the patient is*  
17 *unconscious or otherwise unable to comprehend the disclosure*  
18 *and sign the receipt pursuant to subdivision (c) and a guardian*  
19 *or health care surrogate is unavailable to comprehend the*  
20 *disclosure and sign the receipt. In that instance, the licensee shall*  
21 *disclose her or his status as soon as either the patient can*  
22 *comprehend the disclosure and sign the receipt or a guardian or*  
23 *health care surrogate is available to comprehend the disclosure*  
24 *and sign the receipt.*

25 ~~(d)~~  
26 (e) Section 2314 shall not apply to subdivision ~~(b) or (c)~~; (b),  
27 (c), or (d).

28 ~~(e)~~  
29 (f) By July 1, 2018, the board shall ~~include, in the first section~~  
30 ~~of each order of probation, a standardized, single paragraph,~~  
31 ~~plain language summary that contains the accusations that led to~~  
32 ~~the licensee's probation, the develop a standardized format for~~  
33 ~~listing the following information pursuant to paragraph (5) of~~  
34 ~~subdivision (b) of Section 803.1, subdivision (i) of Section 803.1,~~  
35 ~~and clause (ii) of subparagraph (C) of paragraph (1) of subdivision~~  
36 ~~(a) of Section 2027:~~

37 (1) *The listing of the causes for probation alleged in the*  
38 *accusation, the statement of issues, or the legal conclusions of an*  
39 *administrative law judge.*

40 (2) *The length of the probation and the end date, and all date.*

1 (3) All practice restrictions placed on the licensee by the board.  
2 *SEC. 7. Section 3663 of the Business and Professions Code is*  
3 *amended to read:*

4 3663. (a) The committee shall have the responsibility for  
5 reviewing the quality of the practice of naturopathic medicine  
6 carried out by persons licensed as naturopathic doctors pursuant  
7 to this chapter.

8 (b) The committee may discipline a naturopathic doctor for  
9 unprofessional conduct. After a hearing conducted in accordance  
10 with the Administrative Procedure Act (Chapter 5 (commencing  
11 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
12 Government Code), the committee may deny, suspend, revoke, or  
13 place on probation the license of, or reprimand, censure, or  
14 otherwise discipline a naturopathic doctor in accordance with  
15 Division 1.5 (commencing with Section 475).

16 (c) *Except as provided by subdivision (e), the committee shall*  
17 *require a naturopathic doctor to disclose on a separate document*  
18 *her or his probationary status to a patient, the patient's guardian,*  
19 *or health care surrogate prior to the patient's first visit following*  
20 *the probationary order while the naturopathic doctor is on*  
21 *probation in any of the following circumstances:*

22 (1) *The accusation alleges, the statement of issues indicates, or*  
23 *the legal conclusions of an administrative law judge find that the*  
24 *naturopathic doctor is implicated in any of the following:*

25 (A) *Gross negligence.*

26 (B) *Repeated negligent acts involving a departure from the*  
27 *standard of care with multiple patients.*

28 (C) *Repeated acts of inappropriate and excessive prescribing*  
29 *of controlled substances, including, but not limited to, prescribing*  
30 *controlled substances without appropriate prior examination or*  
31 *without medical reason documented in medical records.*

32 (D) *Drug or alcohol abuse that threatens to impair a*  
33 *naturopathic doctor's ability to practice medicine safely, including*  
34 *practicing under the influence of drugs or alcohol.*

35 (E) *Felony conviction arising from or occurring during patient*  
36 *care or treatment.*

37 (F) *Mental illness or other cognitive impairment that impedes*  
38 *a naturopathic doctor's ability to safely practice medicine.*

39 (2) *The committee ordered any of the following in conjunction*  
40 *with placing the naturopathic doctor on probation:*

1 (A) That a third-party chaperone be present when the  
2 naturopathic doctor examines patients as a result of sexual  
3 misconduct.

4 (B) That the naturopathic doctor submit to drug testing as a  
5 result of drug or alcohol abuse.

6 (C) That the naturopathic doctor have a monitor.

7 (D) Restricting the naturopathic doctor totally or partially from  
8 prescribing controlled substances.

9 (3) The naturopathic doctor has not successfully completed a  
10 clinical training program or any associated examinations required  
11 by the committee as a condition of probation.

12 (4) The naturopathic doctor has been on probation more than  
13 once.

14 (d) The naturopathic doctor shall obtain from each patient a  
15 signed receipt following the disclosure that includes a written  
16 explanation of how the patient can find further information on the  
17 naturopathic doctor's probation on the committee's Internet Web  
18 site.

19 (e) The naturopathic doctor shall not be required to provide  
20 the disclosure prior to the visit as required by subdivision (c) if  
21 the patient is unconscious or otherwise unable to comprehend the  
22 disclosure or sign the receipt pursuant to subdivision (d) and a  
23 guardian or health care surrogate is unavailable to comprehend  
24 the disclosure or sign the receipt. In such an instance, the  
25 naturopathic doctor shall disclose her or his status as soon as  
26 either the patient can comprehend the disclosure and sign the  
27 receipt or a guardian or health care surrogate is available to  
28 comprehend the disclosure and sign the receipt.

29 (f) By July 1, 2018, the committee shall develop a standardized  
30 format for listing the following information pursuant to:

31 (1) The listing of the causes for probation alleged in the  
32 accusation, the statement of issues, or the legal conclusions of an  
33 administrative law judge.

34 (2) The length of the probation and the end date.

35 (3) All practice restrictions placed on the naturopathic doctor  
36 by the committee.

37 (g) By July 1, 2018, the committee shall provide the information  
38 listed in subdivision (f) as follows:

39 (1) To an inquiring member of the public.

1 (2) *On any committee documents informing the public of*  
2 *probation orders and probationary licenses, including, but not*  
3 *limited to, newsletters.*

4 (3) *In plain view on the BreEZe profile Internet Web page of a*  
5 *naturopathic doctor subject to probation or a probationary license.*

6 SEC. 8. *Section 4962 is added to the Business and Professions*  
7 *Code, to read:*

8 4962. (a) *Except as provided by subdivision (c), the board*  
9 *shall require a licensee to disclose on a separate document her or*  
10 *his probationary status to a patient, the patient's guardian, or*  
11 *health care surrogate prior to the patient's first visit following the*  
12 *probationary order while the licensee is on probation in any of*  
13 *the following circumstances:*

14 (1) *The accusation alleges, the statement of issues indicates, or*  
15 *the legal conclusions of an administrative law judge find that the*  
16 *licensee is implicated in any of the following:*

17 (A) *Gross negligence.*

18 (B) *Repeated negligent acts involving a departure from the*  
19 *standard of care with multiple patients.*

20 (C) *Drug or alcohol abuse that threatens to impair a licensee's*  
21 *ability to practice acupuncture safely, including practicing under*  
22 *the influence of drugs or alcohol.*

23 (D) *Felony conviction arising from or occurring during patient*  
24 *care or treatment.*

25 (E) *Mental illness or other cognitive impairment that impedes*  
26 *a licensee's ability to safely practice acupuncture.*

27 (2) *The board ordered any of the following in conjunction with*  
28 *placing the licensee on probation:*

29 (A) *That a third-party chaperone be present when the licensee*  
30 *examines patients as a result of sexual misconduct.*

31 (B) *That the licensee submit to drug testing as a result of drug*  
32 *or alcohol abuse.*

33 (C) *That the licensee have a monitor.*

34 (3) *The licensee has not successfully completed a training*  
35 *program or any associated examinations required by the board*  
36 *as a condition of probation.*

37 (4) *The licensee has been on probation more than once.*

38 (b) *The licensee shall obtain from each patient a signed receipt*  
39 *following the disclosure that includes a written explanation of how*

1 *the patient can find further information on the licensee's probation*  
2 *on the board's Internet Web site.*

3 *(c) The licensee shall not be required to provide the disclosure*  
4 *prior to the visit as required by subdivision (a) if the patient is*  
5 *unconscious or otherwise unable to comprehend the disclosure or*  
6 *sign the receipt pursuant to subdivision (b) and a guardian or*  
7 *health care surrogate is unavailable to comprehend the disclosure*  
8 *or sign the receipt. In such an instance, the licensee shall disclose*  
9 *her or his status as soon as either the patient can comprehend the*  
10 *disclosure and sign the receipt or a guardian or health care*  
11 *surrogate is available to comprehend the disclosure and sign the*  
12 *receipt.*

13 *(d) Section 4935 shall not apply to subdivision (a) or (b).*

14 *(e) By July 1, 2018, the committee shall develop a standardized*  
15 *format for listing the following information pursuant to subdivision*  
16 *(f):*

17 *(1) The listing of the causes for probation alleged in the*  
18 *accusation, the statement of issues, or the legal conclusions of an*  
19 *administrative law judge.*

20 *(2) The length of the probation and the end date.*

21 *(3) All practice restrictions placed on the licensee by the*  
22 *committee.*

23 *(f) By July 1, 2018, the board shall provide the information*  
24 *listed in subdivision (e) as follows:*

25 *(1) To an inquiring member of the public.*

26 *(2) On any board documents informing the public of probation*  
27 *orders and probationary licenses, including, but not limited to,*  
28 *newsletters.*

29 *(3) Upon availability of a licensee's BreEZe profile Internet*  
30 *Web page on the BreEZe system pursuant to Section 210, in plain*  
31 *view on the BreEZe profile Internet Web page of a licensee subject*  
32 *to probation or a probationary license.*

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1039  
**Author:** Hill  
**Bill Date:** April 21, 2016, Amended  
**Subject:** Professions and Vocations  
**Sponsor:** Author  
**Position:** Support Provisions Related to the Board of Podiatric Medicine (BPM)

**DESCRIPTION OF CURRENT LEGISLATION:**

The provisions in this bill related to the BPM would make clarifying and technical changes that clarify the BPM's authority to issue podiatric licenses.

**ANALYSIS**

The BPM is its own board and is completely separate from the Medical Board of California (Board). For more than the past two decades, the BPM has been issuing its own podiatric licenses, separate and apart from the Board. It came to the Board's attention that statute does not reflect this practice in all sections of the Business and Professions Code (BPC) and there are some conflicting provisions.

This bill will remove references to the Medical Board of California in the BPC sections that regulate the BPM. This bill will make it clear that the BPM is its own board that performs its own licensing functions.

At the October 2015 Board Meeting, the Board voted to sponsor legislation to make the technical, clarifying changes included in this bill. Board staff discussed these changes with the staff of the Senate Business, Professions and Economic Development Committee and they agreed that the changes needed to be made and this language was amended into this clean-up bill authored by Senator Hill. The Board believes these clarifying changes are very important, as the Board does not have any control over the BPM, and the law should accurately reflect each board's actual responsibilities.

The Board already voted to support/sponsor the provisions included in SB 1039.

**FISCAL:** None

**SUPPORT**  
**(BPM provisions):** Medical Board of California

**OPPOSITION**  
**(BPM provisions):** None on File

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE APRIL 7, 2016

**SENATE BILL**

**No. 1039**

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**Introduced by Senator Hill**

February 12, 2016

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An act to amend Sections ~~1636.4~~, 2423, 2460, 2461, 2475, 2479, 2486, 2488, 2492, 2499, 2733, 2746.51, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4999, 4999.2, 7137, 7153.3, 8031, 8516, and 8518 of, to amend, repeal, and add Section 4400 of, to add Section 2499.7 to, ~~and to repeal Chapter 15 (commencing with Section 4999) of Division 2 of, Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, and to repeal and add Section 4999.5 of,~~ the Business and Professions Code, to ~~repeal~~ amend Section 1348.8 of the Health and Safety Code, and to ~~repeal~~ amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, as amended, Hill. Professions and vocations.

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified.

The bill would state the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program, as specified, to increase the supply of dentists serving in medically underserved areas.

~~(2) The Dental Practice Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to be responsible for the approval of foreign dental schools by evaluating foreign dental schools based on specified criteria. That act authorizes the board to contract with outside consultants or a national professional organization to survey and evaluate foreign dental schools, as specified. That act requires the board to establish a technical advisory group to review the survey and evaluation contracted for prior to the board taking any final action regarding a foreign dental school. That act also requires periodic surveys and evaluations of all approved schools be made to ensure compliance with the act.~~

~~This bill would authorize the board, in lieu of conducting its own survey and evaluation of a foreign dental school, to accept the findings of any commission or accreditation agency approved by the board, if the findings meet specified standards and the foreign dental school is not under review by the board on January 1, 2017, and adopt those findings as the board's own. The bill would delete the requirement to establish a technical advisory group. The bill would instead authorize periodic surveys and evaluations be made to ensure compliance with that act.~~

~~(3)~~

~~(2) The Medical Practice Act creates, within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine. Under the act, certificates to practice podiatric medicine and registrations of spectacle lens dispensers and contact lens dispensers, among others, expire on a certain date during the second year of a 2-year term if not renewed.~~

~~This bill would instead create the California Board of Podiatric Medicine in the Department of Consumer Affairs, and would make conforming and related changes. The bill would discontinue the above-described requirement for the expiration of the registrations of spectacle lens dispensers and contact lens dispensers.~~

~~(4)~~

~~(3) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing~~

education courses given to registered nurses available for board inspection. That act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements. The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(5)

(4) The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs. That law prescribes various fees to be paid by licensees and applicants for licensure, and requires all fees collected on behalf of the board to be credited to the Pharmacy Board Contingent Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would, on and after July 1, 2017, modify specified fees to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(6)

(5) Existing law requires ~~certain~~ businesses *that employ, or contract or subcontract with, the full-time equivalent of 5 or more persons functioning as health care professionals, as defined, whose primary function is to provide telephone medical advice*, that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, ~~among other provisions~~, as specified.

~~This bill would repeal those provisions.~~

*This bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing*

*arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.*

(7)

(6) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. That law also prescribes various fees to be paid by licensees and applicants for licensure, and requires fees and civil penalties received under that law to be deposited in the Contractors' License Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would raise specified fees and would require the board to establish criteria for the approval of expedited processing of applications, as specified. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(8)

(7) Existing law provides for the licensure and regulation of shorthand reporters by the Court Reporters Board of California within the Department of Consumer Affairs. That law authorizes the board, by resolution, to establish a fee for the renewal of a certificate issued by the board, and prohibits the fee from exceeding \$125, as specified. Under existing law, all fees and revenues received by the board are deposited into the Court Reporters' Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would raise that fee limit to \$250. By authorizing an increase in a fee deposited into a continuously appropriated fund, this bill would make an appropriation.

(9)

(8) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board, which is within the Department of Consumer Affairs, and requires a licensee to pay a specified license fee. Existing law makes any violation of those provisions punishable as a misdemeanor. Existing law places certain requirements on a registered company or licensee with regards to wood destroying pests or organisms, including that a registered company or licensee is prohibited from commencing work on a contract until an inspection has been made by a licensed Branch 3 field representative or operator, that the address of each property inspected or upon which work was completed is required to be reported to the board, as specified, and that a written inspection report be prepared

and delivered to the person requesting the inspection or his or her agent. Existing law requires the original inspection report to be submitted to the board upon demand. Existing law requires that written report to contain certain information, including a foundation diagram or sketch of the structure or portions of the structure inspected, and requires the report, and any contract entered into, to expressly state if a guarantee for the work is made, and if so, the terms and time period of the guarantee. Existing law establishes the Structural Pest Control Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill would not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill would require instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner's designated agent, as specified. The bill would allow an inspection report to be a complete, limited, supplemental, or reinspection report, as defined. The bill would require all inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill would require the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch. By placing new requirements on a registered company or licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

Existing law requires a registered company to prepare a notice of work completed to give to the owner of the property when the work is completed.

This bill would make this provision only applicable to work relating to wood destroying pests and organisms.

(10)

(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 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. It is the intent of the Legislature to enact future  
2 legislation that would establish a Dental Corps Scholarship  
3 Program within the Health Professions Education Foundation to  
4 increase the supply of dentists serving in medically underserved  
5 areas.

6 ~~SEC. 2. Section 1636.4 of the Business and Professions Code~~  
7 ~~is amended to read:~~

8 ~~1636.4. (a) The Legislature recognizes the need to ensure that~~  
9 ~~graduates of foreign dental schools who have received an education~~  
10 ~~that is equivalent to that of accredited institutions in the United~~  
11 ~~States and that adequately prepares their students for the practice~~  
12 ~~of dentistry shall be subject to the same licensure requirements as~~  
13 ~~graduates of approved dental schools or colleges. It is the purpose~~  
14 ~~of this section to provide for the evaluation of foreign dental~~  
15 ~~schools and the approval of those foreign dental schools that~~  
16 ~~provide an education that is equivalent to that of similar accredited~~  
17 ~~institutions in the United States and that adequately prepare their~~  
18 ~~students for the practice of dentistry.~~

19 ~~(b) The board shall be responsible for the approval of foreign~~  
20 ~~dental schools based on standards established pursuant to~~  
21 ~~subdivision (c). The board may contract with outside consultants~~  
22 ~~or a national professional organization to survey and evaluate~~  
23 ~~foreign dental schools. The consultant or organization shall report~~  
24 ~~to the board regarding its findings in the survey and evaluation.~~  
25 ~~The board may, in lieu of conducting its own survey and evaluation~~  
26 ~~of a foreign dental school, accept the findings of any commission~~  
27 ~~or accreditation agency approved by the board if the findings meet~~  
28 ~~the standards of subdivision (c) and adopt those findings as the~~  
29 ~~board's own. This subdivision shall not apply to foreign dental~~  
30 ~~schools seeking board approval that are under review by the board~~  
31 ~~on January 1, 2017.~~

32 ~~(c) Any foreign dental school that wishes to be approved~~  
33 ~~pursuant to this section shall make application to the board for this~~  
34 ~~approval, which shall be based upon a finding by the board that~~  
35 ~~the educational program of the foreign dental school is equivalent~~

1 to that of similar accredited institutions in the United States and  
2 adequately prepares its students for the practice of dentistry.  
3 Curriculum, faculty qualifications, student attendance, plant and  
4 facilities, and other relevant factors shall be reviewed and  
5 evaluated. The board shall identify by rule the standards and review  
6 procedures and methodology to be used in the approval process  
7 consistent with this subdivision. The board shall not grant approval  
8 if deficiencies found are of such magnitude as to prevent the  
9 students in the school from receiving an educational base suitable  
10 for the practice of dentistry.

11 (d) Periodic surveys and evaluations of all approved schools  
12 may be made to ensure continued compliance with this section.  
13 Approval shall include provisional and full approval. The  
14 provisional form of approval shall be for a period determined by  
15 the board, not to exceed three years, and shall be granted to an  
16 institution, in accordance with rules established by the board, to  
17 provide reasonable time for the school seeking permanent approval  
18 to overcome deficiencies found by the board. Prior to the expiration  
19 of a provisional approval and before the full approval is granted,  
20 the school shall be required to submit evidence that deficiencies  
21 noted at the time of initial application have been remedied. A  
22 school granted full approval shall provide evidence of continued  
23 compliance with this section. In the event that the board denies  
24 approval or reapproval, the board shall give the school a specific  
25 listing of the deficiencies that caused the denial and the  
26 requirements for remedying the deficiencies, and shall permit the  
27 school, upon request, to demonstrate by satisfactory evidence,  
28 within 90 days, that it has remedied the deficiencies listed by the  
29 board.

30 (e) A school shall pay a registration fee established by rule of  
31 the board, not to exceed one thousand dollars (\$1,000), at the time  
32 of application for approval and shall pay all reasonable costs and  
33 expenses incurred for conducting the approval survey.

34 (f) The board shall renew approval upon receipt of a renewal  
35 application, accompanied by a fee not to exceed five hundred  
36 dollars (\$500). Each fully approved institution shall submit a  
37 renewal application every seven years. Any approval that is not  
38 renewed shall automatically expire.

1     ~~SEC. 3.~~

2     *SEC. 2.* Section 2423 of the Business and Professions Code is  
3 amended to read:

4     2423. (a) Notwithstanding Section 2422:

5         (1) All physician and surgeon’s certificates and certificates to  
6 practice midwifery shall expire at 12 midnight on the last day of  
7 the birth month of the licensee during the second year of a two-year  
8 term if not renewed.

9         (2) Registrations of dispensing opticians will expire at midnight  
10 on the last day of the month in which the license was issued during  
11 the second year of a two-year term if not renewed.

12         (b) The board shall establish by regulation procedures for the  
13 administration of a birth date renewal program, including, but not  
14 limited to, the establishment of a system of staggered license  
15 expiration dates such that a relatively equal number of licenses  
16 expire monthly.

17         (c) To renew an unexpired license, the licensee shall, on or  
18 before the dates on which it would otherwise expire, apply for  
19 renewal on a form prescribed by the licensing authority and pay  
20 the prescribed renewal fee.

21     ~~SEC. 4.~~

22     *SEC. 3.* Section 2460 of the Business and Professions Code is  
23 amended to read:

24     2460. (a) There is created within the Department of Consumer  
25 Affairs a California Board of Podiatric Medicine.

26         (b) This section shall remain in effect only until January 1, 2017,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2017, deletes or extends that date.  
29 Notwithstanding any other provision of law, the repeal of this  
30 section renders the California Board of Podiatric Medicine subject  
31 to review by the appropriate policy committees of the Legislature.

32     ~~SEC. 5.~~

33     *SEC. 4.* Section 2461 of the Business and Professions Code is  
34 amended to read:

35     2461. As used in this article:

36         (a) “Board” means the California Board of Podiatric Medicine.

37         (b) “Podiatric licensing authority” refers to any officer, board,  
38 commission, committee, or department of another state that may  
39 issue a license to practice podiatric medicine.

1     ~~SEC. 6.~~

2     *SEC. 5.* Section 2475 of the Business and Professions Code is  
3 amended to read:

4     2475. Unless otherwise provided by law, no postgraduate  
5 trainee, intern, resident postdoctoral fellow, or instructor may  
6 engage in the practice of podiatric medicine, or receive  
7 compensation therefor, or offer to engage in the practice of  
8 podiatric medicine unless he or she holds a valid, unrevoked, and  
9 unsuspended certificate to practice podiatric medicine issued by  
10 the board. However, a graduate of an approved college or school  
11 of podiatric medicine upon whom the degree doctor of podiatric  
12 medicine has been conferred, who is issued a resident's license,  
13 which may be renewed annually for up to eight years for this  
14 purpose by the board, and who is enrolled in a postgraduate training  
15 program approved by the board, may engage in the practice of  
16 podiatric medicine whenever and wherever required as a part of  
17 that program and may receive compensation for that practice under  
18 the following conditions:

19     (a) A graduate with a resident's license in an approved  
20 internship, residency, or fellowship program may participate in  
21 training rotations outside the scope of podiatric medicine, under  
22 the supervision of a physician and surgeon who holds a medical  
23 doctor or doctor of osteopathy degree wherever and whenever  
24 required as a part of the training program, and may receive  
25 compensation for that practice. If the graduate fails to receive a  
26 license to practice podiatric medicine under this chapter within  
27 three years from the commencement of the postgraduate training,  
28 all privileges and exemptions under this section shall automatically  
29 cease.

30     (b) Hospitals functioning as a part of the teaching program of  
31 an approved college or school of podiatric medicine in this state  
32 may exchange instructors or resident or assistant resident doctors  
33 of podiatric medicine with another approved college or school of  
34 podiatric medicine not located in this state, or those hospitals may  
35 appoint a graduate of an approved school as such a resident for  
36 purposes of postgraduate training. Those instructors and residents  
37 may practice and be compensated as provided in this section, but  
38 that practice and compensation shall be for a period not to exceed  
39 two years.

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 2479 of the Business and Professions Code is  
3 amended to read:

4 2479. The board shall issue a certificate to practice podiatric  
5 medicine to each applicant who meets the requirements of this  
6 chapter. Every applicant for a certificate to practice podiatric  
7 medicine shall comply with the provisions of Article 4  
8 (commencing with Section 2080) which are not specifically  
9 applicable to applicants for a physician’s and surgeon’s certificate,  
10 in addition to the provisions of this article.

11 ~~SEC. 8.~~

12 *SEC. 7.* Section 2486 of the Business and Professions Code is  
13 amended to read:

14 2486. The board shall issue a certificate to practice podiatric  
15 medicine if the applicant has submitted directly to the board from  
16 the credentialing organizations verification that he or she meets  
17 all of the following requirements:

18 (a) The applicant has graduated from an approved school or  
19 college of podiatric medicine and meets the requirements of Section  
20 2483.

21 (b) The applicant, within the past 10 years, has passed parts I,  
22 II, and III of the examination administered by the National Board  
23 of Podiatric Medical Examiners of the United States or has passed  
24 a written examination that is recognized by the board to be the  
25 equivalent in content to the examination administered by the  
26 National Board of Podiatric Medical Examiners of the United  
27 States.

28 (c) The applicant has satisfactorily completed the postgraduate  
29 training required by Section 2484.

30 (d) The applicant has passed within the past 10 years any oral  
31 and practical examination that may be required of all applicants  
32 by the board to ascertain clinical competence.

33 (e) The applicant has committed no acts or crimes constituting  
34 grounds for denial of a certificate under Division 1.5 (commencing  
35 with Section 475).

36 (f) The board determines that no disciplinary action has been  
37 taken against the applicant by any podiatric licensing authority  
38 and that the applicant has not been the subject of adverse judgments  
39 or settlements resulting from the practice of podiatric medicine

1 that the board determines constitutes evidence of a pattern of  
2 negligence or incompetence.

3 (g) A disciplinary databank report regarding the applicant is  
4 received by the board from the Federation of Podiatric Medical  
5 Boards.

6 ~~SEC. 9.~~

7 *SEC. 8.* Section 2488 of the Business and Professions Code is  
8 amended to read:

9 2488. Notwithstanding any other law, the board shall issue a  
10 certificate to practice podiatric medicine by credentialing if the  
11 applicant has submitted directly to the board from the credentialing  
12 organizations verification that he or she is licensed as a doctor of  
13 podiatric medicine in any other state and meets all of the following  
14 requirements:

15 (a) The applicant has graduated from an approved school or  
16 college of podiatric medicine.

17 (b) The applicant, within the past 10 years, has passed either  
18 part III of the examination administered by the National Board of  
19 Podiatric Medical Examiners of the United States or a written  
20 examination that is recognized by the board to be the equivalent  
21 in content to the examination administered by the National Board  
22 of Podiatric Medical Examiners of the United States.

23 (c) The applicant has satisfactorily completed a postgraduate  
24 training program approved by the Council on Podiatric Medical  
25 Education.

26 (d) The applicant, within the past 10 years, has passed any oral  
27 and practical examination that may be required of all applicants  
28 by the board to ascertain clinical competence.

29 (e) The applicant has committed no acts or crimes constituting  
30 grounds for denial of a certificate under Division 1.5 (commencing  
31 with Section 475).

32 (f) The board determines that no disciplinary action has been  
33 taken against the applicant by any podiatric licensing authority  
34 and that the applicant has not been the subject of adverse judgments  
35 or settlements resulting from the practice of podiatric medicine  
36 that the board determines constitutes evidence of a pattern of  
37 negligence or incompetence.

38 (g) A disciplinary databank report regarding the applicant is  
39 received by the board from the Federation of Podiatric Medical  
40 Boards.

1     ~~SEC. 10.~~

2     *SEC. 9.* Section 2492 of the Business and Professions Code is  
3 amended to read:

4     2492. (a) The board shall examine every applicant for a  
5 certificate to practice podiatric medicine to ensure a minimum of  
6 entry-level competence at the time and place designated by the  
7 board in its discretion, but at least twice a year.

8     (b) Unless the applicant meets the requirements of Section 2486,  
9 applicants shall be required to have taken and passed the  
10 examination administered by the National Board of Podiatric  
11 Medical Examiners.

12     (c) The board may appoint qualified persons to give the whole  
13 or any portion of any examination as provided in this article, who  
14 shall be designated as examination commissioners. The board may  
15 fix the compensation of those persons subject to the provisions of  
16 applicable state laws and regulations.

17     (d) The provisions of Article 9 (commencing with Section 2170)  
18 shall apply to examinations administered by the board except where  
19 those provisions are in conflict with or inconsistent with the  
20 provisions of this article.

21     ~~SEC. 11.~~

22     *SEC. 10.* Section 2499 of the Business and Professions Code  
23 is amended to read:

24     2499. There is in the State Treasury the Board of Podiatric  
25 Medicine Fund. Notwithstanding Section 2445, the board shall  
26 report to the Controller at the beginning of each calendar month  
27 for the month preceding the amount and source of all revenue  
28 received by the board, pursuant to this chapter, and shall pay the  
29 entire amount thereof to the Treasurer for deposit into the fund.  
30 All revenue received by the board from fees authorized to be  
31 charged relating to the practice of podiatric medicine shall be  
32 deposited in the fund as provided in this section, and shall be used  
33 to carry out the provisions of this chapter relating to the regulation  
34 of the practice of podiatric medicine.

35     ~~SEC. 12.~~

36     *SEC. 11.* Section 2499.7 is added to the Business and  
37 Professions Code, to read:

38     2499.7. (a) Certificates to practice podiatric medicine shall  
39 expire at 12 midnight on the last day of the birth month of the  
40 licensee during the second year of a two-year term.

1 (b) To renew an unexpired certificate, the licensee, on or before  
2 the date on which the certificate would otherwise expire, shall  
3 apply for renewal on a form prescribed by the board and pay the  
4 prescribed renewal fee.

5 ~~SEC. 13.~~

6 *SEC. 12.* Section 2733 of the Business and Professions Code  
7 is amended to read:

8 2733. (a) (1) (A) Upon approval of an application filed  
9 pursuant to subdivision (b) of Section 2732.1, and upon the  
10 payment of the fee prescribed by subdivision (k) of Section 2815,  
11 the board may issue a temporary license to practice professional  
12 nursing, and a temporary certificate to practice as a certified public  
13 health nurse for a period of six months from the date of issuance.

14 (B) Upon approval of an application filed pursuant to  
15 subdivision (b) of Section 2732.1, and upon the payment of the  
16 fee prescribed by subdivision (d) of Section 2838.2, the board may  
17 issue a temporary certificate to practice as a certified clinical nurse  
18 specialist for a period of six months from the date of issuance.

19 (C) Upon approval of an application filed pursuant to  
20 subdivision (b) of Section 2732.1, and upon the payment of the  
21 fee prescribed by subdivision (e) of Section 2815.5, the board may  
22 issue a temporary certificate to practice as a certified nurse-midwife  
23 for a period of six months from the date of issuance.

24 (D) Upon approval of an application filed pursuant to  
25 subdivision (b) of Section 2732.1, and upon the payment of the  
26 fee prescribed by subdivision (d) of Section 2830.7, the board may  
27 issue a temporary certificate to practice as a certified nurse  
28 anesthetist for a period of six months from the date of issuance.

29 (E) Upon approval of an application filed pursuant to subdivision  
30 (b) of Section 2732.1, and upon the payment of the fee prescribed  
31 by subdivision (p) of Section 2815, the board may issue a  
32 temporary certificate to practice as a certified nurse practitioner  
33 for a period of six months from the date of issuance.

34 (2) A temporary license or temporary certificate shall terminate  
35 upon notice thereof by certified mail, return receipt requested, if  
36 it is issued by mistake or if the application for permanent licensure  
37 is denied.

38 (b) Upon written application, the board may reissue a temporary  
39 license or temporary certificate to any person who has applied for  
40 a regular renewable license pursuant to subdivision (b) of Section

1 2732.1 and who, in the judgment of the board has been excusably  
2 delayed in completing his or her application for or the minimum  
3 requirements for a regular renewable license, but the board may  
4 not reissue a temporary license or temporary certificate more than  
5 twice to any one person.

6 ~~SEC. 14.~~

7 *SEC. 13.* Section 2746.51 of the Business and Professions Code  
8 is amended to read:

9 2746.51. (a) Neither this chapter nor any other provision of  
10 law shall be construed to prohibit a certified nurse-midwife from  
11 furnishing or ordering drugs or devices, including controlled  
12 substances classified in Schedule II, III, IV, or V under the  
13 California Uniform Controlled Substances Act (Division 10  
14 (commencing with Section 11000) of the Health and Safety Code),  
15 when all of the following apply:

16 (1) The drugs or devices are furnished or ordered incidentally  
17 to the provision of any of the following:

18 (A) Family planning services, as defined in Section 14503 of  
19 the Welfare and Institutions Code.

20 (B) Routine health care or perinatal care, as defined in  
21 subdivision (d) of Section 123485 of the Health and Safety Code.

22 (C) Care rendered, consistent with the certified nurse-midwife's  
23 educational preparation or for which clinical competency has been  
24 established and maintained, to persons within a facility specified  
25 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the  
26 Health and Safety Code, a clinic as specified in Section 1204 of  
27 the Health and Safety Code, a general acute care hospital as defined  
28 in subdivision (a) of Section 1250 of the Health and Safety Code,  
29 a licensed birth center as defined in Section 1204.3 of the Health  
30 and Safety Code, or a special hospital specified as a maternity  
31 hospital in subdivision (f) of Section 1250 of the Health and Safety  
32 Code.

33 (2) The drugs or devices are furnished or ordered by a certified  
34 nurse-midwife in accordance with standardized procedures or  
35 protocols. For purposes of this section, standardized procedure  
36 means a document, including protocols, developed and approved  
37 by the supervising physician and surgeon, the certified  
38 nurse-midwife, and the facility administrator or his or her designee.  
39 The standardized procedure covering the furnishing or ordering  
40 of drugs or devices shall specify all of the following:

1 (A) Which certified nurse-midwife may furnish or order drugs  
2 or devices.

3 (B) Which drugs or devices may be furnished or ordered and  
4 under what circumstances.

5 (C) The extent of physician and surgeon supervision.

6 (D) The method of periodic review of the certified  
7 nurse-midwife's competence, including peer review, and review  
8 of the provisions of the standardized procedure.

9 (3) If Schedule II or III controlled substances, as defined in  
10 Sections 11055 and 11056 of the Health and Safety Code, are  
11 furnished or ordered by a certified nurse-midwife, the controlled  
12 substances shall be furnished or ordered in accordance with a  
13 patient-specific protocol approved by the treating or supervising  
14 physician and surgeon. For Schedule II controlled substance  
15 protocols, the provision for furnishing the Schedule II controlled  
16 substance shall address the diagnosis of the illness, injury, or  
17 condition for which the Schedule II controlled substance is to be  
18 furnished.

19 (4) The furnishing or ordering of drugs or devices by a certified  
20 nurse-midwife occurs under physician and surgeon supervision.  
21 For purposes of this section, no physician and surgeon shall  
22 supervise more than four certified nurse-midwives at one time.  
23 Physician and surgeon supervision shall not be construed to require  
24 the physical presence of the physician, but does include all of the  
25 following:

26 (A) Collaboration on the development of the standardized  
27 procedure or protocol.

28 (B) Approval of the standardized procedure or protocol.

29 (C) Availability by telephonic contact at the time of patient  
30 examination by the certified nurse-midwife.

31 (b) (1) The furnishing or ordering of drugs or devices by a  
32 certified nurse-midwife is conditional on the issuance by the board  
33 of a number to the applicant who has successfully completed the  
34 requirements of paragraph (2). The number shall be included on  
35 all transmittals of orders for drugs or devices by the certified  
36 nurse-midwife. The board shall maintain a list of the certified  
37 nurse-midwives that it has certified pursuant to this paragraph and  
38 the number it has issued to each one. The board shall make the list  
39 available to the California State Board of Pharmacy upon its  
40 request. Every certified nurse-midwife who is authorized pursuant

1 to this section to furnish or issue a drug order for a controlled  
2 substance shall register with the United States Drug Enforcement  
3 Administration.

4 (2) The board has certified in accordance with paragraph (1)  
5 that the certified nurse-midwife has satisfactorily completed a  
6 course in pharmacology covering the drugs or devices to be  
7 furnished or ordered under this section. The board shall establish  
8 the requirements for satisfactory completion of this paragraph.  
9 The board may charge the applicant a fee to cover all necessary  
10 costs to implement this section, that shall be not less than four  
11 hundred dollars (\$400) nor more than one thousand five hundred  
12 dollars (\$1,500) for an initial application, nor less than one hundred  
13 fifty dollars (\$150) nor more than one thousand dollars (\$1,000)  
14 for an application for renewal. The board may charge a penalty  
15 fee for failure to renew a furnishing number within the prescribed  
16 time that shall be not less than seventy-five dollars (\$75) nor more  
17 than five hundred dollars (\$500).

18 (3) A physician and surgeon may determine the extent of  
19 supervision necessary pursuant to this section in the furnishing or  
20 ordering of drugs and devices.

21 (4) A copy of the standardized procedure or protocol relating  
22 to the furnishing or ordering of controlled substances by a certified  
23 nurse-midwife shall be provided upon request to any licensed  
24 pharmacist who is uncertain of the authority of the certified  
25 nurse-midwife to perform these functions.

26 (5) Certified nurse-midwives who are certified by the board and  
27 hold an active furnishing number, who are currently authorized  
28 through standardized procedures or protocols to furnish Schedule  
29 II controlled substances, and who are registered with the United  
30 States Drug Enforcement Administration shall provide  
31 documentation of continuing education specific to the use of  
32 Schedule II controlled substances in settings other than a hospital  
33 based on standards developed by the board.

34 (c) Drugs or devices furnished or ordered by a certified  
35 nurse-midwife may include Schedule II controlled substances  
36 under the California Uniform Controlled Substances Act (Division  
37 10 (commencing with Section 11000) of the Health and Safety  
38 Code) under the following conditions:

39 (1) The drugs and devices are furnished or ordered in accordance  
40 with requirements referenced in paragraphs (2) to (4), inclusive,

1 of subdivision (a) and in paragraphs (1) to (3), inclusive, of  
2 subdivision (b).

3 (2) When Schedule II controlled substances, as defined in  
4 Section 11055 of the Health and Safety Code, are furnished or  
5 ordered by a certified nurse-midwife, the controlled substances  
6 shall be furnished or ordered in accordance with a patient-specific  
7 protocol approved by the treating or supervising physician and  
8 surgeon.

9 (d) Furnishing of drugs or devices by a certified nurse-midwife  
10 means the act of making a pharmaceutical agent or agents available  
11 to the patient in strict accordance with a standardized procedure  
12 or protocol. Use of the term “furnishing” in this section shall  
13 include the following:

14 (1) The ordering of a drug or device in accordance with the  
15 standardized procedure or protocol.

16 (2) Transmitting an order of a supervising physician and  
17 surgeon.

18 (e) “Drug order” or “order” for purposes of this section means  
19 an order for medication or for a drug or device that is dispensed  
20 to or for an ultimate user, issued by a certified nurse-midwife as  
21 an individual practitioner, within the meaning of Section 1306.03  
22 of Title 21 of the Code of Federal Regulations. Notwithstanding  
23 any other provision of law, (1) a drug order issued pursuant to this  
24 section shall be treated in the same manner as a prescription of the  
25 supervising physician; (2) all references to “prescription” in this  
26 code and the Health and Safety Code shall include drug orders  
27 issued by certified nurse-midwives; and (3) the signature of a  
28 certified nurse-midwife on a drug order issued in accordance with  
29 this section shall be deemed to be the signature of a prescriber for  
30 purposes of this code and the Health and Safety Code.

31 ~~SEC. 15.~~

32 *SEC. 14.* Section 2786.5 of the Business and Professions Code  
33 is amended to read:

34 2786.5. (a) An institution of higher education or a private  
35 postsecondary school of nursing approved by the board pursuant  
36 to subdivision (b) of Section 2786 shall remit to the board for  
37 deposit in the Board of Registered Nursing Fund the following  
38 fees, in accordance with the following schedule:

1 (1) The fee for approval of a school of nursing shall be fixed  
2 by the board at not less than forty thousand dollars (\$40,000) nor  
3 more than eighty thousand dollars (\$80,000).

4 (2) The fee for continuing approval of a nursing program  
5 established after January 1, 2013, shall be fixed by the board at  
6 not less than fifteen thousand dollars (\$15,000) nor more than  
7 thirty thousand dollars (\$30,000).

8 (3) The processing fee for authorization of a substantive change  
9 to an approval of a school of nursing shall be fixed by the board  
10 at not less than two thousand five hundred dollars (\$2,500) nor  
11 more than five thousand dollars (\$5,000).

12 (b) If the board determines that the annual cost of providing  
13 oversight and review of a school of nursing, as required by this  
14 article, is less than the amount of any fees required to be paid by  
15 that institution pursuant to this article, the board may decrease the  
16 fees applicable to that institution to an amount that is proportional  
17 to the board’s costs associated with that institution.

18 ~~SEC. 16.~~

19 *SEC. 15.* Section 2811 of the Business and Professions Code  
20 is amended to read:

21 2811. (a) Each person holding a regular renewable license  
22 under this chapter, whether in an active or inactive status, shall  
23 apply for a renewal of his license and pay the biennial renewal fee  
24 required by this chapter each two years on or before the last day  
25 of the month following the month in which his birthday occurs,  
26 beginning with the second birthday following the date on which  
27 the license was issued, whereupon the board shall renew the  
28 license.

29 (b) Each such license not renewed in accordance with this  
30 section shall expire but may within a period of eight years  
31 thereafter be reinstated upon payment of the fee required by this  
32 chapter and upon submission of such proof of the applicant’s  
33 qualifications as may be required by the board, except that during  
34 such eight-year period no examination shall be required as a  
35 condition for the reinstatement of any such expired license which  
36 has lapsed solely by reason of nonpayment of the renewal fee.  
37 After the expiration of such eight-year period the board may require  
38 as a condition of reinstatement that the applicant pass such  
39 examination as it deems necessary to determine his present fitness  
40 to resume the practice of professional nursing.

1 (c) A license in an inactive status may be restored to an active  
2 status if the licensee meets the continuing education standards of  
3 Section 2811.5.

4 ~~SEC. 17.~~

5 *SEC. 16.* Section 2811.5 of the Business and Professions Code  
6 is amended to read:

7 2811.5. (a) Each person renewing his or her license under  
8 Section 2811 shall submit proof satisfactory to the board that,  
9 during the preceding two-year period, he or she has been informed  
10 of the developments in the registered nurse field or in any special  
11 area of practice engaged in by the licensee, occurring since the  
12 last renewal thereof, either by pursuing a course or courses of  
13 continuing education in the registered nurse field or relevant to  
14 the practice of the licensee, and approved by the board, or by other  
15 means deemed equivalent by the board.

16 (b) For purposes of this section, the board shall, by regulation,  
17 establish standards for continuing education. The standards shall  
18 be established in a manner to ensure that a variety of alternative  
19 forms of continuing education are available to licensees, including,  
20 but not limited to, academic studies, in-service education, institutes,  
21 seminars, lectures, conferences, workshops, extension studies, and  
22 home study programs. The standards shall take cognizance of  
23 specialized areas of practice, and content shall be relevant to the  
24 practice of nursing and shall be related to the scientific knowledge  
25 or technical skills required for the practice of nursing or be related  
26 to direct or indirect patient or client care. The continuing education  
27 standards established by the board shall not exceed 30 hours of  
28 direct participation in a course or courses approved by the board,  
29 or its equivalent in the units of measure adopted by the board.

30 (c) The board shall audit continuing education providers at least  
31 once every five years to ensure adherence to regulatory  
32 requirements, and shall withhold or rescind approval from any  
33 provider that is in violation of the regulatory requirements.

34 (d) The board shall encourage continuing education in spousal  
35 or partner abuse detection and treatment. In the event the board  
36 establishes a requirement for continuing education coursework in  
37 spousal or partner abuse detection or treatment, that requirement  
38 shall be met by each licensee within no more than four years from  
39 the date the requirement is imposed.

1 (e) In establishing standards for continuing education, the board  
2 shall consider including a course in the special care needs of  
3 individuals and their families facing end-of-life issues, including,  
4 but not limited to, all of the following:

- 5 (1) Pain and symptom management.
- 6 (2) The psycho-social dynamics of death.
- 7 (3) Dying and bereavement.
- 8 (4) Hospice care.

9 (f) In establishing standards for continuing education, the board  
10 may include a course on pain management.

11 (g) This section shall not apply to licensees during the first two  
12 years immediately following their initial licensure in California  
13 or any other governmental jurisdiction.

14 (h) The board may, in accordance with the intent of this section,  
15 make exceptions from continuing education requirements for  
16 licensees residing in another state or country, or for reasons of  
17 health, military service, or other good cause.

18 ~~SEC. 18.~~

19 *SEC. 17.* Section 2815 of the Business and Professions Code  
20 is amended to read:

21 2815. Subject to the provisions of Section 128.5, the amount  
22 of the fees prescribed by this chapter in connection with the  
23 issuance of licenses for registered nurses under its provisions is  
24 that fixed by the following schedule:

25 (a) (1) The fee to be paid upon the filing by a graduate of an  
26 approved school of nursing in this state of an application for a  
27 licensure by examination shall be fixed by the board at not less  
28 than three hundred dollars (\$300) nor more than one thousand  
29 dollars (\$1,000).

30 (2) The fee to be paid upon the filing by a graduate of a school  
31 of nursing in another state, district, or territory of the United States  
32 of an application for a licensure by examination shall be fixed by  
33 the board at not less than three hundred fifty dollars (\$350) nor  
34 more than one thousand dollars (\$1,000).

35 (3) The fee to be paid upon the filing by a graduate of a school  
36 of nursing in another country of an application for a licensure by  
37 examination shall be fixed by the board at not less than seven  
38 hundred fifty dollars (\$750) nor more than one thousand five  
39 hundred dollars (\$1,500).

1 (4) The fee to be paid upon the filing of an application for  
2 licensure by a repeat examination shall be fixed by the board at  
3 not less than two hundred fifty dollars (\$250) and not more than  
4 one thousand dollars (\$1,000).

5 (b) The fee to be paid for taking each examination shall be the  
6 actual cost to purchase an examination from a vendor approved  
7 by the board.

8 (c) (1) The fee to be paid for application by a person who is  
9 licensed or registered as a nurse in another state, district, or territory  
10 of the United States for licensure by endorsement shall be fixed  
11 by the board at not less than three hundred fifty dollars (\$350) nor  
12 more than one thousand dollars (\$1,000).

13 (2) The fee to be paid for application by a person who is licensed  
14 or registered as a nurse in another country for licensure by  
15 endorsement shall be fixed by the board at not less than seven  
16 hundred fifty dollars (\$750) nor more than one thousand five  
17 hundred dollars (\$1,500).

18 (d) (1) The biennial fee to be paid upon the filing of an  
19 application for renewal of the license shall be not less than one  
20 hundred eighty dollars (\$180) nor more than seven hundred fifty  
21 dollars (\$750). In addition, an assessment of ten dollars (\$10) shall  
22 be collected and credited to the Registered Nurse Education Fund,  
23 pursuant to Section 2815.1.

24 (2) The fee to be paid upon the filing of an application for  
25 reinstatement pursuant to subdivision (b) of Section 2811 shall be  
26 not less than three hundred fifty dollars (\$350) nor more than one  
27 thousand dollars (\$1,000).

28 (e) The penalty fee for failure to renew a license within the  
29 prescribed time shall be fixed by the board at not more than 50  
30 percent of the regular renewal fee, but not less than ninety dollars  
31 (\$90) nor more than three hundred seventy-five dollars (\$375).

32 (f) The fee to be paid for approval of a continuing education  
33 provider shall be fixed by the board at not less than five hundred  
34 dollars (\$500) nor more than one thousand dollars (\$1,000).

35 (g) The biennial fee to be paid upon the filing of an application  
36 for renewal of provider approval shall be fixed by the board at not  
37 less than seven hundred fifty dollars (\$750) nor more than one  
38 thousand dollars (\$1,000).

39 (h) The penalty fee for failure to renew provider approval within  
40 the prescribed time shall be fixed at not more than 50 percent of

1 the regular renewal fee, but not less than one hundred twenty-five  
2 dollars (\$125) nor more than five hundred dollars (\$500).

3 (i) The penalty for submitting insufficient funds or fictitious  
4 check, draft or order on any bank or depository for payment of  
5 any fee to the board shall be fixed at not less than fifteen dollars  
6 (\$15) nor more than thirty dollars (\$30).

7 (j) The fee to be paid for an interim permit shall be fixed by the  
8 board at not less than one hundred dollars (\$100) nor more than  
9 two hundred fifty dollars (\$250).

10 (k) The fee to be paid for a temporary license shall be fixed by  
11 the board at not less than one hundred dollars (\$100) nor more  
12 than two hundred fifty dollars (\$250).

13 (l) The fee to be paid for processing endorsement papers to other  
14 states shall be fixed by the board at not less than one hundred  
15 dollars (\$100) nor more than two hundred dollars (\$200).

16 (m) The fee to be paid for a certified copy of a school transcript  
17 shall be fixed by the board at not less than fifty dollars (\$50) nor  
18 more than one hundred dollars (\$100).

19 (n) (1) The fee to be paid for a duplicate pocket license shall  
20 be fixed by the board at not less than fifty dollars (\$50) nor more  
21 than seventy-five dollars (\$75).

22 (2) The fee to be paid for a duplicate wall certificate shall be  
23 fixed by the board at not less than sixty dollars (\$60) nor more  
24 than one hundred dollars (\$100).

25 (o) (1) The fee to be paid by a registered nurse for an evaluation  
26 of his or her qualifications to use the title “nurse practitioner” shall  
27 be fixed by the board at not less than five hundred dollars (\$500)  
28 nor more than one thousand five hundred dollars (\$1,500).

29 (2) The fee to be paid by a registered nurse for a temporary  
30 certificate to practice as a nurse practitioner shall be fixed by the  
31 board at not less than one hundred fifty dollars (\$150) nor more  
32 than five hundred dollars (\$500).

33 (3) The fee to be paid upon the filing of an application for  
34 renewal of a certificate to practice as a nurse practitioner shall be  
35 not less than one hundred fifty dollars (\$150) nor more than one  
36 thousand dollars (\$1,000).

37 (4) The penalty fee for failure to renew a certificate to practice  
38 as a nurse practitioner within the prescribed time shall be not less  
39 than seventy-five dollars (\$75) nor more than five hundred dollars  
40 (\$500).

1 (p) The fee to be paid by a registered nurse for listing as a  
2 “psychiatric mental health nurse” shall be fixed by the board at  
3 not less than three hundred fifty dollars (\$350) nor more than seven  
4 hundred fifty dollars (\$750).

5 (q) The fee to be paid for duplicate National Council Licensure  
6 Examination for registered nurses (NCLEX-RN) examination  
7 results shall be not less than sixty dollars (\$60) nor more than one  
8 hundred dollars (\$100).

9 (r) The fee to be paid for a letter certifying a license shall be  
10 not less than twenty dollars (\$20) nor more than thirty dollars  
11 (\$30).

12 No further fee shall be required for a license or a renewal thereof  
13 other than as prescribed by this chapter.

14 ~~SEC. 19.~~

15 *SEC. 18.* Section 2815.5 of the Business and Professions Code  
16 is amended to read:

17 2815.5. The amount of the fees prescribed by this chapter in  
18 connection with the issuance of certificates as nurse-midwives is  
19 that fixed by the following schedule:

20 (a) The fee to be paid upon the filing of an application for a  
21 certificate shall be fixed by the board at not less than five hundred  
22 dollars (\$500) nor more than one thousand five hundred dollars  
23 (\$1,500).

24 (b) The biennial fee to be paid upon the application for a renewal  
25 of a certificate shall be fixed by the board at not less than one  
26 hundred fifty dollars (\$150) nor more than one thousand dollars  
27 (\$1,000).

28 (c) The penalty fee for failure to renew a certificate within the  
29 prescribed time shall be 50 percent of the renewal fee in effect on  
30 the date of the renewal of the license, but not less than seventy-five  
31 dollars (\$75) nor more than five hundred dollars (\$500).

32 (d) The fee to be paid upon the filing of an application for the  
33 nurse-midwife equivalency examination shall be fixed by the board  
34 at not less than one hundred dollars (\$100) nor more than two  
35 hundred dollars (\$200).

36 (e) The fee to be paid for a temporary certificate shall be fixed  
37 by the board at not less than one hundred fifty dollars (\$150) nor  
38 more than five hundred dollars (\$500).

1     ~~SEC. 20.~~

2     *SEC. 19.* Section 2816 of the Business and Professions Code  
3 is amended to read:

4     2816. The nonrefundable fee to be paid by a registered nurse  
5 for an evaluation of his or her qualifications to use the title “public  
6 health nurse” shall be equal to the fees set out in subdivision (o)  
7 of Section 2815. The fee to be paid upon the application for  
8 renewal of the certificate to practice as a public health nurse shall  
9 be fixed by the board at not less than one hundred twenty-five  
10 dollars (\$125) and not more than five hundred dollars (\$500). All  
11 fees payable under this section shall be collected by and paid to  
12 the Registered Nursing Fund. It is the intention of the Legislature  
13 that the costs of carrying out the purposes of this article shall be  
14 covered by the revenue collected pursuant to this section.

15     ~~SEC. 21.~~

16     *SEC. 20.* Section 2830.7 of the Business and Professions Code  
17 is amended to read:

18     2830.7. The amount of the fees prescribed by this chapter in  
19 connection with the issuance of certificates as nurse anesthetists  
20 is that fixed by the following schedule:

21     (a) The fee to be paid upon the filing of an application for a  
22 certificate shall be fixed by the board at not less than five hundred  
23 dollars (\$500) nor more than one thousand five hundred dollars  
24 (\$1,500).

25     (b) The biennial fee to be paid upon the application for a renewal  
26 of a certificate shall be fixed by the board at not less than one  
27 hundred fifty dollars (\$150) nor more than one thousand dollars  
28 (\$1,000).

29     (c) The penalty fee for failure to renew a certificate within the  
30 prescribed time shall be 50 percent of the renewal fee in effect on  
31 the date of the renewal of the license, but not less than seventy-five  
32 dollars (\$75) nor more than five hundred dollars (\$500).

33     (d) The fee to be paid for a temporary certificate shall be fixed  
34 by the board at not less than one hundred fifty dollars (\$150) nor  
35 more than five hundred dollars (\$500).

36     ~~SEC. 22.~~

37     *SEC. 21.* Section 2836.3 of the Business and Professions Code  
38 is amended to read:

39     2836.3. (a) The furnishing of drugs or devices by nurse  
40 practitioners is conditional on issuance by the board of a number

1 to the nurse applicant who has successfully completed the  
2 requirements of subdivision (g) of Section 2836.1. The number  
3 shall be included on all transmittals of orders for drugs or devices  
4 by the nurse practitioner. The board shall make the list of numbers  
5 issued available to the Board of Pharmacy. The board may charge  
6 the applicant a fee to cover all necessary costs to implement this  
7 section, that shall be not less than four hundred dollars (\$400) nor  
8 more than one thousand five hundred dollars (\$1,500) for an initial  
9 application, nor less than one hundred fifty dollars (\$150) nor more  
10 than one thousand dollars (\$1,000) for an application for renewal.  
11 The board may charge a penalty fee for failure to renew a  
12 furnishing number within the prescribed time that shall be not less  
13 than seventy-five dollars (\$75) nor more than five hundred dollars  
14 (\$500).

15 (b) The number shall be renewable at the time of the applicant's  
16 registered nurse license renewal.

17 (c) The board may revoke, suspend, or deny issuance of the  
18 numbers for incompetence or gross negligence in the performance  
19 of functions specified in Sections 2836.1 and 2836.2.

20 ~~SEC. 23:~~

21 *SEC. 22.* Section 2838.2 of the Business and Professions Code  
22 is amended to read:

23 2838.2. (a) A clinical nurse specialist is a registered nurse with  
24 advanced education, who participates in expert clinical practice,  
25 education, research, consultation, and clinical leadership as the  
26 major components of his or her role.

27 (b) The board may establish categories of clinical nurse  
28 specialists and the standards required to be met for nurses to hold  
29 themselves out as clinical nurse specialists in each category. The  
30 standards shall take into account the types of advanced levels of  
31 nursing practice that are or may be performed and the clinical and  
32 didactic education, experience, or both needed to practice safety  
33 at those levels. In setting the standards, the board shall consult  
34 with clinical nurse specialists, physicians and surgeons appointed  
35 by the Medical Board with expertise with clinical nurse specialists,  
36 and health care organizations that utilize clinical nurse specialists.

37 (c) A registered nurse who meets one of the following  
38 requirements may apply to become a clinical nurse specialist:

39 (1) Possession of a master's degree in a clinical field of nursing.

1 (2) Possession of a master’s degree in a clinical field related to  
2 nursing with course work in the components referred to in  
3 subdivision (a).

4 (3) On or before July 1, 1998, meets the following requirements:

5 (A) Current licensure as a registered nurse.

6 (B) Performs the role of a clinical nurse specialist as described  
7 in subdivision (a).

8 (C) Meets any other criteria established by the board.

9 (d) (1) A nonrefundable fee of not less than five hundred dollars  
10 (\$500), but not to exceed one thousand five hundred dollars  
11 (\$1,500) shall be paid by a registered nurse applying to be a clinical  
12 nurse specialist for the evaluation of his or her qualifications to  
13 use the title “clinical nurse specialist.”

14 (2) The fee to be paid for a temporary certificate to practice as  
15 a clinical nurse specialist shall be not less than thirty dollars (\$30)  
16 nor more than fifty dollars (\$50).

17 (3) A biennial renewal fee shall be paid upon submission of an  
18 application to renew the clinical nurse specialist certificate and  
19 shall be established by the board at no less than one hundred fifty  
20 dollars (\$150) and no more than one thousand dollars (\$1,000).

21 (4) The penalty fee for failure to renew a certificate within the  
22 prescribed time shall be 50 percent of the renewal fee in effect on  
23 the date of the renewal of the license, but not less than seventy-five  
24 dollars (\$75) nor more than five hundred dollars (\$500).

25 (5) The fees authorized by this subdivision shall not exceed the  
26 amount necessary to cover the costs to the board to administer this  
27 section.

28 ~~SEC. 24.~~

29 *SEC. 23.* Section 4128.2 of the Business and Professions Code  
30 is amended to read:

31 4128.2. (a) In addition to the pharmacy license requirement  
32 described in Section 4110, a centralized hospital packaging  
33 pharmacy shall obtain a specialty license from the board prior to  
34 engaging in the functions described in Section 4128.

35 (b) An applicant seeking a specialty license pursuant to this  
36 article shall apply to the board on forms established by the board.

37 (c) Before issuing the specialty license, the board shall inspect  
38 the pharmacy and ensure that the pharmacy is in compliance with  
39 this article and regulations established by the board.

1 (d) A license to perform the functions described in Section 4128  
2 may only be issued to a pharmacy that is licensed by the board as  
3 a hospital pharmacy.

4 (e) A license issued pursuant to this article shall be renewed  
5 annually and is not transferrable.

6 (f) An applicant seeking renewal of a specialty license shall  
7 apply to the board on forms established by the board.

8 (g) A license to perform the functions described in Section 4128  
9 shall not be renewed until the pharmacy has been inspected by the  
10 board and found to be in compliance with this article and  
11 regulations established by the board.

12 ~~SEC. 25.~~

13 *SEC. 24.* Section 4400 of the Business and Professions Code  
14 is amended to read:

15 4400. The amount of fees and penalties prescribed by this  
16 chapter, except as otherwise provided, is that fixed by the board  
17 according to the following schedule:

18 (a) The fee for a nongovernmental pharmacy license shall be  
19 four hundred dollars (\$400) and may be increased to five hundred  
20 twenty dollars (\$520). The fee for the issuance of a temporary  
21 nongovernmental pharmacy permit shall be two hundred fifty  
22 dollars (\$250) and may be increased to three hundred twenty-five  
23 dollars (\$325).

24 (b) The fee for a nongovernmental pharmacy license annual  
25 renewal shall be two hundred fifty dollars (\$250) and may be  
26 increased to three hundred twenty-five dollars (\$325).

27 (c) The fee for the pharmacist application and examination shall  
28 be two hundred dollars (\$200) and may be increased to two  
29 hundred sixty dollars (\$260).

30 (d) The fee for regrading an examination shall be ninety dollars  
31 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
32 If an error in grading is found and the applicant passes the  
33 examination, the regrading fee shall be refunded.

34 (e) The fee for a pharmacist license and biennial renewal shall  
35 be one hundred fifty dollars (\$150) and may be increased to one  
36 hundred ninety-five dollars (\$195).

37 (f) The fee for a nongovernmental wholesaler or third-party  
38 logistics provider license and annual renewal shall be seven  
39 hundred eighty dollars (\$780) and may be decreased to no less  
40 than six hundred dollars (\$600). The application fee for any

1 additional location after licensure of the first 20 locations shall be  
2 three hundred dollars (\$300) and may be decreased to no less than  
3 two hundred twenty-five dollars (\$225). A temporary license fee  
4 shall be seven hundred fifteen dollars (\$715) and may be decreased  
5 to no less than five hundred fifty dollars (\$550).

6 (g) The fee for a hypodermic license and renewal shall be one  
7 hundred twenty-five dollars (\$125) and may be increased to one  
8 hundred sixty-five dollars (\$165).

9 (h) (1) The fee for application, investigation, and issuance of  
10 a license as a designated representative pursuant to Section 4053,  
11 or as a designated representative-3PL pursuant to Section 4053.1,  
12 shall be three hundred thirty dollars (\$330) and may be decreased  
13 to no less than two hundred fifty-five dollars (\$255).

14 (2) The fee for the annual renewal of a license as a designated  
15 representative or designated representative-3PL shall be one  
16 hundred ninety-five dollars (\$195) and may be decreased to no  
17 less than one hundred fifty dollars (\$150).

18 (i) (1) The fee for the application, investigation, and issuance  
19 of a license as a designated representative for a veterinary  
20 food-animal drug retailer pursuant to Section 4053 shall be three  
21 hundred thirty dollars (\$330) and may be decreased to no less than  
22 two hundred fifty-five dollars (\$255).

23 (2) The fee for the annual renewal of a license as a designated  
24 representative for a veterinary food-animal drug retailer shall be  
25 one hundred ninety-five dollars (\$195) and may be decreased to  
26 no less than one hundred fifty dollars (\$150).

27 (j) (1) The application fee for a nonresident wholesaler or  
28 third-party logistics provider license issued pursuant to Section  
29 4161 shall be seven hundred eighty dollars (\$780) and may be  
30 decreased to no less than six hundred dollars (\$600).

31 (2) For nonresident wholesalers or third-party logistics providers  
32 that have 21 or more facilities operating nationwide the application  
33 fees for the first 20 locations shall be seven hundred eighty dollars  
34 (\$780) and may be decreased to no less than six hundred dollars  
35 (\$600). The application fee for any additional location after  
36 licensure of the first 20 locations shall be three hundred dollars  
37 (\$300) and may be decreased to no less than two hundred  
38 twenty-five dollars (\$225). A temporary license fee shall be seven  
39 hundred fifteen dollars (\$715) and may be decreased to no less  
40 than five hundred fifty dollars (\$550).

1 (3) The annual renewal fee for a nonresident wholesaler license  
2 or third-party logistics provider license issued pursuant to Section  
3 4161 shall be seven hundred eighty dollars (\$780) and may be  
4 decreased to no less than six hundred dollars (\$600).

5 (k) The fee for evaluation of continuing education courses for  
6 accreditation shall be set by the board at an amount not to exceed  
7 forty dollars (\$40) per course hour.

8 (l) The fee for an intern pharmacist license shall be ninety dollars  
9 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
10 The fee for transfer of intern hours or verification of licensure to  
11 another state shall be twenty-five dollars (\$25) and may be  
12 increased to thirty dollars (\$30).

13 (m) The board may waive or refund the additional fee for the  
14 issuance of a license where the license is issued less than 45 days  
15 before the next regular renewal date.

16 (n) The fee for the reissuance of any license, or renewal thereof,  
17 that has been lost or destroyed or reissued due to a name change  
18 shall be thirty-five dollars (\$35) and may be increased to forty-five  
19 dollars (\$45).

20 (o) The fee for the reissuance of any license, or renewal thereof,  
21 that must be reissued because of a change in the information, shall  
22 be one hundred dollars (\$100) and may be increased to one hundred  
23 thirty dollars (\$130).

24 (p) It is the intent of the Legislature that, in setting fees pursuant  
25 to this section, the board shall seek to maintain a reserve in the  
26 Pharmacy Board Contingent Fund equal to approximately one  
27 year's operating expenditures.

28 (q) The fee for any applicant for a nongovernmental clinic  
29 license shall be four hundred dollars (\$400) and may be increased  
30 to five hundred twenty dollars (\$520) for each license. The annual  
31 fee for renewal of the license shall be two hundred fifty dollars  
32 (\$250) and may be increased to three hundred twenty-five dollars  
33 (\$325) for each license.

34 (r) The fee for the issuance of a pharmacy technician license  
35 shall be eighty dollars (\$80) and may be increased to one hundred  
36 five dollars (\$105). The fee for renewal of a pharmacy technician  
37 license shall be one hundred dollars (\$100) and may be increased  
38 to one hundred thirty dollars (\$130).

39 (s) The fee for a veterinary food-animal drug retailer license  
40 shall be four hundred five dollars (\$405) and may be increased to

1 four hundred twenty-five dollars (\$425). The annual renewal fee  
2 for a veterinary food-animal drug retailer license shall be two  
3 hundred fifty dollars (\$250) and may be increased to three hundred  
4 twenty-five dollars (\$325).

5 (t) The fee for issuance of a retired license pursuant to Section  
6 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
7 forty-five dollars (\$45).

8 (u) The fee for issuance or renewal of a nongovernmental sterile  
9 compounding pharmacy license shall be six hundred dollars (\$600)  
10 and may be increased to seven hundred eighty dollars (\$780). The  
11 fee for a temporary license shall be five hundred fifty dollars (\$550)  
12 and may be increased to seven hundred fifteen dollars (\$715).

13 (v) The fee for the issuance or renewal of a nonresident sterile  
14 compounding pharmacy license shall be seven hundred eighty  
15 dollars (\$780). In addition to paying that application fee, the  
16 nonresident sterile compounding pharmacy shall deposit, when  
17 submitting the application, a reasonable amount, as determined by  
18 the board, necessary to cover the board's estimated cost of  
19 performing the inspection required by Section 4127.2. If the  
20 required deposit is not submitted with the application, the  
21 application shall be deemed to be incomplete. If the actual cost of  
22 the inspection exceeds the amount deposited, the board shall  
23 provide to the applicant a written invoice for the remaining amount  
24 and shall not take action on the application until the full amount  
25 has been paid to the board. If the amount deposited exceeds the  
26 amount of actual and necessary costs incurred, the board shall  
27 remit the difference to the applicant.

28 (w) This section shall become inoperative on July 1, 2017, and  
29 as of January 1, 2018, is repealed.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 4400 is added to the Business and Professions  
32 Code, to read:

33 4400. The amount of fees and penalties prescribed by this  
34 chapter, except as otherwise provided, is that fixed by the board  
35 according to the following schedule:

36 (a) The fee for a nongovernmental pharmacy license shall be  
37 five hundred twenty dollars (\$520) and may be increased to five  
38 hundred seventy dollars (\$570). The fee for the issuance of a  
39 temporary nongovernmental pharmacy permit shall be two hundred

1 fifty dollars (\$250) and may be increased to three hundred  
2 twenty-five dollars (\$325).

3 (b) The fee for a nongovernmental pharmacy license annual  
4 renewal shall be six hundred sixty-five dollars (\$665) and may be  
5 increased to nine hundred thirty dollars (\$930).

6 (c) The fee for the pharmacist application and examination shall  
7 be two hundred sixty dollars (\$260) and may be increased to two  
8 hundred eighty-five dollars (\$285).

9 (d) The fee for regrading an examination shall be ninety dollars  
10 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
11 If an error in grading is found and the applicant passes the  
12 examination, the regrading fee shall be refunded.

13 (e) The fee for a pharmacist license shall be one hundred  
14 ninety-five dollars (\$195) and may be increased to two hundred  
15 fifteen dollars (\$215). The fee for a pharmacist biennial renewal  
16 shall be three hundred sixty dollars (\$360) and may be increased  
17 to five hundred five dollars (\$505).

18 (f) The fee for a nongovernmental wholesaler or third-party  
19 logistics provider license and annual renewal shall be seven  
20 hundred eighty dollars (\$780) and may be increased to eight  
21 hundred twenty dollars (\$820). The application fee for any  
22 additional location after licensure of the first 20 locations shall be  
23 three hundred dollars (\$300) and may be decreased to no less than  
24 two hundred twenty-five dollars (\$225). A temporary license fee  
25 shall be seven hundred fifteen dollars (\$715) and may be decreased  
26 to no less than five hundred fifty dollars (\$550).

27 (g) The fee for a hypodermic license shall be one hundred  
28 seventy dollars (\$170) and may be increased to two hundred forty  
29 dollars (\$240). The fee for a hypodermic license renewal shall be  
30 two hundred dollars (\$200) and may be increased to two hundred  
31 eighty dollars (\$280).

32 (h) (1) The fee for application, investigation, and issuance of  
33 a license as a designated representative pursuant to Section 4053,  
34 or as a designated representative-3PL pursuant to Section 4053.1,  
35 shall be one hundred fifty dollars (\$150) and may be increased to  
36 two hundred ten dollars (\$210).

37 (2) The fee for the annual renewal of a license as a designated  
38 representative or designated representative-3PL shall be two  
39 hundred fifteen dollars (\$215) and may be increased to three  
40 hundred dollars (\$300).

1 (i) (1) The fee for the application, investigation, and issuance  
2 of a license as a designated representative for a veterinary  
3 food-animal drug retailer pursuant to Section 4053 shall be one  
4 hundred fifty dollars (\$150) and may be increased to two hundred  
5 ten dollars (\$210).

6 (2) The fee for the annual renewal of a license as a designated  
7 representative for a veterinary food-animal drug retailer shall be  
8 two hundred fifteen dollars (\$215) and may be increased to three  
9 hundred dollars (\$300).

10 (j) (1) The application fee for a nonresident wholesaler or  
11 third-party logistics provider license issued pursuant to Section  
12 4161 shall be seven hundred eighty dollars (\$780) and may be  
13 increased to eight hundred twenty dollars (\$820).

14 (2) For nonresident wholesalers or third-party logistics providers  
15 that have 21 or more facilities operating nationwide the application  
16 fees for the first 20 locations shall be seven hundred eighty dollars  
17 (\$780) and may be increased to eight hundred twenty dollars  
18 (\$820). The application fee for any additional location after  
19 licensure of the first 20 locations shall be three hundred dollars  
20 (\$300) and may be decreased to no less than two hundred  
21 twenty-five dollars (\$225). A temporary license fee shall be seven  
22 hundred fifteen dollars (\$715) and may be decreased to no less  
23 than five hundred fifty dollars (\$550).

24 (3) The annual renewal fee for a nonresident wholesaler license  
25 or third-party logistics provider license issued pursuant to Section  
26 4161 shall be seven hundred eighty dollars (\$780) and may be  
27 increased to eight hundred twenty dollars (\$820).

28 (k) The fee for evaluation of continuing education courses for  
29 accreditation shall be set by the board at an amount not to exceed  
30 forty dollars (\$40) per course hour.

31 (l) The fee for an intern pharmacist license shall be one hundred  
32 sixty-five dollars (\$165) and may be increased to two hundred  
33 thirty dollars (\$230). The fee for transfer of intern hours or  
34 verification of licensure to another state shall be twenty-five dollars  
35 (\$25) and may be increased to thirty dollars (\$30).

36 (m) The board may waive or refund the additional fee for the  
37 issuance of a license where the license is issued less than 45 days  
38 before the next regular renewal date.

39 (n) The fee for the reissuance of any license, or renewal thereof,  
40 that has been lost or destroyed or reissued due to a name change

1 shall be thirty-five dollars (\$35) and may be increased to forty-five  
2 dollars (\$45).

3 (o) The fee for the reissuance of any license, or renewal thereof,  
4 that must be reissued because of a change in the information, shall  
5 be one hundred dollars (\$100) and may be increased to one hundred  
6 thirty dollars (\$130).

7 (p) It is the intent of the Legislature that, in setting fees pursuant  
8 to this section, the board shall seek to maintain a reserve in the  
9 Pharmacy Board Contingent Fund equal to approximately one  
10 year's operating expenditures.

11 (q) The fee for any applicant for a nongovernmental clinic  
12 license shall be five hundred twenty dollars (\$520) for each license  
13 and may be increased to five hundred seventy dollars (\$570). The  
14 annual fee for renewal of the license shall be three hundred  
15 twenty-five dollars (\$325) for each license and may be increased  
16 to three hundred sixty dollars (\$360).

17 (r) The fee for the issuance of a pharmacy technician license  
18 shall be one hundred forty dollars (\$140) and may be increased to  
19 one hundred ninety-five dollars (\$195). The fee for renewal of a  
20 pharmacy technician license shall be one hundred forty dollars  
21 (\$140) and may be increased to one hundred ninety-five dollars  
22 (\$195).

23 (s) The fee for a veterinary food-animal drug retailer license  
24 shall be four hundred thirty-five dollars (\$435) and may be  
25 increased to six hundred ten dollars (\$610). The annual renewal  
26 fee for a veterinary food-animal drug retailer license shall be three  
27 hundred thirty dollars (\$330) and may be increased to four hundred  
28 sixty dollars (\$460).

29 (t) The fee for issuance of a retired license pursuant to Section  
30 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
31 forty-five dollars (\$45).

32 (u) The fee for issuance of a nongovernmental sterile  
33 compounding pharmacy license shall be one thousand six hundred  
34 forty-five dollars (\$1,645) and may be increased to two thousand  
35 three hundred five dollars (\$2,305). The fee for a temporary license  
36 shall be five hundred fifty dollars (\$550) and may be increased to  
37 seven hundred fifteen dollars (\$715). The annual renewal fee of  
38 the license shall be one thousand three hundred twenty-five dollars  
39 (\$1,325) and may be increased to one thousand eight hundred  
40 fifty-five dollars (\$1,855).

1 (v) The fee for the issuance of a nonresident sterile compounding  
 2 pharmacy license shall be two thousand three hundred eighty  
 3 dollars (\$2,380) and may be increased to three thousand three  
 4 hundred thirty-five dollars (\$3,335). The annual renewal of the  
 5 license shall be two thousand two hundred seventy dollars (\$2,270)  
 6 and may be increased to three thousand one hundred eighty dollars  
 7 (\$3,180). In addition to paying that application fee, the nonresident  
 8 sterile compounding pharmacy shall deposit, when submitting the  
 9 application, a reasonable amount, as determined by the board,  
 10 necessary to cover the board's estimated cost of performing the  
 11 inspection required by Section 4127.2. If the required deposit is  
 12 not submitted with the application, the application shall be deemed  
 13 to be incomplete. If the actual cost of the inspection exceeds the  
 14 amount deposited, the board shall provide to the applicant a written  
 15 invoice for the remaining amount and shall not take action on the  
 16 application until the full amount has been paid to the board. If the  
 17 amount deposited exceeds the amount of actual and necessary  
 18 costs incurred, the board shall remit the difference to the applicant.

19 (w) The fee for the issuance of a centralized hospital packaging  
 20 license shall be eight hundred twenty dollars (\$820) and may be  
 21 increased to one thousand one hundred fifty dollars (\$1,150). The  
 22 annual renewal of the license shall be eight hundred five dollars  
 23 (\$805) and may be increased to one thousand one hundred  
 24 twenty-five dollars (\$1,125).

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

26 ~~SEC. 27. Chapter 15 (commencing with Section 4999) of~~  
 27 ~~Division 2 of the Business and Professions Code is repealed.~~

28 *SEC. 26. Section 4999 of the Business and Professions Code*  
 29 *is amended to read:*

30 4999. ~~(a) Any~~ "Telephone medical advice service" means any  
 31 business entity that employs, or contracts or subcontracts, directly  
 32 or indirectly, with, the full-time equivalent of five or more persons  
 33 functioning as health care professionals, whose primary function  
 34 is to provide telephone medical advice, that provides telephone  
 35 medical advice services to a patient at a California address shall  
 36 ~~be registered with the Telephone Medical Advice Services Bureau.~~

37 ~~(b) A~~ address. "Telephone medical advice service" does not  
 38 include a medical group that operates in multiple locations in  
 39 California ~~shall not be required to register pursuant to this section~~  
 40 if no more than five full-time equivalent persons at any one location

1 perform telephone medical advice services and those persons limit  
2 the telephone medical advice services to patients being treated at  
3 that location.

4 ~~(e) Protection of the public shall be the highest priority for the  
5 bureau in exercising its registration, regulatory, and disciplinary  
6 functions. Whenever the protection of the public is inconsistent  
7 with other interests sought to be promoted, the protection of the  
8 public shall be paramount.~~

9 *SEC. 27. Section 4999.1 of the Business and Professions Code*  
10 *is repealed.*

11 ~~4999.1. Application for registration as a telephone medical  
12 advice service shall be made on a form prescribed by the  
13 department, accompanied by the fee prescribed pursuant to Section  
14 4999.5. The department shall make application forms available.  
15 Applications shall contain all of the following:~~

16 ~~(a) The signature of the individual owner of the telephone  
17 medical advice service, or of all of the partners if the service is a  
18 partnership, or of the president or secretary if the service is a  
19 corporation. The signature shall be accompanied by a resolution  
20 or other written communication identifying the individual whose  
21 signature is on the form as owner, partner, president, or secretary.~~

22 ~~(b) The name under which the person applying for the telephone  
23 medical advice service proposes to do business.~~

24 ~~(c) The physical address, mailing address, and telephone number  
25 of the business entity.~~

26 ~~(d) The designation, including the name and physical address,  
27 of an agent for service of process in California.~~

28 ~~(e) A list of all health care professionals providing medical  
29 advice services that are required to be licensed, registered, or  
30 certified pursuant to this chapter. This list shall be submitted to  
31 the department on a form to be prescribed by the department and  
32 shall include, but not be limited to, the name, state of licensure,  
33 type of license, and license number.~~

34 ~~(f) The department shall be notified within 30 days of any  
35 change of name, physical location, mailing address, or telephone  
36 number of any business, owner, partner, corporate officer, or agent  
37 for service of process in California, together with copies of all  
38 resolutions or other written communications that substantiate these  
39 changes.~~

1 SEC. 28. Section 4999.2 of the Business and Professions Code  
2 is amended to read:

3 4999.2. (a) ~~In order to obtain and maintain a registration, a A~~  
4 telephone medical advice service shall ~~comply~~ *be responsible for*  
5 ~~complying with the requirements established by the department.~~  
6 ~~Those requirements shall include, but shall not be limited to, all~~  
7 ~~of the following:~~ *following requirements:*

8 ~~(1) (A)~~

9 (a) (1) Ensuring that all health care professionals who provide  
10 medical advice services are appropriately licensed, certified, or  
11 registered as a physician and surgeon pursuant to Chapter 5  
12 (commencing with Section 2000) or the Osteopathic Initiative Act,  
13 as a dentist, dental hygienist, dental hygienist in alternative  
14 practice, or dental hygienist in extended functions pursuant to  
15 Chapter 4 (commencing with Section 1600), as an occupational  
16 therapist pursuant to Chapter 5.6 (commencing with Section 2570),  
17 as a registered nurse pursuant to Chapter 6 (commencing with  
18 Section 2700), as a psychologist pursuant to Chapter 6.6  
19 (commencing with Section 2900), as a naturopathic doctor pursuant  
20 to Chapter 8.2 (commencing with Section 3610), as a marriage  
21 and family therapist pursuant to Chapter 13 (commencing with  
22 Section 4980), as a licensed clinical social worker pursuant to  
23 Chapter 14 (commencing with Section 4991), as a licensed  
24 professional clinical counselor pursuant to Chapter 16  
25 (commencing with Section 4999.10), as an optometrist pursuant  
26 to Chapter 7 (commencing with Section 3000), or as a chiropractor  
27 pursuant to the Chiropractic Initiative Act, and operating consistent  
28 with the laws governing their respective scopes of practice in the  
29 state within which they provide telephone medical advice services,  
30 except as provided in ~~paragraph (2).~~ *subdivision (b).*

31 ~~(B)~~

32 (2) Ensuring that all health care professionals who provide  
33 telephone medical advice services from an out-of-state location,  
34 as identified in ~~subparagraph (A); paragraph (1),~~ are licensed,  
35 registered, or certified in the state within which they are providing  
36 the telephone medical advice services and are operating consistent  
37 with the laws governing their respective scopes of practice.

38 ~~(2)~~

39 (b) Ensuring that the telephone medical advice provided is  
40 consistent with good professional practice.

1     ~~(3)~~  
2     (c) Maintaining records of telephone medical advice services,  
3 including records of complaints, provided to patients in California  
4 for a period of at least five years.

5     ~~(4)~~  
6     (d) Ensuring that no staff member uses a title or designation  
7 when speaking to an enrollee, subscriber, or consumer that may  
8 cause a reasonable person to believe that the staff member is a  
9 licensed, certified, or registered health care professional described  
10 in ~~subparagraph (A) of paragraph (1); paragraph (1) of subdivision~~  
11 ~~(a)~~, unless the staff member is a licensed, certified, or registered  
12 professional.

13     ~~(5)~~  
14     (e) Complying with all directions and requests for information  
15 made by the department.

16     ~~(6)~~  
17     (f) Notifying the department within 30 days of any change of  
18 name, physical location, mailing address, or telephone number of  
19 any business, owner, partner, corporate officer, or agent for service  
20 of process in California, together with copies of all resolutions or  
21 other written communications that substantiate these changes.

22     ~~(7) Submitting quarterly reports, on a form prescribed by the~~  
23 ~~department, to the department within 30 days of the end of each~~  
24 ~~calendar quarter.~~

25     ~~(b) To the extent permitted by Article VII of the California~~  
26 ~~Constitution, the department may contract with a private nonprofit~~  
27 ~~accrediting agency to evaluate the qualifications of applicants for~~  
28 ~~registration pursuant to this chapter and to make recommendations~~  
29 ~~to the department.~~

30     ~~SEC. 29. Section 4999.3 of the Business and Professions Code~~  
31 ~~is repealed.~~

32     ~~4999.3. (a) The department may suspend, revoke, or otherwise~~  
33 ~~discipline a registrant or deny an application for registration as a~~  
34 ~~telephone medical advice service based on any of the following:~~

35     ~~(1) Incompetence, gross negligence, or repeated similar~~  
36 ~~negligent acts performed by the registrant or any employee of the~~  
37 ~~registrant.~~

38     ~~(2) An act of dishonesty or fraud by the registrant or any~~  
39 ~~employee of the registrant.~~

1 ~~(3) The commission of any act, or being convicted of a crime,~~  
2 ~~that constitutes grounds for denial or revocation of licensure~~  
3 ~~pursuant to any provision of this division.~~

4 ~~(b) The proceedings shall be conducted in accordance with~~  
5 ~~Chapter 5 (commencing with Section 11500) of Part 1 of Division~~  
6 ~~3 of Title 2 of the Government Code, and the department shall~~  
7 ~~have all powers granted therein.~~

8 ~~(c) Copies of any complaint against a telephone medical advice~~  
9 ~~service shall be forwarded to the Department of Managed Health~~  
10 ~~Care.~~

11 ~~(d) The department shall forward a copy of any complaint~~  
12 ~~submitted to the department pursuant to this chapter to the entity~~  
13 ~~that issued the license to the licensee involved in the advice~~  
14 ~~provided to the patient.~~

15 *SEC. 30. Section 4999.4 of the Business and Professions Code*  
16 *is repealed.*

17 ~~4999.4. (a) Every registration issued to a telephone medical~~  
18 ~~advice service shall expire 24 months after the initial date of~~  
19 ~~issuance.~~

20 ~~(b) To renew an unexpired registration, the registrant shall,~~  
21 ~~before the time at which the registration would otherwise expire,~~  
22 ~~pay the renewal fee authorized by Section 4999.5.~~

23 ~~(c) An expired registration may be renewed at any time within~~  
24 ~~three years after its expiration upon the filing of an application for~~  
25 ~~renewal on a form prescribed by the bureau and the payment of~~  
26 ~~all fees authorized by Section 4999.5. A registration that is not~~  
27 ~~renewed within three years following its expiration shall not be~~  
28 ~~renewed, restored, or reinstated thereafter, and the delinquent~~  
29 ~~registration shall be canceled immediately upon expiration of the~~  
30 ~~three-year period.~~

31 *SEC. 31. Section 4999.5 of the Business and Professions Code*  
32 *is repealed.*

33 ~~4999.5. The department may set fees for registration and~~  
34 ~~renewal as a telephone medical advice service sufficient to pay~~  
35 ~~the costs of administration of this chapter.~~

36 *SEC. 32. Section 4999.5 is added to the Business and*  
37 *Professions Code, to read:*

38 *4999.5. The respective healing arts licensing boards shall be*  
39 *responsible for enforcing this chapter and any other laws and*

1 *regulations affecting California licensed health care professionals*  
2 *providing telephone medical advice services.*

3 *SEC. 33. Section 4999.6 of the Business and Professions Code*  
4 *is repealed.*

5 ~~4999.6. The department may adopt, amend, or repeal any rules~~  
6 ~~and regulations that are reasonably necessary to carry out this~~  
7 ~~chapter. A telephone medical advice services provider who~~  
8 ~~provides telephone medical advice to a significant total number~~  
9 ~~of charity or medically indigent patients may, at the discretion of~~  
10 ~~the director, be exempt from the fee requirements imposed by this~~  
11 ~~chapter. However, those providers shall comply with all other~~  
12 ~~provisions of this chapter.~~

13 ~~SEC. 28.~~

14 *SEC. 34. Section 7137 of the Business and Professions Code*  
15 *is amended to read:*

16 7137. The board shall set fees by regulation. These fees shall  
17 not exceed the following schedule:

18 (a) (1) The application fee for an original license in a single  
19 classification shall not be more than three hundred sixty dollars  
20 (\$360).

21 (2) The application fee for each additional classification applied  
22 for in connection with an original license shall not be more than  
23 seventy-five dollars (\$75).

24 (3) The application fee for each additional classification pursuant  
25 to Section 7059 shall not be more than three hundred dollars  
26 (\$300).

27 (4) The application fee to replace a responsible managing officer,  
28 responsible managing manager, responsible managing member,  
29 or responsible managing employee pursuant to Section 7068.2  
30 shall not be more than three hundred dollars (\$300).

31 (5) The application fee to add personnel, other than a qualifying  
32 individual, to an existing license shall not be more than one  
33 hundred fifty dollars (\$150).

34 (b) The fee for rescheduling an examination for an applicant  
35 who has applied for an original license, additional classification,  
36 a change of responsible managing officer, responsible managing  
37 manager, responsible managing member, or responsible managing  
38 employee, or for an asbestos certification or hazardous substance  
39 removal certification, shall not be more than sixty dollars (\$60).

1 (c) The fee for scheduling or rescheduling an examination for  
2 a licensee who is required to take the examination as a condition  
3 of probation shall not be more than sixty dollars (\$60).

4 (d) The initial license fee for an active or inactive license shall  
5 not be more than two hundred twenty dollars (\$220).

6 (e) (1) The renewal fee for an active license shall not be more  
7 than four hundred thirty dollars (\$430).

8 (2) The renewal fee for an inactive license shall not be more  
9 than two hundred twenty dollars (\$220).

10 (f) The delinquency fee is an amount equal to 50 percent of the  
11 renewal fee, if the license is renewed after its expiration.

12 (g) The registration fee for a home improvement salesperson  
13 shall not be more than ninety dollars (\$90).

14 (h) The renewal fee for a home improvement salesperson  
15 registration shall not be more than ninety dollars (\$90).

16 (i) The application fee for an asbestos certification examination  
17 shall not be more than ninety dollars (\$90).

18 (j) The application fee for a hazardous substance removal or  
19 remedial action certification examination shall not be more than  
20 ninety dollars (\$90).

21 (k) In addition to any other fees charged to C-10 and C-7  
22 contractors, the board may charge a fee not to exceed twenty dollars  
23 (\$20), which shall be used by the board to enforce provisions of  
24 the Labor Code related to electrician certification.

25 (l) The board shall, by regulation, establish criteria for the  
26 approval of expedited processing of applications. Approved  
27 expedited processing of applications for licensure or registration,  
28 as required by other provisions of law, shall not be subject to this  
29 subdivision.

30 ~~SEC. 29.~~

31 *SEC. 35.* Section 7153.3 of the Business and Professions Code  
32 is amended to read:

33 7153.3. (a) To renew a home improvement salesperson  
34 registration, which has not expired, the registrant shall before the  
35 time at which the registration would otherwise expire, apply for  
36 renewal on a form prescribed by the registrar and pay a renewal  
37 fee prescribed by this chapter. Renewal of an unexpired registration  
38 shall continue the registration in effect for the two-year period  
39 following the expiration date of the registration, when it shall  
40 expire if it is not again renewed.

1 (b) An application for renewal of registration is delinquent if  
2 the application is not postmarked or received via electronic  
3 transmission as authorized by Section 7156.6 by the date on which  
4 the registration would otherwise expire. A registration may,  
5 however, still be renewed at any time within three years after its  
6 expiration upon the filing of an application for renewal on a form  
7 prescribed by the registrar and the payment of the renewal fee  
8 prescribed by this chapter and a delinquent renewal penalty equal  
9 to 50 percent of the renewal fee. If a registration is not renewed  
10 within three years, the person shall make a new application for  
11 registration pursuant to Section 7153.1.

12 (c) The registrar may refuse to renew a registration for failure  
13 by the registrant to complete the application for renewal of  
14 registration. If a registrant fails to return the application rejected  
15 for insufficiency or incompleteness within 90 days from the  
16 original date of rejection, the application and fee shall be deemed  
17 abandoned. Any application abandoned may not be reinstated.  
18 However, the person may file a new application for registration  
19 pursuant to Section 7153.1.

20 The registrar may review and accept the petition of a person who  
21 disputes the abandonment of his or her renewal application upon  
22 a showing of good cause. This petition shall be received within 90  
23 days of the date the application for renewal is deemed abandoned.

24 ~~SEC. 30.~~

25 *SEC. 36.* Section 8031 of the Business and Professions Code  
26 is amended to read:

27 8031. The amount of the fees required by this chapter is that  
28 fixed by the board in accordance with the following schedule:

29 (a) The fee for filing an application for each examination shall  
30 be no more than forty dollars (\$40).

31 (b) The fee for examination and reexamination for the written  
32 or practical part of the examination shall be in an amount fixed by  
33 the board, which shall be equal to the actual cost of preparing,  
34 administering, grading, and analyzing the examination, but shall  
35 not exceed seventy-five dollars (\$75) for each separate part, for  
36 each administration.

37 (c) The initial certificate fee is an amount equal to the renewal  
38 fee in effect on the last regular renewal date before the date on  
39 which the certificate is issued, except that, if the certificate will  
40 expire less than 180 days after its issuance, then the fee is 50

1 percent of the renewal fee in effect on the last regular renewal date  
2 before the date on which the certificate is issued, or fifty dollars  
3 (\$50), whichever is greater. The board may, by appropriate  
4 regulation, provide for the waiver or refund of the initial certificate  
5 fee where the certificate is issued less than 45 days before the date  
6 on which it will expire.

7 (d) By a resolution adopted by the board, a renewal fee may be  
8 established in such amounts and at such times as the board may  
9 deem appropriate to meet its operational expenses and funding  
10 responsibilities as set forth in this chapter. The renewal fee shall  
11 not be more than two hundred fifty dollars (\$250) nor less than  
12 ten dollars (\$10) annually, with the following exception:

13 Any person who is employed full time by the State of California  
14 as a hearing reporter and who does not otherwise render shorthand  
15 reporting services for a fee shall be exempt from licensure while  
16 in state employment and shall not be subject to the renewal fee  
17 provisions of this subdivision until 30 days after leaving state  
18 employment. The renewal fee shall, in addition to the amount fixed  
19 by this subdivision, include any unpaid fees required by this section  
20 plus any delinquency fee.

21 (e) The duplicate certificate fee shall be no greater than ten  
22 dollars (\$10).

23 (f) The penalty for failure to notify the board of a change of  
24 name or address as required by Section 8024.6 shall be no greater  
25 than fifty dollars (\$50).

26 ~~SEC. 31.~~

27 *SEC. 37.* Section 8516 of the Business and Professions Code  
28 is amended to read:

29 8516. (a) This section, and Section 8519, apply only to wood  
30 destroying pests or organisms.

31 (b) A registered company or licensee shall not commence work  
32 on a contract, or sign, issue, or deliver any documents expressing  
33 an opinion or statement relating to the absence or presence of wood  
34 destroying pests or organisms until an inspection has been made  
35 by a licensed Branch 3 field representative or operator employed  
36 by a registered company, except as provided in Section 8519.5.  
37 The address of each property inspected or upon which work is  
38 completed shall be reported on a form prescribed by the board and  
39 shall be filed with the board no later than 10 business days after  
40 the commencement of an inspection or upon completed work.

1 Every property inspected pursuant to this subdivision or Section  
2 8518 shall be assessed a filing fee pursuant to Section 8674.

3 Failure of a registered company to report and file with the board  
4 the address of any property inspected or work completed pursuant  
5 to Section 8518 or this section is grounds for disciplinary action  
6 and shall subject the registered company to a fine of not more than  
7 two thousand five hundred dollars (\$2,500). The address of an  
8 inspection report prepared for use by an attorney for litigation  
9 purposes shall not be required to be reported to the board and shall  
10 not be assessed a filing fee.

11 A written inspection report conforming to this section and a form  
12 approved by the board shall be prepared and delivered to the person  
13 requesting the inspection and the property owner, or to the property  
14 owner's designated agent, within 10 business days from the start  
15 of the inspection, except that an inspection report prepared for use  
16 by an attorney for litigation purposes is not required to be reported  
17 to the board or the property owner. An inspection report may be  
18 a complete, limited, supplemental, or reinspection report, as defined  
19 by Section 1993 of Title 16 of the California Code of Regulations.  
20 The report shall be delivered before work is commenced on any  
21 property. The registered company shall retain for three years all  
22 inspection reports, field notes, and activity forms.

23 Reports shall be made available for inspection and reproduction  
24 to the executive officer of the board or his or her duly authorized  
25 representative during business hours. All inspection reports or  
26 copies thereof shall be submitted to the board upon demand within  
27 two business days. The following shall be set forth in the report:

28 (1) The start date of the inspection and the name of the licensed  
29 field representative or operator making the inspection.

30 (2) The name and address of the person or firm ordering the  
31 report.

32 (3) The name and address of the property owner and any person  
33 who is a party in interest.

34 (4) The address or location of the property.

35 (5) A general description of the building or premises inspected.

36 (6) A foundation diagram or sketch of the structure or structures  
37 or portions of the structure or structures inspected, including the  
38 approximate location of any infested or infected areas evident, and  
39 the parts of the structure where conditions that would ordinarily  
40 subject those parts to attack by wood destroying pests or organisms

1 exist. Reporting of the infested or infected wood members, or parts  
2 of the structure identified, shall be listed in the inspection report  
3 to clearly identify them, as is typical in standard construction  
4 components, including, but not limited to, siding, studs, rafters,  
5 floor joists, fascia, subfloor, sheathing, and trim boards.

6 (7) Information regarding the substructure, foundation walls  
7 and footings, porches, patios and steps, air vents, abutments, attic  
8 spaces, roof framing that includes the eaves, rafters, fascias,  
9 exposed timbers, exposed sheathing, ceiling joists, and attic walls,  
10 or other parts subject to attack by wood destroying pests or  
11 organisms. Conditions usually deemed likely to lead to infestation  
12 or infection, such as earth-wood contacts, excessive cellulose  
13 debris, faulty grade levels, excessive moisture conditions, evidence  
14 of roof leaks, and insufficient ventilation are to be reported.

15 (8) One of the following statements, as appropriate, printed in  
16 bold type:

17 (A) The exterior surface of the roof was not inspected. If you  
18 want the water tightness of the roof determined, you should contact  
19 a roofing contractor who is licensed by the Contractors' State  
20 License Board.

21 (B) The exterior surface of the roof was inspected to determine  
22 whether or not wood destroying pests or organisms are present.

23 (9) Indication or description of any areas that are inaccessible  
24 or not inspected with recommendation for further inspection if  
25 practicable. If, after the report has been made in compliance with  
26 this section, authority is given later to open inaccessible areas, a  
27 supplemental report on conditions in these areas shall be made.

28 (10) Recommendations for corrective measures.

29 (11) Information regarding the pesticide or pesticides to be used  
30 for their control or prevention as set forth in subdivision (a) of  
31 Section 8538.

32 (12) The inspection report shall clearly disclose that if requested  
33 by the person ordering the original report, a reinspection of the  
34 structure will be performed if an estimate or bid for making repairs  
35 was given with the original inspection report, or thereafter.

36 An estimate or bid shall be given separately allocating the costs  
37 to perform each and every recommendation for corrective measures  
38 as specified in subdivision (c) with the original inspection report  
39 if the person who ordered the original inspection report so requests,

1 and if the registered company is regularly in the business of  
2 performing each corrective measure.

3 If no estimate or bid was given with the original inspection  
4 report, or thereafter, then the registered company shall not be  
5 required to perform a reinspection.

6 A reinspection shall be an inspection of those items previously  
7 listed on an original report to determine if the recommendations  
8 have been completed. Each reinspection shall be reported on an  
9 original inspection report form and shall be labeled "Reinspection."  
10 Each reinspection shall also identify the original report by date.

11 After four months from an original inspection, all inspections  
12 shall be original inspections and not reinspections.

13 Any reinspection shall be performed for not more than the price  
14 of the registered company's original inspection price and shall be  
15 completed within 10 business days after a reinspection has been  
16 ordered.

17 (13) The inspection report shall contain the following statement,  
18 printed in boldface type:

19  
20 "NOTICE: Reports on this structure prepared by various  
21 registered companies should list the same findings (i.e. termite  
22 infestations, termite damage, fungus damage, etc.). However,  
23 recommendations to correct these findings may vary from company  
24 to company. You have a right to seek a second opinion from  
25 another company."  
26

27 (c) At the time a report is ordered, the registered company or  
28 licensee shall inform the person or entity ordering the report, that  
29 a separate report is available pursuant to this subdivision. If a  
30 separate report is requested at the time the inspection report is  
31 ordered, the registered company or licensee shall separately identify  
32 on the report each recommendation for corrective measures as  
33 follows:

- 34 (1) The infestation or infection that is evident.  
35 (2) The conditions that are present that are deemed likely to  
36 lead to infestation or infection.

37 If a registered company or licensee fails to inform as required  
38 by this subdivision and a dispute arises, or if any other dispute  
39 arises as to whether this subdivision has been complied with, a  
40 separate report shall be provided within 24 hours of the request

1 but, in no event, later than the next business day, and at no  
2 additional cost.

3 (d) When a corrective condition is identified, either as paragraph  
4 (1) or (2) of subdivision (c), and the property owner or the property  
5 owner's designated agent chooses not to correct those conditions,  
6 the registered company or licensee shall not be liable for damages  
7 resulting from a failure to correct those conditions or subject to  
8 any disciplinary action by the board. Nothing in this subdivision,  
9 however, shall relieve a registered company or a licensee of any  
10 liability resulting from negligence, fraud, dishonest dealing, other  
11 violations pursuant to this chapter, or contractual obligations  
12 between the registered company or licensee and the responsible  
13 parties.

14 (e) The inspection report form prescribed by the board shall  
15 separately identify the infestation or infection that is evident and  
16 the conditions that are present that are deemed likely to lead to  
17 infestation or infection. If a separate form is requested, the form  
18 shall explain the infestation or infection that is evident and the  
19 conditions that are present that are deemed likely to lead to  
20 infestation or infection and the difference between those conditions.  
21 In no event, however, shall conditions deemed likely to lead to  
22 infestation or infection be characterized as actual "defects" or as  
23 actual "active" infestations or infections or in need of correction  
24 as a precondition to issuing a certification pursuant to Section  
25 8519.

26 (f) The report and any contract entered into shall also state  
27 specifically when any guarantee for the work is made, and if so,  
28 the specific terms of the guarantee and the period of time for which  
29 the guarantee shall be in effect. If a guarantee extends beyond three  
30 years, the registered company shall maintain all original inspection  
31 reports, field notes, activity forms, and notices of completion for  
32 the duration of the guarantee period and for one year after the  
33 guarantee expires.

34 (g) For purposes of this section, "control service agreement"  
35 means an agreement, including extended warranties, to have a  
36 licensee conduct over a period of time regular inspections and  
37 other activities related to the control or eradication of wood  
38 destroying pests and organisms. Under a control service agreement  
39 a registered company shall refer to the original report and contract  
40 in a manner as to identify them clearly, and the report shall be

1 assumed to be a true report of conditions as originally issued,  
2 except it may be modified after a control service inspection. A  
3 registered company is not required to issue a report as outlined in  
4 paragraphs (1) to (11), inclusive, of subdivision (b) after each  
5 control service inspection. If after control service inspection, no  
6 modification of the original report is made in writing, then it will  
7 be assumed that conditions are as originally reported. A control  
8 service contract shall state specifically the particular wood  
9 destroying pests or organisms and the portions of the buildings or  
10 structures covered by the contract.

11 (h) A registered company or licensee may enter into and  
12 maintain a control service agreement provided the following  
13 requirements are met:

14 (1) The control service agreement shall be in writing, signed by  
15 both parties, and shall specifically include the following:

16 (A) The wood destroying pests and organisms covered by the  
17 control service agreement.

18 (B) Any wood destroying pest or organism that is not covered  
19 must be specifically listed.

20 (C) The type and manner of treatment to be used to correct the  
21 infestations or infections.

22 (D) The structures or buildings, or portions thereof, covered by  
23 the agreement, including a statement specifying whether the  
24 coverage for purposes of periodic inspections is limited or full.  
25 Any exclusions from those described in the original report must  
26 be specifically listed.

27 (E) A reference to the original inspection report.

28 (F) The frequency of the inspections to be provided, the fee to  
29 be charged for each renewal, and the duration of the agreement.

30 (G) Whether the fee includes structural repairs.

31 (H) If the services provided are guaranteed, and, if so, the terms  
32 of the guarantee.

33 (I) A statement that all corrections of infestations or infections  
34 covered by the control service agreement shall be completed within  
35 six months of discovery, unless otherwise agreed to in writing by  
36 both parties.

37 (2) The original inspection report, the control service agreement,  
38 and completion report shall be maintained for three years after the  
39 cancellation of the control service agreement.

1 (3) Inspections made pursuant to a control service agreement  
2 shall be conducted by a Branch 3 licensee. Section 8506.1 does  
3 not modify this provision.

4 (4) A full inspection of the property covered by the control  
5 service agreement shall be conducted and a report filed pursuant  
6 to subdivision (b) at least once every three years from the date that  
7 the agreement was entered into, unless the consumer cancels the  
8 contract within three years from the date the agreement was entered  
9 into.

10 (5) Under a control service agreement, a written report shall be  
11 required for the correction of any infestation or infection unless  
12 all of the following conditions are met:

13 (A) The infestation or infection has been previously reported.

14 (B) The infestation or infection is covered by the control service  
15 agreement.

16 (C) There is no additional charge for correcting the infestation  
17 or infection.

18 (D) Correction of the infestation or infection takes place within  
19 45 days of its discovery.

20 (E) Correction of the infestation or infection does not include  
21 fumigation.

22 (6) All notice requirements pursuant to Section 8538 shall apply  
23 to all pesticide treatments conducted under control service  
24 agreements.

25 (i) All work recommended by a registered company, where an  
26 estimate or bid for making repairs was given with the original  
27 inspection report, or thereafter, shall be recorded on this report or  
28 a separate work agreement and shall specify a price for each  
29 recommendation. This information shall be provided to the person  
30 requesting the inspection, and shall be retained by the registered  
31 company with the inspection report copy for three years.

32 ~~SEC. 32.~~

33 *SEC. 38.* Section 8518 of the Business and Professions Code  
34 is amended to read:

35 8518. (a) When a registered company completes work under  
36 a contract, it shall prepare, on a form prescribed by the board, a  
37 notice of work completed and not completed, and shall furnish  
38 that notice to the owner of the property or the owner's agent within  
39 10 business days after completing the work. The notice shall

1 include a statement of the cost of the completed work and estimated  
2 cost of work not completed.

3 (b) The address of each property inspected or upon which work  
4 was completed shall be reported on a form prescribed by the board  
5 and shall be filed with the board no later than 10 business days  
6 after completed work.

7 (c) A filing fee shall be assessed pursuant to Section 8674 for  
8 every property upon which work is completed.

9 (d) Failure of a registered company to report and file with the  
10 board the address of any property upon which work was completed  
11 pursuant to subdivision (b) of Section 8516 or this section is  
12 grounds for disciplinary action and shall subject the registered  
13 company to a fine of not more than two thousand five hundred  
14 dollars (\$2,500).

15 (e) The registered company shall retain for three years all  
16 original notices of work completed, work not completed, and  
17 activity forms.

18 (f) Notices of work completed and not completed shall be made  
19 available for inspection and reproduction to the executive officer  
20 of the board or his or her duly authorized representative during  
21 business hours. Original notices of work completed or not  
22 completed or copies thereof shall be submitted to the board upon  
23 request within two business days.

24 (g) This section shall only apply to work relating to wood  
25 destroying pests or organisms.

26 ~~SEC. 33. Section 1348.8 of the Health and Safety Code is~~  
27 ~~repealed.~~

28 ~~SEC. 34. Section 10279 of the Insurance Code is repealed.~~

29 *SEC. 39. Section 1348.8 of the Health and Safety Code is*  
30 *amended to read:*

31 1348.8. (a) A health care service plan that provides, operates,  
32 or contracts for telephone medical advice services to its enrollees  
33 and subscribers shall do all of the following:

34 (1) Ensure that the in-state or out-of-state telephone medical  
35 advice service ~~is registered pursuant to~~ *complies with the*  
36 *requirements of Chapter 15 (commencing with Section 4999) of*  
37 *Division 2 of the Business and Professions Code.*

38 (2) Ensure that the staff providing telephone medical advice  
39 services for the in-state or out-of-state telephone medical advice  
40 service are licensed as follows:

1 (A) For full service health care service plans, the staff hold a  
2 valid California license as a registered nurse or a valid license in  
3 the state within which they provide telephone medical advice  
4 services as a physician and surgeon or physician assistant, and are  
5 operating in compliance with the laws governing their respective  
6 scopes of practice.

7 (B) (i) For specialized health care service plans providing,  
8 operating, or contracting with a telephone medical advice service  
9 in California, the staff shall be appropriately licensed, registered,  
10 or certified as a dentist pursuant to Chapter 4 (commencing with  
11 Section 1600) of Division 2 of the Business and Professions Code,  
12 as a dental hygienist pursuant to Article 7 (commencing with  
13 Section 1740) of Chapter 4 of Division 2 of the Business and  
14 Professions Code, as a physician and surgeon pursuant to Chapter  
15 5 (commencing with Section 2000) of Division 2 of the Business  
16 and Professions Code or the Osteopathic Initiative Act, as a  
17 registered nurse pursuant to Chapter 6 (commencing with Section  
18 2700) of Division 2 of the Business and Professions Code, as a  
19 psychologist pursuant to Chapter 6.6 (commencing with Section  
20 2900) of Division 2 of the Business and Professions Code, as an  
21 optometrist pursuant to Chapter 7 (commencing with Section 3000)  
22 of Division 2 of the Business and Professions Code, as a marriage  
23 and family therapist pursuant to Chapter 13 (commencing with  
24 Section 4980) of Division 2 of the Business and Professions Code,  
25 as a licensed clinical social worker pursuant to Chapter 14  
26 (commencing with Section 4991) of Division 2 of the Business  
27 and Professions Code, as a professional clinical counselor pursuant  
28 to Chapter 16 (commencing with Section 4999.10) of Division 2  
29 of the Business and Professions Code, or as a chiropractor pursuant  
30 to the Chiropractic Initiative Act, and operating in compliance  
31 with the laws governing their respective scopes of practice.

32 (ii) For specialized health care service plans providing,  
33 operating, or contracting with an out-of-state telephone medical  
34 advice service, the staff shall be health care professionals, as  
35 identified in clause (i), who are licensed, registered, or certified  
36 in the state within which they are providing the telephone medical  
37 advice services and are operating in compliance with the laws  
38 governing their respective scopes of practice. All registered nurses  
39 providing telephone medical advice services to both in-state and  
40 out-of-state business entities registered pursuant to this chapter

1 shall be licensed pursuant to Chapter 6 (commencing with Section  
2 2700) of Division 2 of the Business and Professions Code.

3 (3) Ensure that every full service health care service plan  
4 provides for a physician and surgeon who is available on an on-call  
5 basis at all times the service is advertised to be available to  
6 enrollees and subscribers.

7 (4) Ensure that staff members handling enrollee or subscriber  
8 calls, who are not licensed, certified, or registered as required by  
9 paragraph (2), do not provide telephone medical advice. Those  
10 staff members may ask questions on behalf of a staff member who  
11 is licensed, certified, or registered as required by paragraph (2),  
12 in order to help ascertain the condition of an enrollee or subscriber  
13 so that the enrollee or subscriber can be referred to licensed staff.  
14 However, under no circumstances shall those staff members use  
15 the answers to those questions in an attempt to assess, evaluate,  
16 advise, or make any decision regarding the condition of an enrollee  
17 or subscriber or determine when an enrollee or subscriber needs  
18 to be seen by a licensed medical professional.

19 (5) Ensure that no staff member uses a title or designation when  
20 speaking to an enrollee or subscriber that may cause a reasonable  
21 person to believe that the staff member is a licensed, certified, or  
22 registered professional described in Section 4999.2 of the Business  
23 and Professions Code unless the staff member is a licensed,  
24 certified, or registered professional.

25 (6) Ensure that the in-state or out-of-state telephone medical  
26 advice service designates an agent for service of process in  
27 California and files this designation with the director.

28 (7) Requires that the in-state or out-of-state telephone medical  
29 advice service makes and maintains records for a period of five  
30 years after the telephone medical advice services are provided,  
31 including, but not limited to, oral or written transcripts of all  
32 medical advice conversations with the health care service plan's  
33 enrollees or subscribers in California and copies of all complaints.  
34 If the records of telephone medical advice services are kept out of  
35 state, the health care service plan shall, upon the request of the  
36 director, provide the records to the director within 10 days of the  
37 request.

38 (8) Ensure that the telephone medical advice services are  
39 provided consistent with good professional practice.

1 (b) The director shall forward to the Department of Consumer  
2 Affairs, within 30 days of the end of each calendar quarter, data  
3 regarding complaints filed with the department concerning  
4 telephone medical advice services.

5 (c) For purposes of this section, “telephone medical advice”  
6 means a telephonic communication between a patient and a health  
7 care professional in which the health care professional’s primary  
8 function is to provide to the patient a telephonic response to the  
9 patient’s questions regarding his or her or a family member’s  
10 medical care or treatment. “Telephone medical advice” includes  
11 assessment, evaluation, or advice provided to patients or their  
12 family members.

13 *SEC. 40. Section 10279 of the Insurance Code is amended to*  
14 *read:*

15 10279. (a) Every disability insurer that provides group or  
16 individual policies of disability, or both, that provides, operates,  
17 or contracts for, telephone medical advice services to its insureds  
18 shall do all of the following:

19 (1) Ensure that the in-state or out-of-state telephone medical  
20 advice service ~~is registered pursuant to~~ *complies with the*  
21 *requirements of Chapter 15 (commencing with Section 4999) of*  
22 *Division 2 of the Business and Professions Code.*

23 (2) Ensure that the staff providing telephone medical advice  
24 services for the in-state or out-of-state telephone medical advice  
25 service hold a valid California license as a registered nurse or a  
26 valid license in the state within which they provide telephone  
27 medical advice services as a physician and surgeon or physician  
28 assistant and are operating consistent with the laws governing their  
29 respective scopes of practice.

30 (3) Ensure that a physician and surgeon is available on an on-call  
31 basis at all times the service is advertised to be available to  
32 enrollees and subscribers.

33 (4) Ensure that the in-state or out-of-state telephone medical  
34 advice service designates an agent for service of process in  
35 California and files this designation with the commissioner.

36 (5) Require that the in-state or out-of-state telephone medical  
37 advice service makes and maintains records for a period of five  
38 years after the telephone medical advice services are provided,  
39 including, but not limited to, oral or written transcripts of all  
40 medical advice conversations with the disability insurer’s insureds

1 in California and copies of all complaints. If the records of  
2 telephone medical advice services are kept out of state, the insurer  
3 shall, upon the request of the director, provide the records to the  
4 director within 10 days of the request.

5 (6) Ensure that the telephone medical advice services are  
6 provided consistent with good professional practice.

7 (b) The commissioner shall forward to the Department of  
8 Consumer Affairs, within 30 days of the end of each calendar  
9 quarter, data regarding complaints filed with the department  
10 concerning telephone medical advice services.

11 ~~SEC. 35.~~

12 *SEC. 41.* No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1174  
**Author:** McGuire  
**Bill Date:** March 28, 2016, Amended  
**Subject:** Medi-Cal: Children: Prescribing Patterns: Psychotropic Medication  
**Sponsor:** National Center for Youth Law

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would add to the Medical Board of California's (Board's) priorities, repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to children without a good faith prior exam and medical reason. This bill would require the Board to confidentially collect and analyze data submitted by the Department of Health Care Services (DHCS) and the Department of Social Services (DSS), related to physicians prescribing psychotropic medications to children.

**BACKGROUND**

In August 2014, the Board received a letter from Senator Lieu, who was the Chair of the Senate Business, Professions and Economic Development Committee at that time. The letter asked the Board to look into the issue of inappropriate prescribing of psychotropic medication to foster children. The Board receives very few complaints regarding foster children being prescribed psychotropic medications, so the Board researched other avenues to identify physicians who may be inappropriately prescribing. The Board met with DHCS and DSS regarding what data was available, what could be provided to the Board, and what data would assist in the identification of inappropriately prescribing physicians. After many meetings, a Data Use Agreement (DUA) was finalized in April 2015 requesting a listing of all physicians who had prescribed three or more psychotropic medications for 90 days or more. For each child that fit into this category, the Board requested a list of the medications prescribed, the start and stop date for each medication, the prescriber's name and contact information, the child's birth date, and any other information that DHCS and DSS thought might be relevant to assist in this process.

Upon receipt of the information requested in the DUA in 2015, the Board secured an expert pediatric psychiatrist to review the information and determine any physician who may be potentially prescribing inappropriately. It is important to note that once a physician is identified, the Board's normal complaint process will be taken, including obtaining medical records, conducting a physician interview and having an expert physician review the case. The complaint and investigation process is confidential, and nothing is public until an accusation is filed. Upon review by the Board's expert, it was determined that additional information was needed to identify physicians that may warrant additional investigation. The new information includes diagnosis associated with the medication, dosage of medication prescribed, schedule

of dosage, and weight of the child/adolescent. The Board is currently working with DHCS and DSS to obtain this additional information.

## **ANALYSIS**

This bill would add to the Board's priorities acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason therefor. Although the Board already has excessive prescribing of controlled substances in its priorities, many psychotropic medications are not controlled substances, so they would not be covered in the Board's existing priorities.

This bill would require DHCS, in collaboration with DSS, to provide quarterly data to the Board that includes, but is not limited to, the child welfare psychotropic medication measures and the Healthcare Effectiveness Data and Information Set measures related to psychotropic medications. This bill would specify that the data provided to the Board shall include a breakdown by population of the following, including rate and age stratifications for birth to 5 years old, 6 to 11 years old and 12-17 years old:

- Children prescribed psychotropic medications in managed care and fee-for-service settings;
- Children adjudged as dependent children placed in foster care;
- Children in juvenile halls and children placed in ranches, camps, or other facilities;
- A minor adjudged a ward of the court who has been removed from the physical custody of the parent and placed into foster care; and
- Children with developmental disabilities.

This bill would require the Board to review the data provided by DHCS and DSS on a quarterly basis to determine if any potential violations of law or excessive prescribing of psychotropic medications inconsistent with the standard of care exist, and if warranted, conduct an investigation. This bill would require the Board to take disciplinary action, as appropriate. Lastly, this bill would require the Board to provide a quarterly report on the results of the data analysis to the Legislature, DHCS and DSS.

According to the author, over the past fifteen years the rate of foster youth prescribed psychotropic medication has increased 1,400 percent. Nearly 1 in 4 California foster teens are prescribed psychotropic drugs, and of those nearly 60 percent were prescribed an anti-psychotic, the drug class most susceptible to debilitating side effects. There have been several Senate hearings on this issue, and according to the hearing background information, concerns over the use of psychotropic medications among children has been well documented in research journals and the mainstream media for more than a decade.

Anecdotally, the Board does not receive complaints regarding overprescribing of psychotropic medications to foster children. The data that will be required to be submitted to the Board pursuant to this bill will ensure that the Board can review prescribing data on an on-going basis to help identify physicians who may be inappropriately prescribing. The data the

Board has received under the DUA is only a snapshot in time, for a 6 month time period in 2014. Any information that can help the Board identify inappropriate prescribing can be utilized as a tool for the Board to use in its complaint and investigation process. However, once a possible inappropriate prescriber is identified, the board will still have to go through its normal complaint and investigation process.

Board staff is suggesting the Board support this bill, as it will further the Board's mission of consumer protection for a very vulnerable population. However, amendments are needed to ensure that the Board will continue to receive the same data requested under the DUA, including the associated physician information and de-identified patient information. The Board would also need to receive the additional data recently requested by the Board's expert pediatric psychiatrist. Board staff is working closely with the author's office on this bill, and suggests that the Board take a Support if Amended position.

**FISCAL:** This bill will result in minor and absorbable fiscal impact to have an expert pediatric psychiatrist review the data and report the results to the Legislature, DHCS and DSS on an on-going basis. This is currently being done now, but not on an on-going basis.

**SUPPORT:** National Center for Youth Law (Sponsor); Bay Area Youth Center; California Youth Connection; Consumer Attorneys of California; Consumer Watchdog; Family Voices of California; First Focus Campaign for Children; John Burton Foundation; Kids in Common, a program of Planned Parenthood Mar Monte; Madera County Department of Social Services; Peers Envisioning and Engaging in Recovery Services; Therapists for Peace and Justice; Woodland Community College Foster and Kinship Care Education; and One individual

**OPPOSITION:** California Medical Association

**POSITION:** Recommendation: Support if Amended

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1174**

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**Introduced by Senator McGuire  
(Coauthors: Senators Beall, Hancock, Liu, and Mitchell)**

February 18, 2016

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An act to amend Section 2220.05 of, and to add Section 2245 to, the Business and Professions Code, and to add Section 14028 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1174, as amended, McGuire. Medi-Cal: children: prescribing ~~patterns:~~ *patterns: psychotropic medications.*

*Existing law, the Medical Practice Act, among other things provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board's responsibilities include enforcement of the disciplinary and criminal provisions of the act.*

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including early and periodic screening, diagnosis, and treatment for any individual under 21 years of age. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law establishes a statewide system of child welfare services, administered by the State Department of Social Services, with the intent that all children are entitled to be safe and free from abuse and neglect.

~~This bill would require the State Department of Health Care Services and the State Department of Social Services to, on an ongoing basis, conduct~~ *Medical Board of California to conduct on a quarterly basis*

an analysis of data regarding Medi-Cal prescribers and their prescribing patterns ~~for all children enrolled in and receiving services pursuant to the Medi-Cal program.~~ *of psychotropic medications and related services using data provided by the State Department of Health Care Services and the State Department of Social Services.* The bill would require ~~the analysis to include the data to include~~ a breakdown ~~of data~~ by specified population ~~categories;~~ *categories of children,* including children in foster care. Commencing July 1, 2017, the bill would require the State Department of Health Care Services and the State Department of Social Services to report quarterly to the Medical Board of California and to the Legislature ~~of the ongoing analysis.~~ *Medical Board of California to report quarterly to the Legislature, the State Department of Health Care Services, and the State Department of Social Services the results of the analysis of the data.* The bill would require the Medical Board of California to review the ~~analysis data~~ in order to determine if any potential violations of law or ~~departures from~~ *excessive prescribing of psychotropic medications inconsistent with the standard of care* exist and conduct an investigation, if warranted, and would require the board to take disciplinary action, as specified. *The bill would require the board to handle on a priority basis investigations of repeated acts of excessive prescribing, furnishing, or administering psychotropic medications to a minor, 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:*

- 1     SECTION 1. Section 2220.05 of the Business and Professions
- 2     Code is amended to read:
- 3     2220.05. (a) In order to ensure that its resources are maximized
- 4     for the protection of the public, the Medical Board of California
- 5     shall prioritize its investigative and prosecutorial resources to
- 6     ensure that physicians and surgeons representing the greatest threat
- 7     of harm are identified and disciplined expeditiously. Cases
- 8     involving any of the following allegations shall be handled on a
- 9     priority basis, as follows, with the highest priority being given to
- 10    cases in the first paragraph:
- 11    (1) Gross negligence, incompetence, or repeated negligent acts
- 12    that involve death or serious bodily injury to one or more patients,

1 such that the physician and surgeon represents a danger to the  
2 public.

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

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

17 (4) Repeated acts of clearly excessive recommending of cannabis  
18 to patients for medical purposes, or repeated acts of recommending  
19 cannabis to patients for medical purposes without a good faith  
20 prior examination of the patient and a medical reason for the  
21 recommendation.

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

24 (6) Practicing medicine while under the influence of drugs or  
25 alcohol.

26 (7) *Repeated acts of clearly excessive prescribing, furnishing,*  
27 *or administering psychotropic medications to a minor without a*  
28 *good faith prior examination of the patient and medical reason*  
29 *therefor.*

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

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

39 *SEC. 2. Section 2245 is added to the Business and Professions*  
40 *Code, to read:*

1 2245. (a) *The Medical Board of California on a quarterly*  
2 *basis shall review the data provided pursuant to Section 14028 of*  
3 *the Welfare and Institutions Code by the State Department of*  
4 *Health Care Services and the State Department of Social Services*  
5 *in order to determine if any potential violations of law or excessive*  
6 *prescribing of psychotropic medications inconsistent with the*  
7 *standard of care exist and, if warranted, shall conduct an*  
8 *investigation.*

9 (b) *If, after an investigation, the Medical Board of California*  
10 *concludes that there was a violation of law, the board shall take*  
11 *disciplinary action, as appropriate, as authorized by Section 2227.*

12 (c) *If, after an investigation, the Medical Board of California*  
13 *concludes that there was excessive prescribing of psychotropic*  
14 *medications inconsistent with the standard of care, the board shall*  
15 *take action, as appropriate, as authorized by Section 2227.*

16 (d) (1) *Notwithstanding Section 10231.5 of the Government*  
17 *Code, commencing July 1, 2017, the Medical Board of California*  
18 *shall report quarterly to the Legislature, the State Department of*  
19 *Health Care Services, and the State Department of Social Services*  
20 *the results of the analysis of data described in Section 14028 of*  
21 *the Welfare and Institutions Code.*

22 (2) *A report to be submitted pursuant to this subdivision shall*  
23 *be submitted in compliance with Section 9795 of the Government*  
24 *Code.*

25 SEC. 3. *Section 14028 is added to the Welfare and Institutions*  
26 *Code, to read:*

27 14028. (a) *The Medical Board of California shall conduct on*  
28 *a quarterly basis an analysis of Medi-Cal and managed care*  
29 *prescribers and their prescribing patterns of psychotropic*  
30 *medications and related services using data provided quarterly*  
31 *by the department in collaboration with the State Department of*  
32 *Social Services that shall include, but is not limited to, the child*  
33 *welfare psychotropic medication measures and the Healthcare*  
34 *Effectiveness Data and Information Set measures related to*  
35 *psychotropic medications.*

36 (b) (1) *The data provided to the Medical Board of California*  
37 *pursuant to subdivision (a) shall include a breakdown by*  
38 *population of all of the following:*

39 (A) *Children prescribed psychotropic medications in managed*  
40 *care and fee-for-service settings.*

1 (B) Children adjudged as dependent children under Section 300  
2 and placed in foster care.

3 (C) Children in juvenile halls, as described in Section 850, and  
4 children placed in ranches, camps, or other facilities, as described  
5 in Section 880.

6 (D) A minor adjudged a ward of the court under Section 601  
7 or 602 who has been removed from the physical custody of the  
8 parent and placed into foster care.

9 (E) Children with developmental disabilities, as described in  
10 Section 4512.

11 (2) The data provided to the medical board as described in  
12 paragraph (1) shall include total rate and age stratifications that  
13 include the following:

14 (A) Birth to five years of age, inclusive.

15 (B) Six to 11 years of age, inclusive.

16 (C) Twelve to 17 years of age, inclusive.

17 ~~SECTION 1. Section 14028 is added to the Welfare and  
18 Institutions Code, to read:~~

19 ~~14028. (a) The department and the State Department of Social  
20 Services shall, on an ongoing basis, conduct an analysis of data  
21 regarding Medi-Cal prescribers and their prescribing patterns for  
22 all children enrolled in and receiving services pursuant to, the  
23 Medi-Cal program. The analysis shall include a breakdown of data  
24 by population of:~~

25 ~~(1) Children in foster care.~~

26 ~~(2) Children in juvenile hall, as described in Section 850.~~

27 ~~(3) Children placed in out-of-home care.~~

28 ~~(4) Children with developmental disabilities.~~

29 ~~(b) (1) Notwithstanding Section 10235.1 of the Government  
30 Code, commencing July 1, 2017, the department and the State  
31 Department of Social Services shall report quarterly to the Medical  
32 Board of California and to the Legislature the results of the ongoing  
33 analysis of data described in subdivision (a). The Medical Board  
34 of California shall review the analysis in order to determine if any  
35 potential violations of law or departures from the standard of care  
36 exist and, if warranted, shall conduct an investigation. If after the  
37 investigation, the Medical Board of California concludes that there  
38 was a violation of law or departure from the standard of care, the  
39 board shall take disciplinary action, as appropriate, as authorized  
40 by Section 2220.5 of the Business and Professions Code.~~

1     ~~(2) A report to be submitted pursuant to this subdivision shall~~  
2     ~~be submitted in compliance with Section 9795 of the Government~~  
3     ~~Code.~~

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1177  
**Author:** Galgiani  
**Bill Date:** April 20, 2016, Amended  
**Subject:** Physician and Surgeon Health and Wellness Program  
**Sponsor:** California Medical Association (CMA)

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would authorize the establishment of a Physician and Surgeon Health and Wellness Program (PHWP) within the Medical Board of California (Board). The PHWP would provide early identification of, and appropriate interventions to support a licensee in the rehabilitation from substance abuse to ensure that the licensee remains able to practice medicine in a manner that will not endanger the public health and safety. This bill would authorize the Board to contract with a private third-party independent administering entity to administer the program.

**BACKGROUND**

The Board's Diversion Program was a monitoring program for substance abusing physicians (and some physicians with mental impairment) that ensured physicians were complying with the requirements of their agreement with the Diversion Program. The terms included abstaining from drugs and/or alcohol, biological fluid testing, attending group therapy, etc. Senate Bill 761 (Ridley-Thomas), which was the vehicle to extend the dates of the Board's Diversion Program from January 1, 2009 through January 1, 2011, did not pass out of the Legislature. During the hearings for this bill, the discussion and debate surrounding the Board's Diversion Program centered on the multiple audits indicating concerns with the Diversion Program and its protection of the consumers of California. The Board's Diversion Program was very different than any other board's Diversion Programs within the Department of Consumer Affairs (DCA). The Board's Diversion Program was run by the Board itself, not by an outside vendor, was staffed by civil service employees hired by the Board, and was subject to the budget/legislative process for any changes in the number of staff needed to run the Diversion Program. Based upon the concerns over the safety of patients, the Legislature did not approve the continuation of this Diversion Program and it became inoperative on July 1, 2008.

The Board and its staff developed a transition plan for the individuals that were in the Diversion Program on July 1, 2008. The plan not only transitioned the individuals in the Program to other monitoring programs, but also identified how the Board would perform its mission of consumer protection with individuals who were found to have a substance abuse problem without the existence of a Diversion Program for physicians. Under the Diversion

Program, physicians who were found to only have a substance abuse problem or mental impairment were allowed to enter the Diversion Program without any record of disciplinary action. If the physician successfully completed the Board's Diversion Program the public never became aware of the issue. The Board determined that the best way to ensure physicians with a substance abuse problem were not endangering the public would be to continue the biological fluid testing requirements. The Board contracted with a vendor to provide these services. Today, without the Diversion Program, when an individual is identified to have an abuse problem, the Board pursues disciplinary action and, if action is taken, the physician is normally placed on probation with terms and conditions including submitting to biological fluid testing. It is up to the physicians to seek a program that will assist them in maintaining abstinence.

With the elimination of the Board's Diversion Program, the Board also knew there would be a need for information regarding physician wellness and resources to assist physicians seeking wellness. Therefore, the Board established a Wellness Committee whose main function was to provide articles for the Board's Newsletter regarding physician wellness, locate resources for physicians who are struggling with impairment issues, and entertain presentations on physician wellness. The information gathered by the Wellness Committee was then provided to physicians via the Board's website or Newsletter. This Committee has since been consolidated with the Education Committee.

At the Board's October 2015 Board Meeting, after meetings with consumer groups, provider groups, and physician health programs, the Board adopted elements that a physician health program should include, in order to be supported by the Board. These elements are attached.

## **ANALYSIS**

This bill would authorize establishment of a PHWP within the Board. The PHWP would provide early identification of, and appropriate interventions to support a physician in the rehabilitation from substance abuse to ensure that the licensee remains able to practice medicine in a manner that will not endanger the public health and safety and maintain the integrity of the medical profession. The PHWP shall aid a physician with substance abuse issues impacting his or her ability to practice medicine.

If the Board establishes a program, it shall do all the following:

- Provide for the education of all licensed physician and surgeons with respect to the recognition and prevention of physical, emotional, and psychological problems.
- Offer assistance to a physician in identifying substance abuse problems.
- Evaluate the extent of substance abuse problems and refer the physician to the appropriate treatment by executing a written agreement with the physician participant.
- Provide for the confidential participation by a physician with substance abuse

issues who is not the subject of a current investigation.

- Comply with the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Substance Abuse Coordination Committee of the Department of Consumer Affairs pursuant to Section 315.

If the Board establishes a PHWP, it would be required to contract for the program's administration with a private third-party independent administering entity pursuant to a request for proposals. The administering entity would be required to have expertise and experience in the areas of substance or alcohol abuse in healing arts professionals. The administering entity would be required to identify and use a statewide treatment resource network that includes treatment and screening programs and support groups and would be required to establish a process for evaluating the effectiveness of such programs. The administering entity would be required to provide counseling and support for the physician participant and for the family of any physician referred for treatment. The administering entity would have to make their services available to all licensed California physicians, including those who self-refer to the PHWP. The administering entity would be required to have a system for immediately reporting a physician who is terminated from the program to the Board. The system would need to ensure absolute confidentiality in the communication to the Board. The administering entity could not provide this information to any other individual or entity unless authorized by the physician participant. The contract entered into with the Board would need to require the administering entity to do the following:

- Provide regular communication to the Board, including annual reports to the Board with program statistics, including, but not limited to, the number of participants, the number of participants referred by the Board as a condition of probation, the number of participants who successfully completed their agreement period, and the number of participants terminated from the program. The reports would not be allowed to disclose any personally identifiable information.
- Submit to periodic audits and inspections of all operations, records, and management related to the program to ensure compliance with the requirements and its implementing rules and regulations. Any audit conducted must maintain the confidentiality of all records reviewed and information obtained in the course of conducting the audit and must not disclose any information identifying a program participant.

If the Board determines the administering entity is not in compliance with the requirements of the program or contract entered into with the Board, the Board would be able to terminate the contract.

This bill would require a physician, as a condition of participation in the PHWP, to enter into an individual agreement with the PHWP and agree to pay expenses related to treatment, monitoring, laboratory tests, and other activities specified in the written agreement. The agreement shall include the following:

- A jointly agreed upon plan and mandatory conditions and procedures to

monitor compliance with the program.

- Compliance with terms and conditions of treatment and monitoring.
- Criteria for program completion.
- Criteria for termination of a physician participant from the program.
- Acknowledgement that withdrawal or termination of a physician participant from the program shall be reported to the Board.
- Acknowledgement that expenses related to treatment, monitoring, laboratory tests, and other specified activities shall be paid by the physician participant.

This bill would specify that any agreement entered into would not be considered a disciplinary action or order by the Board and shall not be disclosed if the physician did not enroll in the PHWP as a condition of probation or as a result of an action by the Board and if the physician participant is in compliance with the conditions and procedures in the agreement.

This bill would require any oral or written information reported to the Board to be confidential and shall not constitute a waiver of any existing evidentiary privileges under any provision or rule of law. This bill would specify that confidentiality would not apply if the Board has referred a physician participant as a condition of probation. This bill would specify that it does not prohibit, require, or otherwise affect the discovery or admissibility of evidence in an action by the Board against a physician based on acts or omissions within the course and scope of his or her practice. This bill would specify that any information received, developed or maintained regarding a physician in the program shall not be used for any other purposes. This bill would specify that participation in the program shall not be a defense to any disciplinary action that may be taken by the Board. The requirements in this bill would not preclude the Board from taking disciplinary action against a physician who is terminated unsuccessfully from the program but the disciplinary action may not include any confidential information unless authorized (the information is only confidential if the participant is not on probation and is complying with his or her individual agreement with the PHWP).

This bill would establish the Physician and Surgeon Health and Wellness Program Account in the contingent fund of the Board. Any fees collected by the Board from participants shall be deposited into this account and upon appropriation by the Legislature, shall be available for support of the program. This bill would require the Board to adopt regulations to determine the appropriate fee that a physician participating in the PHWP shall pay. The fee is required to be set at a level sufficient to cover all costs of participating in the PHWP. This bill would allow the Board, subject to appropriation by the Legislature, to use moneys from the Board's existing contingent fund to support the initial costs for the Board to establish the PHWP. These moneys could not be used to cover costs for individual physicians to participate in the program.

According to the sponsor, this bill will bring California in line with the majority of other states who recognize that wellness and treatment programs serve to enhance public health and provide resources for those in need of help.

The PHWP proposed by this bill is not a diversion program, it will not divert physicians from discipline; this is of utmost importance for consumer protection. The Board will not be running this program, it will be run by a private third-party independent administering entity that will be selected pursuant to the request for proposals process. This bill would require the PHWP to comply with the Uniform Standards and would require any physician participants who terminate or withdraw from the PHWP to be reported to the Board. These are both very important elements for consumer protection. This bill would also allow for communication to the Board for those physicians ordered to the PHWP as a condition of probation, which is also important for consumer protection. Currently, the bills states that physician participants under Board investigation are not allowed confidential participation, however, participants should be provided confidentiality unless they are on probation, they terminate or withdraw from the program, or are subject to disclosure pursuant to the Uniform Standards. Board staff can work with the author's office to ensure that this amendment is made if the Board agrees. Board staff believes that the PHWP proposed by this bill aligns with the Board-approved elements and suggests that the Board support this bill.

**FISCAL:** This bill would require the Board to adopt regulations to determine the appropriate fee that a physician participating in the PHWP must pay. The fee is required to be set at a level sufficient to cover all costs of participating in the PHWP. Any fees collected by the Board from participants shall be deposited into the newly established Physician and Surgeon Health and Wellness Program Account in the Contingent Fund of the Board and, upon appropriation by the Legislature, shall be available for support of the program. This bill would allow the Board, subject to appropriation by the Legislature, to use moneys from the Board's existing contingent fund to support the initial costs for the Board to establish the PHWP.

**SUPPORT:** CMA (Sponsor)  
California Hospital Association  
California Psychiatric Association

**OPPOSITION:** Center for Public Interest Law  
Consumer Attorneys of California  
Consumers' Union Safe Patient Project  
Consumer Watchdog

**POSITION:** Recommendation: Support

On October 30, 2015, at the Medical Board of California's (Board) Quarterly Board Meeting, the Board approved the following elements of a Physician Health Program that could be supported by the Board:

- Program would have to comply with the Uniform Standards.
- Program should not reside within the Board.
- Program should be run by a private/contracted non-profit entity.
- Program should include adequate protocols for the Program's communication with the Board.
- Program should participate in regularly scheduled meetings with the Board.
- Program should allow both self-referrals and probationers to participate.
- Program must report to the Board any physician who is terminated from the program, for any reason.
- Program does not include diversion – if a complaint/report is received, the Board's enforcement process will be followed, regardless of Program participation.
- Program should maintain clear and regular communication to the Board on the status of probationers in the Program.
- Program participants should share in cost of administering the Program.
- If the required audit finds the Program is not in compliance, there must be repercussions.
- Program should ensure that sufficient resources are available to perform clinical roles and case management roles, with sufficient expertise and experience (50 physicians per case manager).
- Program should only be provided for substance-abusing licensees.
- Program must ensure strict documentation of monitoring.

It is important to mention that the Board will not be sponsoring legislation to create a physician health program, but if legislation is introduced, the Board would want the legislation to include these Board-approved elements.

AMENDED IN SENATE APRIL 20, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1177**

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**Introduced by Senator Galgiani**

February 18, 2016

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An act to add Article 14 (commencing with Section 2340) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1177, as amended, Galgiani. Physician and Surgeon Health and Wellness Program.

Existing law establishes in the Department of Consumer Affairs the Substance Abuse Coordination Committee, comprised of the executive officers of the department's healing arts boards and a designee of the State Department of Health Care Services. Existing law requires the committee to formulate, by January 1, 2010, uniform and specific standards in specified areas that each healing arts board is required to use in dealing with substance-abusing licensees, whether or not a healing arts board has a formal diversion program. ~~Existing~~

*Existing* law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California within the department. *Existing law requires all moneys paid to and received by the Medical Board of California to be paid into the state treasury and credited to the Contingent Fund of the Medical Board of California, which, except for fine and penalty money, is a continuously appropriated fund.*

This bill would authorize the board to establish a Physician and Surgeon Health and Wellness Program for the early identification of,

and appropriate interventions to support a physician and surgeon in his or her rehabilitation ~~from from~~, substance abuse, ~~physical or mental health, burnout, or other similar conditions~~, as specified. If the board establishes a program, the bill would require the board to contract for the program's administration with ~~an a private third-party~~ independent administering entity meeting certain requirements. The bill would require program participants to enter into ~~a contractual~~ *an individual agreement agreeing to cooperate with all elements of the program designed for the individual participant for successful completion of any treatment or monitoring recommendations: with the program that includes, among other things, a requirement to pay expenses related to treatment, monitoring, and laboratory tests, as provided.*

~~This bill would declare the intent of the Legislature to enact legislation that would authorize an administrative fee to be established by the board to be charged to the individual licensee for participation in the program and require all costs of treatment to be paid by the participant.~~

*This bill would create the Physician and Surgeon Health and Wellness Program Account within the Contingent Fund of the Medical Board of California. The bill would require the board to adopt regulations to determine the appropriate fee for a physician and surgeon to participate in the program, as specified. The bill would require these fees to be deposited in the Physician and Surgeon Health and Wellness Program Account and to be available, upon appropriation by the Legislature, for the support of the program. Subject to appropriation by the Legislature, the bill would authorize the board to use moneys from the Contingent Fund of the Medical Board of California to support the initial costs for the board to establish the program, except the bill would prohibit these moneys from being used to cover any costs for individual physician and surgeon participation in the program.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Article 14 (commencing with Section 2340) is
- 2 added to Chapter 5 of Division 2 of the Business and Professions
- 3 Code, to read:

1 Article 14. Physician and Surgeon Health and Wellness Program

2  
3 ~~2340. (a) The board may establish a Physician and Surgeon~~  
4 ~~Health and Wellness Program for the early identification and~~  
5 ~~appropriate interventions to support a physician and surgeon in~~  
6 ~~his or her rehabilitation from substance abuse, physical or mental~~  
7 ~~health, burnout, or other similar conditions to ensure that the~~  
8 ~~physician and surgeon remains able to practice medicine in a~~  
9 ~~manner that will not endanger the public health and safety and will~~  
10 ~~maintain the integrity of the medical profession. The program, if~~  
11 ~~established, shall aid a physician and surgeon with those health~~  
12 ~~issues impacting his or her ability to practice medicine.~~

13 ~~(b) For the purposes of this article, “program” shall mean the~~  
14 ~~Physician and Surgeon Health and Wellness Program.~~

15 ~~(c) If the board establishes a program, the program shall meet~~  
16 ~~the requirements of this article.~~

17 ~~2340.2. (a) If the board establishes a program, the board shall~~  
18 ~~contract for the program’s administration with an independent~~  
19 ~~administering entity that shall do all of the following:~~

20 ~~(1) Provide for the education of physicians and surgeons with~~  
21 ~~respect to the recognition and prevention of physical, emotional,~~  
22 ~~and psychological problems and provide for intervention when~~  
23 ~~necessary or under circumstances that may be established through~~  
24 ~~regulations adopted by the board.~~

25 ~~(2) Offer assistance to a physician and surgeon in identifying~~  
26 ~~physical, emotional, or psychological problems.~~

27 ~~(3) Evaluate the extent of physical, emotional, or psychological~~  
28 ~~problems and refer the physician and surgeon to the appropriate~~  
29 ~~treatment.~~

30 ~~(4) Pursuant to regulations adopted by the board addressing~~  
31 ~~protocols to report compliance back to the referring entity described~~  
32 ~~in paragraph (6), monitor the compliance of a physician and~~  
33 ~~surgeon who has been referred for treatment.~~

34 ~~(5) Provide counseling and support for the physician and surgeon~~  
35 ~~and for the family of any physician and surgeon referred for~~  
36 ~~treatment.~~

37 ~~(6) Agree to receive referrals from the board and other health~~  
38 ~~care entities, including, but not limited to, hospital medical staffs,~~  
39 ~~well-being committees, and medical corporations.~~

1 ~~(7) Agree to make their services available to all licensed~~  
2 ~~California physicians and surgeons.~~

3 ~~(b) For the purposes of the program, an administering entity~~  
4 ~~shall mean a private entity contracted to perform the duties~~  
5 ~~described in, and meet the requirements of, this article. A request~~  
6 ~~for proposals shall be solicited by the board in the selection of the~~  
7 ~~administering entity.~~

8 ~~2340.4. The administering entity of the program shall:~~

9 ~~(a) Have expertise and experience in the areas of substance or~~  
10 ~~alcohol abuse, and mental disorders in healing arts professionals.~~

11 ~~(b) Evaluate the program's progress, prepare reports and provide~~  
12 ~~an annual accounting to the board on noneconfidential, statistical~~  
13 ~~information as determined by the board.~~

14 ~~(c) Identify and use a statewide treatment resource network,~~  
15 ~~which includes treatment and screening programs and support~~  
16 ~~groups.~~

17 ~~(d) Demonstrate a process for evaluating the effectiveness of~~  
18 ~~such programs.~~

19 ~~(e) Be subject to an independent audit.~~

20 ~~2340.6. (a) All participants of the program shall enter into a~~  
21 ~~contractual agreement agreeing to cooperate with all elements of~~  
22 ~~the program designed for the individual participant for successful~~  
23 ~~completion of any treatment or monitoring recommendations as~~  
24 ~~determined by the administering entity.~~

25 ~~(b) If a participant referred to the program is terminated from~~  
26 ~~the program for any reason other than the successful completion~~  
27 ~~of the program, the administering entity shall inform the referring~~  
28 ~~entity of the participant's termination. If the program determines~~  
29 ~~that the continued practice of medicine by that individual creates~~  
30 ~~too great a risk to public health, safety, and welfare, that fact shall~~  
31 ~~be reported to the referring entity and all documents and~~  
32 ~~information pertaining to and supporting that conclusion shall be~~  
33 ~~provided to the referring entity.~~

34 ~~(c) Unless required under subdivision (b), all program records~~  
35 ~~and documents and records and documents of participation of a~~  
36 ~~physician and surgeon in the program shall be confidential and are~~  
37 ~~not subject to discovery or subpoena.~~

38 ~~(d) Participation in the program shall not be a defense to any~~  
39 ~~disciplinary action that may be taken by the board. This section~~  
40 ~~does not preclude the board from commencing disciplinary action~~

1 against a physician and surgeon who is terminated unsuccessfully  
2 from the program. However, that disciplinary action may not  
3 include as evidence any confidential information, including  
4 documents and records described in subdivision (c).

5 2340.8. No program employee, contractor, or agent thereof,  
6 shall be liable for any civil or criminal damages because of acts  
7 or omissions that may occur while acting in good faith in a program  
8 established pursuant to this article.

9 2340.10. (a) It is the intent of the Legislature to enact  
10 legislation that would authorize an administrative fee to be  
11 established by the board to be charged to the individual licensee  
12 for participation in the program and to require all costs of treatment  
13 to be paid by the participant.

14 (b) It is the intent of the Legislature to enact legislation that  
15 would provide that nothing in this section shall be construed to  
16 prohibit additional funding from private contributions from being  
17 used to support the operations of the program.

18 2340.12. The Administrative Procedure Act (Chapter 3.5  
19 (commencing with Section 11340) of Part 1 of Division 3 of Title  
20 2 of the Government Code) shall apply to regulations adopted  
21 pursuant to this article.

22 2340. (a) *The board may establish a Physician and Surgeon  
23 Health and Wellness Program for the early identification of, and  
24 appropriate interventions to support a physician and surgeon in  
25 his or her rehabilitation from, substance abuse to ensure that the  
26 physician and surgeon remains able to practice medicine in a  
27 manner that will not endanger the public health and safety and  
28 that will maintain the integrity of the medical profession. The  
29 program, if established, shall aid a physician and surgeon with  
30 substance abuse issues impacting his or her ability to practice  
31 medicine.*

32 (b) *For the purposes of this article, “program” shall mean the  
33 Physician and Surgeon Health and Wellness Program.*

34 (c) *If the board establishes a program, the program shall meet  
35 the requirements of this article.*

36 2340.2. (a) *If the board establishes a program, the program  
37 shall do all of the following:*

38 (1) *Provide for the education of all licensed physicians and  
39 surgeons with respect to the recognition and prevention of physical,  
40 emotional, and psychological problems.*

1 (2) Offer assistance to a physician and surgeon in identifying  
2 substance abuse problems.

3 (3) Evaluate the extent of substance abuse problems and refer  
4 the physician and surgeon to the appropriate treatment by  
5 executing a written agreement with a physician and surgeon  
6 participant.

7 (4) Provide for the confidential participation by a physician  
8 and surgeon with substance abuse issues who is not the subject of  
9 a current investigation.

10 (5) Comply with the Uniform Standards Regarding  
11 Substance-Abusing Healing Arts Licensees as adopted by the  
12 Substance Abuse Coordination Committee of the Department of  
13 Consumer Affairs pursuant to Section 315.

14 2340.4. (a) If the board establishes a program, the board shall  
15 contract for the program's administration with a private third-party  
16 independent administering entity pursuant to a request for  
17 proposals. The process for procuring the services for the program  
18 shall be administered by the board pursuant to Article 4  
19 (commencing with Section 10335) of Chapter 2 of Part 2 of  
20 Division 2 of the Public Contract Code. However, Section 10425  
21 of the Public Contract Code shall not apply to this subdivision.

22 (b) The administering entity shall have expertise and experience  
23 in the areas of substance or alcohol abuse in healing arts  
24 professionals.

25 (c) The administering entity shall identify and use a statewide  
26 treatment resource network that includes treatment and screening  
27 programs and support groups and shall establish a process for  
28 evaluating the effectiveness of such programs.

29 (d) The administering entity shall provide counseling and  
30 support for the physician and surgeon and for the family of any  
31 physician and surgeon referred for treatment.

32 (e) The administering entity shall make their services available  
33 to all licensed California physicians and surgeons, including those  
34 who self-refer to the program.

35 (f) The administering entity shall have a system for immediately  
36 reporting a physician and surgeon who is terminated from the  
37 program to the board. This system shall ensure absolute  
38 confidentiality in the communication to the board. The  
39 administering entity shall not provide this information to any other

1 *individual or entity unless authorized by the participating physician*  
2 *and surgeon.*

3 *(g) The contract entered into pursuant to this section shall also*  
4 *require the administering entity to do the following:*

5 *(1) Provide regular communication to the board, including*  
6 *annual reports to the board with program statistics, including, but*  
7 *not limited to, the number of participants currently in the program,*  
8 *the number of participants referred by the board as a condition*  
9 *of probation, the number of participants who have successfully*  
10 *completed their agreement period, and the number of participants*  
11 *terminated from the program. In making reports, the administering*  
12 *entity shall not disclose any personally identifiable information*  
13 *relating to any participant.*

14 *(2) Submit to periodic audits and inspections of all operations,*  
15 *records, and management related to the program to ensure*  
16 *compliance with the requirements of this article and its*  
17 *implementing rules and regulations. Any audit conducted pursuant*  
18 *to this section shall maintain the confidentiality of all records*  
19 *reviewed and information obtained in the course of conducting*  
20 *the audit and shall not disclose any information identifying a*  
21 *program participant.*

22 *(h) In the event that the board determines the administering*  
23 *entity is not in compliance with the requirements of the program*  
24 *or contract entered into with the board, the board may terminate*  
25 *the contract.*

26 *2340.6. (a) A physician and surgeon shall, as a condition of*  
27 *participation in the program, enter into an individual agreement*  
28 *with the program and agree to pay expenses related to treatment,*  
29 *monitoring, laboratory tests, and other activities specified in the*  
30 *participant's written agreement. The agreement shall include all*  
31 *of the following:*

32 *(1) A jointly agreed upon plan and mandatory conditions and*  
33 *procedures to monitor compliance with the program.*

34 *(2) Compliance with terms and conditions of treatment and*  
35 *monitoring.*

36 *(3) Criteria for program completion.*

37 *(4) Criteria for termination of a physician and surgeon*  
38 *participant from the program.*

1 (5) Acknowledgment that withdrawal or termination of a  
2 physician and surgeon participant from the program shall be  
3 reported to the board.

4 (6) Acknowledgment that expenses related to treatment,  
5 monitoring, laboratory tests, and other activities specified by the  
6 program shall be paid by the physician and surgeon participant.

7 (b) Any agreement entered into pursuant to this section shall  
8 not be considered a disciplinary action or order by the board and  
9 shall not be disclosed if both of the following apply:

10 (1) The physician and surgeon did not enroll in the program as  
11 a condition of probation or as a result of an action by the board.

12 (2) The physician and surgeon is in compliance with the  
13 conditions and procedures in the agreement.

14 (c) Any oral or written information reported to the board shall  
15 remain confidential and shall not constitute a waiver of any existing  
16 evidentiary privileges under any other provision or rule of law.  
17 However, confidentiality regarding the physician and surgeon's  
18 participation in the program and related records shall not apply  
19 if the board has referred a participant as a condition of probation.

20 (d) Nothing in this section prohibits, requires, or otherwise  
21 affects the discovery or admissibility of evidence in an action by  
22 the board against a physician and surgeon based on acts or  
23 omissions within the course and scope of his or her practice.

24 (e) Any information received, developed, or maintained  
25 regarding a physician and surgeon in the program shall not be  
26 used for any other purposes.

27 (f) Participation in the program shall not be a defense to any  
28 disciplinary action that may be taken by the board. This section  
29 does not preclude the board from commencing disciplinary action  
30 against a physician and surgeon who is terminated unsuccessfully  
31 from the program. However, that disciplinary action may not  
32 include as evidence any confidential information unless authorized  
33 by this section.

34 2340.8. (a) The Physician and Surgeon Health and Wellness  
35 Program Account is hereby established within the Contingent Fund  
36 of the Medical Board of California. Any fees collected by the board  
37 pursuant to subdivision (b) shall be deposited in the Physician and  
38 Surgeon Health and Wellness Program Account and shall be  
39 available, upon appropriation by the Legislature, for the support  
40 of the program.

1     ***(b) The board shall adopt regulations to determine the***  
2     ***appropriate fee that a physician and surgeon participating in the***  
3     ***program shall provide to the board. The fee amount adopted by***  
4     ***the board shall be set at a level sufficient to cover all costs for***  
5     ***participating in the program.***

6     ***(c) Subject to appropriation by the Legislature, the board may***  
7     ***use moneys from the Contingent Fund of the Medical Board of***  
8     ***California to support the initial costs for the board to establish***  
9     ***the program under this article, except these moneys shall not be***  
10    ***used to cover any costs for individual physician and surgeon***  
11    ***participation in the program.***

12    ***2340.10. The Administrative Procedure Act (Chapter 3.5***  
13    ***(commencing with Section 11340) of Part 1 of Division 3 of Title***  
14    ***2 of the Government Code) shall apply to regulations adopted***  
15    ***pursuant to this article.***

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1189  
**Author:** Pan and Jackson  
**Bill Date:** April 26, 2016, Amended  
**Subject:** Autopsies: Licensed Physicians and Surgeons  
**Sponsor:** Union of American Physicians and Dentists (UAPD)

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would specify that a forensic autopsy is the practice of medicine and can only be conducted by a licensed physician and surgeon.

**BACKGROUND**

California law does not define the term “autopsy”, but a 1970 opinion of the California Attorney General states that an autopsy is a “form of postmortem examination in which a dead body is examined and at least partially dissected for the purpose of ascertaining the cause of death, the nature and extent of lesions of disease, or any other abnormalities present.”

The Ventura County District Attorney’s (DA) Office published a report in February 2016 entitled “A Report on the Ventura County Medical Examiner Investigation.” In this report, the Ventura County DA reviews the investigation it conducted on Ventura County’s former Medical Examiner, and discusses the obstacles faced by the DA’s office in pursuing criminal action. In the report, it brings up several grey areas of law related to autopsies and who can perform them. The report states that there is no California law that defines an autopsy and there is no statute that clearly defines that performance of an autopsy is the practice of medicine. The report also states there is a need for legislation to clarify whether the performance of an autopsy is included in the practice of medicine.

Fifty of California’s 58 counties have sheriff-coroner offices, which means that the two offices are consolidated and the sheriff also serves as the coroner. There are sections in the Government Code that authorize the coroner to perform autopsies. There is also a section in the Health and Safety Code that allows an autopsy to be performed by a coroner or other officer authorized by law to perform autopsies. The definition of the practice of medicine in the Medical Practice Act does not specifically address that conducting an autopsy on a dead body constitutes the practice of medicine. The Ventura County DA’s office makes recommendations in the conclusion of its report that the Legislature should consider amending existing law to clarify whether an autopsy is the practice of medicine and to define the term autopsy.

## **ANALYSIS**

This bill would require a forensic autopsy to be considered the practice of medicine and would expressly state that forensic autopsies can only be conducted by a licensed physician and surgeon. This bill would require that the results of an autopsy may only be determined by a licensed physician and surgeon. This bill would define a forensic autopsy as an examination of a body of a decedent to generate medical evidence for which the cause and manner of death is determined. This bill would permit law enforcement personnel who have completed specified training to be allowed into the autopsy suite at the discretion of the licensed physician and surgeon. This bill would prohibit, if an individual dies due to the involvement of law enforcement activity, law enforcement personnel directly involved with the care and custody of that individual from being involved with any portion of the forensic autopsy. This bill would require police reports, crime scene or other information, videos, or laboratory tests that are in the possession of law enforcement and are related to the death that is incident to law enforcement activity to be made available to the licensed physician and surgeon prior to the completion of the investigation of the death. This bill would make conforming changes to other portions of the Government Code that reference autopsies.

According to the authors, a medically trained physician and surgeon is best equipped to determine the cause of death and provide an accurate report. Clarifying that a medically trained professional should be the one who conducts the autopsy also clarifies ambiguities in existing law. The sponsor of this bill believes that elected officials lack the medical expertise necessary to perform an autopsy to the same degree as a licensed physician and surgeon and this bill seeks to add further legitimacy and authority to death investigations in coroner cases.

In reading the Ventura County DA report, and in discussions with Senator Jackson's office, Board staff believes there are grey areas in the law related to autopsies being the practice of medicine and who can perform autopsies. It should be made clear in the law that autopsies are the practice of medicine and can only be performed by licensed physicians and surgeons. This clarification will assist the Board in its enforcement actions and further the Board's mission of consumer protection. For these reasons, Board staff suggests the Board take a support position on this bill.

**FISCAL:** None

**SUPPORT:** UAPD (Sponsor)  
Consumer Attorneys of California  
National Association of Medical Examiners  
Three Individuals

**OPPOSITION:** California Hospital Association (unless amended)  
California State Sheriff's Association

**POSITION:** Recommendation: Support

AMENDED IN SENATE APRIL 26, 2016  
AMENDED IN SENATE APRIL 13, 2016  
AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1189**

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**Introduced by Senators Pan and Jackson**

February 18, 2016

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*An act to amend Sections 27491.4, 27491.41, 27491.43, 27491.46, 27491.47, and 27520 of, and to add Section 27522 to, the Government Code, relating to autopsies.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1189, as amended, Pan. Postmortem examinations or autopsies: forensic pathologists.

Existing law requires a county coroner to inquire into and determine the circumstances, manner, and cause of certain deaths. Existing law either requires or authorizes a county coroner, under certain circumstances, to perform, or cause to be performed, an autopsy on a decedent. Existing law imposes certain requirements on a postmortem examination or autopsy conducted at the discretion of a coroner, medical examiner, or other agency upon an unidentified body or human remains.

Existing law authorizes the board of supervisors of a county to consolidate the duties of certain county offices in one or more of specified combinations, including, but not limited to, sheriff and coroner, district attorney and coroner, and public administrator and coroner. Existing law authorizes the board of supervisors of a county to abolish the office of coroner and provide instead for the office of medical examiner, as specified, and requires the medical examiner to be a

licensed physician and surgeon duly qualified as a specialist in pathology.

*This bill would require that a forensic autopsy, as defined, be conducted by a licensed physician and surgeon. The bill would require that the results of a postmortem examination or autopsy, as specified, forensic autopsy and the cause and manner of death be determined by a licensed physician and surgeon who is a forensic pathologist, preferably a diplomat of the American Board of Pathology. surgeon.*

~~This bill would also require blood and urine specimens collected from a patient at the time of admission to a hospital, if the patient is admitted under specified circumstances, to be retained until the patient is discharged from the hospital. The bill would require the specimens to be released to the coroner if the patient dies prior to discharge.~~

~~This~~

*The bill would require, for health and safety purposes, that all persons in the autopsy suite have current bloodborne pathogen training and personal protective equipment, as specified. The bill would provide that police and other law enforcement personnel who have completed the specified training may be allowed into the autopsy suite at the discretion of the forensic pathologist, but would prohibit law enforcement personnel directly involved with the care and custody of an individual who died incident to due to involvement of law enforcement activity from being involved with any portion of the postmortem examination or being inside the autopsy suite during the performance of the autopsy. The bill would define a postmortem examination for this purpose to be the external examination of the body where no manner or cause of death is determined.*

~~This~~

*The bill would require specified materials that are in the possession of law enforcement and are related to a death that is incident to law enforcement activity to be made available to the forensic pathologist prior to the completion of the investigation of the death.*

*The bill would specify that these provisions shall not be construed to limit the practice of an autopsy for educational or research purposes.*

By imposing additional duties upon local officials and law enforcement agencies, this bill would create 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~~

The bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 27491.4 of the Government Code is  
2 amended to read:

3 27491.4. (a) For purposes of inquiry the coroner shall, within  
4 24 hours or as soon as feasible thereafter, where the suspected  
5 cause of death is sudden infant death syndrome and, in all other  
6 cases, the coroner may, in his or her discretion, take possession of  
7 the body, which shall include the authority to exhume the body,  
8 order it removed to a convenient place, and make or cause to be  
9 made a postmortem ~~examination~~ examination, or cause to be made  
10 an autopsy thereon, and make or cause to be made an analysis of  
11 the stomach, stomach contents, blood, organs, fluids, or tissues of  
12 the body. The detailed medical findings resulting from an  
13 inspection of the body or autopsy by an examining *licensed*  
14 *physician and surgeon* shall be either reduced to writing or  
15 permanently preserved on recording discs or other similar recording  
16 media, shall include all positive and negative findings pertinent to  
17 establishing the cause of death in accordance with medicolegal  
18 practice and this, along with the written opinions and conclusions  
19 of the examining ~~physician~~, *licensed physician and surgeon*, shall  
20 be included in the coroner's record of the death. The coroner shall  
21 have the right to retain only those tissues of the body removed at  
22 the time of the autopsy as may, in his or her opinion, be necessary  
23 or advisable to the inquiry into the case, or for the verification of  
24 his or her findings. No person may be present during the  
25 performance of a coroner's an autopsy without the express consent  
26 of the coroner. *licensed physician and surgeon who is conducting*  
27 *the autopsy.*

28 (b) In any case in which the coroner knows, or has reason to  
29 believe, that the deceased has made valid provision for the  
30 disposition of his or her body or a part or parts thereof for medical

1 or scientific purposes in accordance with Chapter 3.5 (commencing  
2 with Section 7150) of Part 1 of Division 7 of the Health and Safety  
3 Code, the coroner shall neither perform nor authorize any other  
4 person to perform an autopsy on the body unless the coroner has  
5 contacted or attempted to contact the physician last in attendance  
6 to the deceased. If the physician cannot be contacted, the coroner  
7 shall then notify or attempt to notify one of the following of the  
8 need for an autopsy to determine the cause of death: (1) the  
9 surviving spouse; (2) a surviving child or parent; (3) a surviving  
10 brother or sister; (4) any other kin or person who has acquired the  
11 right to control the disposition of the remains. Following a period  
12 of 24 hours after attempting to contact the physician last in  
13 attendance and notifying or attempting to notify one of the  
14 responsible parties listed above, the coroner may ~~perform or~~  
15 authorize the performance of an autopsy, as otherwise authorized  
16 or required by law.

17 (c) Nothing in this section shall be deemed to prohibit the  
18 discretion of the coroner to ~~conduct autopsies~~ *cause to be*  
19 *conducted an autopsy* upon any victim of sudden, unexpected, or  
20 unexplained death or any death known or suspected of resulting  
21 from an accident, suicide, or apparent criminal means, or other  
22 death, as described in Section 27491.

23 *SEC. 2. Section 27491.41 of the Government Code is amended*  
24 *to read:*

25 27491.41. (a) For purposes of this section, “sudden infant  
26 death syndrome” means the sudden death of any infant that is  
27 unexpected by the history of the infant and where a thorough  
28 postmortem examination fails to demonstrate an adequate cause  
29 of death.

30 (b) The Legislature finds and declares that sudden infant death  
31 syndrome (SIDS) is the leading cause of death for children under  
32 age one, striking one out of every 500 children. The Legislature  
33 finds and declares that sudden infant death syndrome is a serious  
34 problem within the State of California, and that public interest is  
35 served by research and study of sudden infant death syndrome,  
36 and its potential causes and indications.

37 (c) (1) To facilitate these purposes, the coroner shall, within  
38 24 hours, or as soon thereafter as feasible, ~~perform~~ *cause* an  
39 autopsy *to be performed* in any case where an infant has died  
40 suddenly and unexpectedly.

1 (2) However, if the attending *licensed physician and surgeon*  
2 desires to certify that the cause of death is sudden infant death  
3 syndrome, an autopsy may be performed at the discretion of the  
4 coroner. If the coroner ~~performs~~ *causes an autopsy to be performed*  
5 pursuant to this section, he or she shall also certify the cause of  
6 death.

7 (d) The autopsy shall be conducted pursuant to a standardized  
8 protocol developed by the State Department of Health Services.  
9 The protocol is exempt from the procedural requirements pertaining  
10 to the adoption of administrative rules and regulations pursuant to  
11 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part  
12 1 of Division 3 of Title 2 of the Government Code. The protocol  
13 shall be developed and approved by July 1, 1990.

14 (e) The protocol shall be followed by all ~~coroners~~ *licensed*  
15 *physicians and surgeons* throughout the state when conducting the  
16 autopsies required by this section. The coroner shall state on the  
17 certificate of death that sudden infant death syndrome was the  
18 cause of death when the ~~coroner's~~ *licensed physician and surgeon's*  
19 findings are consistent with the definition of sudden infant death  
20 syndrome specified in the standardized autopsy protocol. The  
21 protocol may include requirements and standards for scene  
22 investigations, requirements for specific data, criteria for  
23 ascertaining cause of death based on the autopsy, and criteria for  
24 any specific tissue sampling, and any other requirements. The  
25 protocol may also require that specific tissue samples must be  
26 provided to a central tissue repository designated by the State  
27 Department of Health Services.

28 (f) The State Department of Health Services shall establish  
29 procedures and protocols for access by researchers to any tissues,  
30 or other materials or data authorized by this section. Research may  
31 be conducted by any individual with a valid scientific interest and  
32 prior approval from the State Committee for the Protection of  
33 Human Subjects. The tissue samples, the materials, and all data  
34 shall be subject to the confidentiality requirements of Section  
35 103850 of the Health and Safety Code.

36 (g) The coroner may take tissue samples for research purposes  
37 from infants who have died suddenly and unexpectedly without  
38 consent of the responsible adult if the tissue removal is not likely  
39 to result in any visible disfigurement.

1 (h) A coroner *or licensed physician and surgeon* shall not be  
2 liable for damages in a civil action for any act or omission done  
3 in compliance with this section.

4 (i) No consent of any person is required prior to undertaking  
5 the autopsy required by this section.

6 *SEC. 3. Section 27491.43 of the Government Code is amended*  
7 *to read:*

8 27491.43. (a) (1) Notwithstanding any other ~~provision of law,~~  
9 except as otherwise provided in this section in any case in which  
10 the ~~coroner,~~ *licensed physician and surgeon*, before beginning an  
11 autopsy, dissection, or removal of corneal tissue, pituitary glands,  
12 or any other organ, tissue, or fluid, has received a certificate of  
13 religious belief, executed by the decedent as provided in  
14 subdivision (b), that the procedure would be contrary to his or her  
15 religious belief, the coroner shall not perform that procedure on  
16 the body of the decedent.

17 (2) If, before beginning the procedure, the coroner *or licensed*  
18 *physician and surgeon* is informed by a relative or a friend of the  
19 decedent that the decedent had executed a certificate of religious  
20 belief, the ~~coroner~~ *licensed physician and surgeon* shall not perform  
21 the procedure, except as otherwise provided in this section, for 48  
22 hours. If the certificate is produced within 48 hours, the case shall  
23 be governed by this section. If the certificate is not produced within  
24 that time, the case shall be governed by the other provisions of  
25 this article.

26 (b) Any person, 18 years of age or older, may execute a  
27 certificate of religious belief which shall state in clear and  
28 unambiguous language that any postmortem anatomical dissection  
29 or that specified procedures would violate the religious convictions  
30 of the person. The certificate shall be signed and dated by the  
31 person in the presence of at least two witnesses. Each witness shall  
32 also sign the certificate and shall print on the certificate his or her  
33 name and residence address.

34 (c) Notwithstanding the existence of a certificate, the coroner  
35 may at any time ~~perform~~ *cause an autopsy to be performed* or any  
36 other procedure if he or she has a reasonable suspicion that the  
37 death was caused by the criminal act of another or by a contagious  
38 disease constituting a public health hazard.

39 (d) (1) If a certificate is produced, and if subdivision (c) does  
40 not apply, the coroner may petition the superior court, without fee,

1 for an order authorizing an autopsy or other procedure or for an  
2 order setting aside the certificate as invalid. Notice of the  
3 proceeding shall be given to the person who produced the  
4 certificate. The proceeding shall have preference over all other  
5 cases.

6 (2) The court shall set aside the certificate if it finds that the  
7 certificate was not properly executed or that it does not clearly  
8 state the decedent's religious objection to the proposed procedure.

9 (3) The court may order an autopsy or other procedure despite  
10 a valid certificate if it finds that the cause of death is not evident,  
11 and that the interest of the public in determining the cause of death  
12 outweighs its interest in permitting the decedent and like persons  
13 fully to exercise their religious convictions.

14 (4) Any procedure performed pursuant to paragraph (3) shall  
15 be the least intrusive procedure consistent with the order of the  
16 court.

17 (5) If the petition is denied, and no stay is granted, the body of  
18 the deceased shall immediately be released to the person authorized  
19 to control its disposition.

20 (e) In any case in which the circumstances, manner, or cause  
21 of death is not determined because of the provisions of this section,  
22 the coroner may state on the certificate of death that an autopsy  
23 was not conducted because of the provisions of this section.

24 (f) A coroner shall not be liable for damages in a civil action  
25 for any act or omission taken in compliance with the provisions  
26 of this section.

27 *SEC. 4. Section 27491.46 of the Government Code is amended*  
28 *to read:*

29 27491.46. (a) The coroner shall have the right to retain  
30 pituitary glands solely for transmission to a university, for use in  
31 research or the advancement of medical science, in those cases in  
32 which the coroner has *required an autopsy to be performed*~~an~~  
33 ~~autopsy~~ pursuant to this chapter, and during a 48-hour period  
34 following such autopsy the body has not been claimed and the  
35 coroner has not been informed of any relatives of the decedent.

36 (b) In the course of any ~~autopsy performed by the coroner,~~  
37 ~~autopsy,~~ the coroner may ~~remove~~ *cause to be removed* the pituitary  
38 gland from the body for transmittal to any public agency for use  
39 in manufacturing a hormone necessary for the physical growth of  
40 persons who are, or may become, hypopituitary dwarfs, if the

1 coroner has no knowledge of objection to the removal and release  
2 of the pituitary gland having been made by the decedent or any  
3 other person specified in Section 7151.5 of the Health and Safety  
4 Code. Neither the coroner nor the medical examiner authorizing  
5 the removal of the pituitary gland, nor any hospital, medical center,  
6 tissue bank, storage facility, or person acting upon the request,  
7 order, or direction of the coroner or medical examiner in the  
8 removal of the pituitary gland pursuant to this section, shall incur  
9 civil liability for the removal of the pituitary gland in an action  
10 brought by any person who did not object prior to the removal of  
11 the pituitary gland, nor be subject to criminal prosecution for  
12 removal of the pituitary gland pursuant to the authority of this  
13 section.

14 Nothing in this subdivision shall supersede the terms of any gift  
15 made pursuant to Chapter 3.5 (commencing with Section 7150)  
16 of Part 1 of Division 7 of the Health and Safety Code.

17 *SEC. 5. Section 27491.47 of the Government Code is amended*  
18 *to read:*

19 27491.47. (a) Notwithstanding any other ~~provision of law~~, the  
20 coroner may, in the course of an autopsy, ~~remove and release or~~  
21 authorize the removal and release of corneal eye tissue from a  
22 body within the coroner's custody, if all of the following conditions  
23 are met:

24 (1) The autopsy has otherwise been authorized.

25 (2) The coroner has no knowledge of objection to the removal  
26 and release of corneal tissue having been made by the decedent or  
27 any other person specified in Section 7151 of the Health and Safety  
28 Code and has obtained any one of the following:

29 (A) A dated and signed written consent by the donor or any  
30 other person specified in Section 7151 of the Health and Safety  
31 Code on a form that clearly indicates the general intended use of  
32 the tissue and contains the signature of at least one witness.

33 (B) Proof of the existence of a recorded telephonic consent by  
34 the donor or any other person specified in Section 7151 of the  
35 Health and Safety Code in the form of an audio recording of the  
36 conversation or a transcript of the recorded conversation, which  
37 indicates the general intended use of the tissue.

38 (C) A document recording a verbal telephonic consent by the  
39 donor or any other person specified in Section 7151 of the Health  
40 and Safety Code, witnessed and signed by no fewer than two

1 members of the requesting entity, hospital, eye bank, or  
2 procurement organization, memorializing the consenting person's  
3 knowledge of and consent to the general intended use of the gift.

4 The form of consent obtained under subparagraph (A), (B), or  
5 (C) shall be kept on file by the requesting entity and the official  
6 agency for a minimum of three years.

7 (3) The removal of the tissue will not unnecessarily mutilate  
8 the body, be accomplished by enucleation, nor interfere with the  
9 autopsy.

10 (4) The tissue will be removed by a ~~coroner~~, licensed physician  
11 and ~~surgeon~~, *surgeon* or a trained transplant technician.

12 (5) The tissue will be released to a public or nonprofit facility  
13 for transplant, therapeutic, or scientific purposes.

14 (b) Neither the coroner nor medical examiner authorizing the  
15 removal of the corneal tissue, nor any hospital, medical center,  
16 tissue bank, storage facility, or person acting upon the request,  
17 order, or direction of the coroner or medical examiner in the  
18 removal of corneal tissue pursuant to this section, shall incur civil  
19 liability for the removal in an action brought by any person who  
20 did not object prior to the removal of the corneal tissue, nor be  
21 subject to criminal prosecution for the removal of the corneal tissue  
22 pursuant to this section.

23 (c) This section shall not be construed to interfere with the  
24 ability of a person to make an anatomical gift pursuant to the  
25 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with  
26 Section 7150) of Part 1 of Division 7 of the Health and Safety  
27 Code).

28 *SEC. 6. Section 27520 of the Government Code is amended to*  
29 *read:*

30 27520. (a) The coroner shall ~~perform or~~ cause to be performed  
31 an autopsy on a decedent, for which an autopsy has not already  
32 been performed, if the surviving spouse requests him *or her* to do  
33 so in writing. If there is no surviving spouse, the coroner shall  
34 ~~perform the cause an~~ *autopsy to be performed* if requested to do  
35 so in writing by a surviving child or parent, or if there is no  
36 surviving child or parent, by the next of kin of the deceased.

37 (b) The coroner may ~~perform or~~ cause to be performed an  
38 autopsy on a decedent, for which an autopsy has already been  
39 performed, if the surviving spouse requests him *or her* to do so in  
40 writing. If there is no surviving spouse, the coroner may ~~perform~~

1 ~~the cause an autopsy to be performed~~ if requested to do so in  
 2 writing by a surviving child or parent, or if there is no surviving  
 3 child or parent, by the next of kin of the deceased.

4 (c) The cost of an autopsy requested pursuant to either  
 5 subdivision (a) or (b) shall be borne by the person requesting that  
 6 it be performed.

7 SECTION 1.

8 SEC. 7. Section 27522 is added to the Government Code, to  
 9 read:

10 27522. (a) *A forensic autopsy shall only be conducted by a*  
 11 *licensed physician and surgeon.* The results of a ~~postmortem~~  
 12 ~~examination or forensic autopsy and the cause and manner of death~~  
 13 shall *only* be determined by a licensed physician and ~~surgeon who~~  
 14 ~~is a forensic pathologist, preferably a diplomat of the American~~  
 15 ~~Board of Pathology.~~ *surgeon.*

16 (b) ~~For purposes of this section, a postmortem examination or~~  
 17 ~~autopsy includes, but is not limited to, the following items, if~~  
 18 ~~physically feasible:~~

19 (1) ~~Procedures described in subdivision (b) of Section 27521.~~

20 (2) ~~An analysis of the blood, vitreous fluid, urine, bile, stomach~~  
 21 ~~contents, other tissues or bodily fluids, or organs of the body.~~

22 (3) ~~The examination or removal, or both, of the internal organs~~  
 23 ~~of the body.~~

24 (4) ~~The retention of any organs or tissues of the body as part of~~  
 25 ~~the investigation of the death.~~

26 (5) ~~Any laboratory analysis, chemical testing, or imaging~~  
 27 ~~performed as part of the investigation of the death.~~

28 (e) ~~If a patient is admitted to a hospital with a life-threatening~~  
 29 ~~injury, or is under the influence of an intoxicating substance, as~~  
 30 ~~determined by the attending physician at the hospital, or was in~~  
 31 ~~the custody of a law enforcement agency within 24 hours of~~  
 32 ~~admission to the hospital, blood and urine specimens collected~~  
 33 ~~from the patient at the time of admission shall be retained until the~~  
 34 ~~patient is discharged from the hospital. If the patient dies prior to~~  
 35 ~~discharge, the specimens shall be released to the coroner.~~

36 (b) *A forensic autopsy shall be defined as an examination of a*  
 37 *body of a decedent to generate medical evidence for which the*  
 38 *cause and manner of death is determined.*

1 (c) For purposes of this section, a postmortem examination shall  
2 be defined as the external examination of the body where no  
3 manner or cause of death is determined.

4 (d) For health and safety purposes, all persons in the autopsy  
5 suite shall have current bloodborne pathogen training and personal  
6 protective equipment in accordance with the requirements described  
7 in Section 5193 of Title 8 of the California Code of Regulations  
8 or its successor.

9 (e) (1) Police and other law enforcement personnel who have  
10 completed training as described in subdivision (d) may be allowed  
11 into the autopsy suite at the discretion of the forensic pathologist.

12 (2) Notwithstanding paragraph (1), if an individual dies ~~incident~~  
13 ~~to~~ due to the involvement of law enforcement activity, law  
14 enforcement personnel directly involved with the care and custody  
15 of that individual shall not be involved with any portion of the  
16 postmortem examination, nor allowed inside the autopsy suite  
17 during the performance of the autopsy.

18 (f) Any police reports, crime scene or other information, videos,  
19 or laboratory tests that are in the possession of law enforcement  
20 and are related to a death that is incident to law enforcement  
21 activity shall be made available to the forensic pathologist prior  
22 to the completion of the investigation of the death.

23 (g) This section shall not be construed to limit the practice of  
24 an autopsy for educational or research purposes.

25 ~~SEC. 2.~~

26 SEC. 8. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1195**

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**Introduced by Senator Hill**

February 18, 2016

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An act to amend Sections ~~4800 and 4804.5~~ of 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, 4825.1, 4830, and 4846.5 of, and to add Sections 4826.3, 4826.5, 4826.7, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections 825, 11346.5, 11349, and 11349.1 of the Government Code, relating to ~~healing arts~~, professional regulation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. ~~Veterinary Medical Board: executive officer~~. Professions and vocations: board actions: competitive impact.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

*Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.*

*This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.*

*(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.*

*This bill would instead prohibit the executive officer from being a licensee of the board.*

~~The~~

(3) *The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.*

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. *The bill would authorize a veterinarian and registered veterinary technician who is under the direct supervision of a veterinarian with a current and active license to compound a drug for anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified. The bill would authorize the California State Board of Pharmacy and the board to ensure compliance with these requirements. The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences while engaged in the performance of specified duties to be licensed as a veterinarian in the state or hold a university license issued by the board. The bill would require an applicant for a university license to meet certain requirements, including that the applicant passes a specified exam. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. By requiring*

*additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation. By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.*

*(4) Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.*

*This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.*

*(5) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.*

*This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants*

*in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.*

*(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 no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. Section 109 of the Business and Professions Code  
2 *is amended to read:*

3     ~~109. (a) The decisions of any of the boards comprising the~~  
4 ~~department with respect to setting standards, conducting~~  
5 ~~examinations, passing candidates, and revoking licenses, are not~~  
6 ~~subject to review by the director, but are final within the limits~~  
7 ~~provided by this code which are applicable to the particular board,~~  
8 ~~except as provided in this section.~~

9     ~~(b)~~

10     109. (a) The director may initiate an investigation of any  
11 allegations of misconduct in the preparation, administration, or  
12 scoring of an examination which is administered by a board, or in  
13 the review of qualifications which are a part of the licensing process  
14 of any board. A request for investigation shall be made by the  
15 director to the Division of Investigation through the chief of the  
16 division or to any law enforcement agency in the jurisdiction where  
17 the alleged misconduct occurred.

18     ~~(c)~~

19     (b) (1) The director may intervene in any matter of any board  
20 where an investigation by the Division of Investigation discloses  
21 probable cause to believe that the conduct or activity of a board,  
22 or its members or employees constitutes a violation of criminal  
23 law.

24     ~~The~~

1 (2) ~~The term “intervene,” as used in paragraph (c) of this section~~  
2 (1) may include, but is not limited to, an application for a  
3 restraining order or injunctive relief as specified in Section 123.5,  
4 or a referral or request for criminal prosecution. For purposes of  
5 this section, the director shall be deemed to have standing under  
6 Section 123.5 and shall seek representation of the Attorney  
7 General, or other appropriate counsel in the event of a conflict in  
8 pursuing that action.

9 (c) *The director may, upon his or her own initiative, and shall,*  
10 *upon request by a consumer or licensee, review any board decision*  
11 *or other action to determine whether it unreasonably restrains*  
12 *trade. Such a review shall proceed as follows:*

13 (1) *The director shall assess whether the action or decision*  
14 *reflects a clearly articulated and affirmatively expressed state law.*  
15 *If the director determines that the action or decision does not*  
16 *reflect a clearly articulated and affirmatively expressed state law,*  
17 *the director shall disapprove the board action or decision and it*  
18 *shall not go into effect.*

19 (2) *If the action or decision is a reflection of clearly articulated*  
20 *and affirmatively expressed state law, the director shall assess*  
21 *whether the action or decision was the result of the board’s*  
22 *exercise of ministerial or discretionary judgment. If the director*  
23 *finds no exercise of discretionary judgment, but merely the direct*  
24 *application of statutory or constitutional provisions, the director*  
25 *shall close the investigation and review of the board action or*  
26 *decision.*

27 (3) *If the director concludes under paragraph (2) that the board*  
28 *exercised discretionary judgment, the director shall review the*  
29 *board action or decision as follows:*

30 (A) *The director shall conduct a full review of the board action*  
31 *or decision using all relevant facts, data, market conditions, public*  
32 *comment, studies, or other documentary evidence pertaining to*  
33 *the market impacted by the board’s action or decision and*  
34 *determine whether the anticompetitive effects of the action or*  
35 *decision are clearly outweighed by the benefit to the public. The*  
36 *director may seek, designate, employ, or contract for the services*  
37 *of independent antitrust or economic experts pursuant to Section*  
38 *307. These experts shall not be active participants in the market*  
39 *affected by the board action or decision.*

1 (B) If the board action or decision was not previously subject  
2 to a public comment period, the director shall release the subject  
3 matter of his or her investigation for a 30-day public comment  
4 period and shall consider all comments received.

5 (C) If the director determines that the action or decision furthers  
6 the public protection mission of the board and the impact on  
7 competition is justified, the director may approve the action or  
8 decision.

9 (D) If the director determines that the action furthers the public  
10 protection mission of the board and the impact on competition is  
11 justified, the director may approve the action or decision. If the  
12 director finds the action or decision does not further the public  
13 protection mission of the board or finds that the action or decision  
14 is not justified, the director shall either refuse to approve it or  
15 shall modify the action or decision to ensure that any restraints  
16 of trade are related to, and advance, clearly articulated state law  
17 or public policy.

18 (4) The director shall issue, and post on the department's  
19 Internet Web site, his or her final written decision approving,  
20 modifying, or disapproving the action or decision with an  
21 explanation of the reasons and rationale behind the director's  
22 decision within 90 days from receipt of the request from a  
23 consumer or licensee. Notwithstanding any other law, the decision  
24 of the director shall be final, except if the state or federal  
25 constitution requires an appeal of the director's decision.

26 (d) The review set forth in paragraph (3) of subdivision (c) shall  
27 not apply when an individual seeks review of disciplinary or other  
28 action pertaining solely to that individual.

29 (e) The director shall report to the Chairs of the Senate Business,  
30 Professions, and Economic Development Committee and the  
31 Assembly Business and Professions Committee annually,  
32 commencing March 1, 2017, regarding his or her disapprovals,  
33 modifications, or findings from any audit, review, or monitoring  
34 and evaluation conducted pursuant to this section. That report  
35 shall be submitted in compliance with Section 9795 of the  
36 Government Code.

37 (f) If the director has already reviewed a board action or  
38 decision pursuant to this section or Section 313.1, the director  
39 shall not review that action or decision again.

1 (g) *This section shall not be construed to affect, impede, or*  
2 *delay any disciplinary actions of any board.*

3 *SEC. 2. Section 116 of the Business and Professions Code is*  
4 *amended to read:*

5 116. (a) The director may audit and review, upon his or her  
6 own initiative, or upon the request of a consumer or licensee,  
7 inquiries and complaints regarding licensees, dismissals of  
8 disciplinary cases, the opening, conduct, or closure of  
9 investigations, informal conferences, and discipline short of formal  
10 accusation by ~~the Medical Board of California, the allied health~~  
11 ~~professional boards, and the California Board of Podiatric~~  
12 ~~Medicine. The director may make recommendations for changes~~  
13 ~~to the disciplinary system to the appropriate board, the Legislature,~~  
14 ~~or both.~~ *any board or bureau within the department.*

15 (b) The director shall report to the ~~Chairpersons~~ *Chairs* of the  
16 ~~Senate Business and Professions~~ *Business, Professions, and*  
17 *Economic Development* Committee and the ~~Assembly Health~~  
18 *Business and Professions* Committee annually, commencing March  
19 1, ~~1995,~~ 2017, regarding his or her findings from any audit, review,  
20 or monitoring and evaluation conducted pursuant to this section.  
21 *This report shall be submitted in compliance with Section 9795 of*  
22 *the Government Code.*

23 *SEC. 3. Section 153 of the Business and Professions Code is*  
24 *amended to read:*

25 153. The director may investigate the work of the several  
26 boards in his department and may obtain a copy of all records and  
27 full and complete data in all official matters in possession of the  
28 boards, their members, officers, or ~~employees, other than~~  
29 ~~examination questions prior to submission to applicants at~~  
30 ~~scheduled examinations.~~ *employees.*

31 *SEC. 4. Section 307 of the Business and Professions Code is*  
32 *amended to read:*

33 307. The director may contract for the services of experts and  
34 consultants where necessary to carry out ~~the provisions of this~~  
35 chapter and may provide compensation and reimbursement of  
36 expenses for ~~such~~ *those* experts and consultants in accordance with  
37 state law.

38 *SEC. 5. Section 313.1 of the Business and Professions Code*  
39 *is amended to read:*

1 313.1. (a) Notwithstanding any other ~~provision~~ of law to the  
2 contrary, no rule or ~~regulation, except those relating to~~  
3 ~~examinations and qualifications for licensure, regulation~~ and no  
4 fee change proposed or promulgated by any of the boards,  
5 commissions, or committees within the department, shall take  
6 effect pending compliance with this section.

7 (b) The director shall be formally notified of and shall ~~be~~  
8 ~~provided a full opportunity to review, in accordance with the~~  
9 requirements of Article 5 (commencing with Section 11346) of  
10 Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government  
11 Code, *the requirements in subdivision (c) of Section 109*, and this  
12 section, all of the following:

13 (1) All notices of proposed action, any modifications and  
14 supplements thereto, and the text of proposed regulations.

15 (2) Any notices of sufficiently related changes to regulations  
16 previously noticed to the public, and the text of proposed  
17 regulations showing modifications to the text.

18 (3) Final rulemaking records.

19 (4) *All relevant facts, data, public comments, market conditions,*  
20 *studies, or other documentary evidence pertaining to the market*  
21 *impacted by the proposed regulation. This information shall be*  
22 *included in the written decision of the director required under*  
23 *paragraph (4) of subdivision (c) of Section 109.*

24 (c) The submission of all notices and final rulemaking records  
25 to the director and the ~~completion of the director's review,~~  
26 *approval*, as authorized by this section, shall be a precondition to  
27 the filing of any rule or regulation with the Office of Administrative  
28 Law. The Office of Administrative Law shall have no jurisdiction  
29 to review a rule or regulation subject to this section until after the  
30 ~~completion of the director's review and only then if the director~~  
31 ~~has not disapproved it.~~ *approval*. The filing of any document with  
32 the Office of Administrative Law shall be accompanied by a  
33 certification that the board, commission, or committee has complied  
34 with the requirements of this section.

35 (d) Following the receipt of any final rulemaking record subject  
36 to subdivision (a), the director shall have the authority for a period  
37 of 30 days to *approve a proposed rule or regulation or disapprove*  
38 *a proposed rule or regulation on the ground that it is injurious to*  
39 *the public health, safety, or ~~welfare.~~ welfare, or has an*  
40 *impermissible anticompetitive effect. The director may modify a*

1 rule or regulation as a condition of approval. Any modifications  
2 to regulations by the director shall be subject to a 30-day public  
3 comment period before the director issues a final decision  
4 regarding the modified regulation. If the director does not approve  
5 the rule or regulation within the 30-day period, the rule or  
6 regulation shall not be submitted to the Office of Administrative  
7 Law and the rule or regulation shall have no effect.

8 (e) Final rulemaking records shall be filed with the director  
9 within the one-year notice period specified in Section 11346.4 of  
10 the Government Code. If necessary for compliance with this  
11 section, the one-year notice period may be extended, as specified  
12 by this subdivision.

13 (1) In the event that the one-year notice period lapses during  
14 the director's 30-day review period, or within 60 days following  
15 the notice of the director's disapproval, it may be extended for a  
16 maximum of 90 days.

17 (2) If the director approves the final rulemaking record or  
18 declines to take action on it within 30 days, record, the board,  
19 commission, or committee shall have five days from the receipt  
20 of the record from the director within which to file it with the  
21 Office of Administrative Law.

22 (3) If the director disapproves a rule or regulation, it shall have  
23 no force or effect unless, within 60 days of the notice of  
24 disapproval, (A) the disapproval is overridden by a unanimous  
25 vote of the members of the board, commission, or committee, and  
26 (B) the board, commission, or committee files the final rulemaking  
27 record with the Office of Administrative Law in compliance with  
28 this section and the procedures required by Chapter 3.5  
29 (commencing with Section 11340) of Part 1 of Division 3 of Title  
30 2 of the Government Code. *This paragraph shall not apply to any*  
31 *decision disapproved by the director under subdivision (c) of*  
32 *Section 109.*

33 (f) ~~Nothing in this~~ This section shall *not* be construed to prohibit  
34 the director from affirmatively approving a proposed rule,  
35 regulation, or fee change at any time within the 30-day period after  
36 it has been submitted to him or her, in which event it shall become  
37 effective upon compliance with this section and the procedures  
38 required by Chapter 3.5 (commencing with Section 11340) of Part  
39 1 of Division 3 of Title 2 of the Government Code.

1     *SEC. 6. Section 2708 of the Business and Professions Code is*  
2 *amended to read:*

3     2708. (a) The board shall appoint an executive officer who  
4 shall perform the duties delegated by the board and who shall be  
5 responsible to it for the accomplishment of those duties.

6     (b) The executive officer shall *not* be a ~~nurse currently licensed~~  
7 *licensee* under this chapter and shall possess other qualifications  
8 as determined by the board.

9     (c) The executive officer shall not be a member of the board.

10     (d) This section shall remain in effect only until January 1, 2018,  
11 and as of that date is repealed, unless a later enacted statute, that  
12 is enacted before January 1, 2018, deletes or extends that date.

13     ~~SECTION 1.~~

14     *SEC. 7. Section 4800 of the Business and Professions Code is*  
15 *amended to read:*

16     4800. (a) There is in the Department of Consumer Affairs a  
17 Veterinary Medical Board in which the administration of this  
18 chapter is vested. The board consists of the following members:

19     (1) Four licensed veterinarians.

20     (2) One registered veterinary technician.

21     (3) Three public members.

22     (b) This section shall remain in effect only until January 1, 2021,  
23 and as of that date is repealed.

24     (c) Notwithstanding any other law, the repeal of this section  
25 renders the board subject to review by the appropriate policy  
26 committees of the Legislature. However, the review of the board  
27 shall be limited to those issues identified by the appropriate policy  
28 committees of the Legislature and shall not involve the preparation  
29 or submission of a sunset review document or evaluative  
30 questionnaire.

31     ~~SEC. 2.~~

32     *SEC. 8. Section 4804.5 of the Business and Professions Code*  
33 *is amended to read:*

34     4804.5. (a) The board may appoint a person exempt from civil  
35 service who shall be designated as an executive officer and who  
36 shall exercise the powers and perform the duties delegated by the  
37 board and vested in him or her by this chapter.

38     (b) This section shall remain in effect only until January 1, 2021,  
39 and as of that date is repealed.

1     *SEC. 9. Section 4825.1 of the Business and Professions Code*  
2     *is amended to read:*

3     4825.1. These definitions shall govern the construction of this  
4     chapter as it applies to veterinary medicine.

5     (a) “Diagnosis” means the act or process of identifying or  
6     determining the health status of an animal through examination  
7     and the opinion derived from that examination.

8     (b) “Animal” means any member of the animal kingdom other  
9     than humans, and includes fowl, fish, and reptiles, wild or  
10    domestic, whether living or dead.

11    (c) “Food animal” means any animal that is raised for the  
12    production of an edible product intended for consumption by  
13    humans. The edible product includes, but is not limited to, milk,  
14    meat, and eggs. Food animal includes, but is not limited to, cattle  
15    (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

16    (d) “Livestock” includes all animals, poultry, aquatic and  
17    amphibian species that are raised, kept, or used for profit. It does  
18    not include those species that are usually kept as pets such as dogs,  
19    cats, and pet birds, or companion animals, including equines.

20    (e) “*Compounding*,” for the purposes of veterinary medicine,  
21    shall have the same meaning given in Section 1735 of Title 16 of  
22    the California Code of Regulations, except that every reference  
23    therein to “pharmacy” and “pharmacist” shall be replaced with  
24    “veterinary premises” and “veterinarian,” and except that only  
25    a licensed veterinarian or a licensed registered veterinarian  
26    technician under direct supervision of a veterinarian may perform  
27    compounding and shall not delegate to or supervise any part of  
28    the performance of compounding by any other person.

29    *SEC. 10. Section 4826.3 is added to the Business and*  
30    *Professions Code, to read:*

31    4826.3. (a) *Notwithstanding Section 4051, a veterinarian or*  
32    *registered veterinarian technician under the direct supervision of*  
33    *a veterinarian with a current and active license may compound a*  
34    *drug for anesthesia, the prevention, cure, or relief of a wound,*  
35    *fracture, bodily injury, or disease of an animal in a premises*  
36    *currently and actively registered with the board and only under*  
37    *the following conditions:*

38    (1) *Where there is no FDA-approved animal or human drug*  
39    *that can be used as labeled or in an appropriate extralabel manner*

1 *to properly treat the disease, symptom, or condition for which the*  
2 *drug is being prescribed.*

3 *(2) Where the compounded drug is not available from a*  
4 *compounding pharmacy, outsourcing facility, or other*  
5 *compounding supplier in a dosage form and concentration to*  
6 *appropriately treat the disease, symptom, or condition for which*  
7 *the drug is being prescribed.*

8 *(3) Where the need and prescription for the compounded*  
9 *medication has arisen within an established*  
10 *veterinarian-client-patient relationship as a means to treat a*  
11 *specific occurrence of a disease, symptom, or condition observed*  
12 *and diagnosed by the veterinarian in a specific animal that*  
13 *threatens the health of the animal or will cause suffering or death*  
14 *if left untreated.*

15 *(4) Where the quantity compounded does not exceed a quantity*  
16 *demonstrably needed to treat a patient with which the veterinarian*  
17 *has a current veterinarian-client-patient relationship.*

18 *(5) Except as specified in subdivision (c), where the compound*  
19 *is prepared only with commercially available FDA-approved*  
20 *animal or human drugs as active ingredients.*

21 *(b) A compounded veterinary drug may be prepared from an*  
22 *FDA-approved animal or human drug for extralabel use only when*  
23 *there is no approved animal or human drug that, when used as*  
24 *labeled or in an appropriate extralabel manner will, in the*  
25 *available dosage form and concentration, treat the disease,*  
26 *symptom, or condition. Compounding from an approved human*  
27 *drug for use in food-producing animals is not permitted if an*  
28 *approved animal drug can be used for compounding.*

29 *(c) A compounded veterinary drug may be prepared from bulk*  
30 *drug substances only when:*

31 *(1) The drug is compounded and dispensed by the veterinarian*  
32 *to treat an individually identified animal patient under his or her*  
33 *care.*

34 *(2) The drug is not intended for use in food-producing animals.*

35 *(3) If the drug contains a bulk drug substance that is a*  
36 *component of any marketed FDA-approved animal or human drug,*  
37 *there is a change between the compounded drug and the*  
38 *comparable marketed drug made for an individually identified*  
39 *animal patient that produces a clinical difference for that*  
40 *individually identified animal patient, as determined by the*

1 veterinarian prescribing the compounded drug for his or her  
2 patient.

3 (4) There are no FDA-approved animal or human drugs that  
4 can be used as labeled or in an appropriate extralabel manner to  
5 properly treat the disease, symptom, or condition for which the  
6 drug is being prescribed.

7 (5) All bulk drug substances used in compounding are  
8 manufactured by an establishment registered under Section 360  
9 of Title 21 of the United States Code and are accompanied by a  
10 valid certificate of analysis.

11 (6) The drug is not sold or transferred by the veterinarian  
12 compounding the drug, except that the veterinarian shall be  
13 permitted to administer the drug to a patient under his or her care  
14 or dispense it to the owner or caretaker of an animal under his or  
15 her care.

16 (7) Within 15 days of becoming aware of any product defect or  
17 serious adverse event associated with any drug compounded by  
18 the veterinarian from bulk drug substances, the veterinarian shall  
19 report it to the federal Food and Drug Administration on Form  
20 FDA 1932a.

21 (8) In addition to any other requirements, the label of any  
22 veterinary drug compounded from bulk drug substances shall  
23 indicate the species of the intended animal patient, the name of  
24 the animal patient, and the name of the owner or caretaker of the  
25 patient.

26 (d) Each compounded veterinary drug preparation shall meet  
27 the labeling requirements of Section 4076 and Sections 1707.5  
28 and 1735.4 of Title 16 of the California Code of Regulations, except  
29 that every reference therein to “pharmacy” and “pharmacist”  
30 shall be replaced by “veterinary premises” and “veterinarian,”  
31 and any reference to “patient” shall be understood to refer to the  
32 animal patient. In addition, each label on a compounded veterinary  
33 drug preparation shall include withdrawal and holding times, if  
34 needed, and the disease, symptom, or condition for which the drug  
35 is being prescribed. Any compounded veterinary drug preparation  
36 that is intended to be sterile, including for injection, administration  
37 into the eye, or inhalation, shall in addition meet the labeling  
38 requirements of Section 1751.2 of Title 16 of the California Code  
39 of Regulations, except that every reference therein to “pharmacy”  
40 and “pharmacist” shall be replaced by “veterinary premises” and

1 “veterinarian,” and any reference to “patient” shall be understood  
2 to refer to the animal patient.

3 (e) Any veterinarian, registered veterinarian technician who is  
4 under the direct supervision of a veterinarian, and veterinary  
5 premises engaged in compounding shall meet the compounding  
6 requirements for pharmacies and pharmacists stated by the  
7 provisions of Article 4.5 (commencing with Section 1735) of Title  
8 16 of the California Code of Regulations, except that every  
9 reference therein to “pharmacy” and “pharmacist” shall be  
10 replaced by “veterinary premises” and “veterinarian,” and any  
11 reference to “patient” shall be understood to refer to the animal  
12 patient:

13 (1) Section 1735.1 of Title 16 of the California Code of  
14 Regulations.

15 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of Section  
16 1735.2 of Title 16 of the California Code of Regulations.

17 (3) Section 1735.3 of Title 16 of the California Code of  
18 Regulations, except that only a licensed veterinarian or registered  
19 veterinarian technician may perform compounding and shall not  
20 delegate to or supervise any part of the performance of  
21 compounding by any other person.

22 (4) Section 1735.4 of Title 16 of the California Code of  
23 Regulations.

24 (5) Section 1735.5 of Title 16 of the California Code of  
25 Regulations.

26 (6) Section 1735.6 of Title 16 of the California Code of  
27 Regulations.

28 (7) Section 1735.7 of Title 16 of the California Code of  
29 Regulations.

30 (8) Section 1735.8 of Title 16 of the California Code of  
31 Regulations.

32 (f) Any veterinarian, registered veterinarian technician under  
33 the direct supervision of a veterinarian, and veterinary premises  
34 engaged in sterile compounding shall meet the sterile compounding  
35 requirements for pharmacies and pharmacists under Article 7  
36 (commencing with Section 1751) of Title 16 of the California Code  
37 of Regulations, except that every reference therein to “pharmacy”  
38 and “pharmacist” shall be replaced by “veterinary premises” and  
39 “veterinarian,” and any reference to “patient” shall be understood  
40 to refer to the animal patient.

1 (g) *The California State Board of Pharmacy shall have authority*  
2 *with the board to ensure compliance with this section and shall*  
3 *have the right to inspect any veterinary premises engaged in*  
4 *compounding, along with or separate from the board, to ensure*  
5 *compliance with this section. The board is specifically charged*  
6 *with enforcing this section with regard to its licensees.*

7 *SEC. 11. Section 4826.5 is added to the Business and*  
8 *Professions Code, to read:*

9 *4826.5. Failure by a licensed veterinarian, registered*  
10 *veterinarian technician, or veterinary premises to comply with the*  
11 *provisions of this article shall be deemed unprofessional conduct*  
12 *and constitute grounds for discipline.*

13 *SEC. 12. Section 4826.7 is added to the Business and*  
14 *Professions Code, to read:*

15 *4826.7. The board may adopt regulations to implement the*  
16 *provisions of this article.*

17 *SEC. 13. Section 4830 of the Business and Professions Code*  
18 *is amended to read:*

19 4830. (a) This chapter does not apply to:

20 (1) Veterinarians while serving in any armed branch of the  
21 military service of the United States or the United States  
22 Department of Agriculture while actually engaged and employed  
23 in their official capacity.

24 (2) Regularly licensed veterinarians in actual consultation from  
25 other states.

26 (3) Regularly licensed veterinarians actually called from other  
27 states to attend cases in this state, but who do not open an office  
28 or appoint a place to do business within this state.

29 ~~(4) Veterinarians employed by the University of California~~  
30 ~~while engaged in the performance of duties in connection with the~~  
31 ~~College of Agriculture, the Agricultural Experiment Station, the~~  
32 ~~School of Veterinary Medicine, or the agricultural extension work~~  
33 ~~of the university or employed by the Western University of Health~~  
34 ~~Sciences while engaged in the performance of duties in connection~~  
35 ~~with the College of Veterinary Medicine or the agricultural~~  
36 ~~extension work of the university.~~

37 ~~(5)~~

38 (4) Students in the School of Veterinary Medicine of the  
39 University of California or the College of Veterinary Medicine of  
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,  
2 including those in off-campus educational programs under the  
3 direct supervision of a licensed veterinarian in good standing, as  
4 defined in paragraph (1) of subdivision (b) of Section 4848,  
5 appointed by the University of California, Davis, or the Western  
6 University of Health Sciences.

7 ~~(6)~~

8 (5) A veterinarian who is employed by the Meat and Poultry  
9 Inspection Branch of the California Department of Food and  
10 Agriculture while actually engaged and employed in his or her  
11 official capacity. A person exempt under this paragraph shall not  
12 otherwise engage in the practice of veterinary medicine unless he  
13 or she is issued a license by the board.

14 ~~(7)~~

15 (6) Unlicensed personnel employed by the Department of Food  
16 and Agriculture or the United States Department of Agriculture  
17 when in the course of their duties they are directed by a veterinarian  
18 supervisor to conduct an examination, obtain biological specimens,  
19 apply biological tests, or administer medications or biological  
20 products as part of government disease or condition monitoring,  
21 investigation, control, or eradication activities.

22 (b) (1) For purposes of paragraph (3) of subdivision (a), a  
23 regularly licensed veterinarian in good standing who is called from  
24 another state by a law enforcement agency or animal control  
25 agency, as defined in Section 31606 of the Food and Agricultural  
26 Code, to attend to cases that are a part of an investigation of an  
27 alleged violation of federal or state animal fighting or animal  
28 cruelty laws within a single geographic location shall be exempt  
29 from the licensing requirements of this chapter if the law  
30 enforcement agency or animal control agency determines that it  
31 is necessary to call the veterinarian in order for the agency or  
32 officer to conduct the investigation in a timely, efficient, and  
33 effective manner. In determining whether it is necessary to call a  
34 veterinarian from another state, consideration shall be given to the  
35 availability of veterinarians in this state to attend to these cases.  
36 An agency, department, or officer that calls a veterinarian pursuant  
37 to this subdivision shall notify the board of the investigation.

38 (2) Notwithstanding any other provision of this chapter, a  
39 regularly licensed veterinarian in good standing who is called from  
40 another state to attend to cases that are a part of an investigation

1 described in paragraph (1) may provide veterinary medical care  
2 for animals that are affected by the investigation with a temporary  
3 shelter facility, and the temporary shelter facility shall be exempt  
4 from the registration requirement of Section 4853 if all of the  
5 following conditions are met:

6 (A) The temporary shelter facility is established only for the  
7 purpose of the investigation.

8 (B) The temporary shelter facility provides veterinary medical  
9 care, shelter, food, and water only to animals that are affected by  
10 the investigation.

11 (C) The temporary shelter facility complies with Section 4854.

12 (D) The temporary shelter facility exists for not more than 60  
13 days, unless the law enforcement agency or animal control agency  
14 determines that a longer period of time is necessary to complete  
15 the investigation.

16 (E) Within 30 calendar days upon completion of the provision  
17 of veterinary health care services at a temporary shelter facility  
18 established pursuant to this section, the veterinarian called from  
19 another state by a law enforcement agency or animal control agency  
20 to attend to a case shall file a report with the board. The report  
21 shall contain the date, place, type, and general description of the  
22 care provided, along with a listing of the veterinary health care  
23 practitioners who participated in providing that care.

24 (c) For purposes of paragraph (3) of subdivision (a), the board  
25 may inspect temporary facilities established pursuant to this  
26 section.

27 *SEC. 14. Section 4846.5 of the Business and Professions Code*  
28 *is amended to read:*

29 4846.5. (a) Except as provided in this section, the board shall  
30 issue renewal licenses only to those applicants that have completed  
31 a minimum of 36 hours of continuing education in the preceding  
32 two years.

33 (b) (1) Notwithstanding any other law, continuing education  
34 hours shall be earned by attending courses relevant to veterinary  
35 medicine and sponsored or cosponsored by any of the following:

36 (A) American Veterinary Medical Association (AVMA)  
37 accredited veterinary medical colleges.

38 (B) Accredited colleges or universities offering programs  
39 relevant to veterinary medicine.

40 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized  
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association's affiliated state  
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction  
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American  
8 Veterinary Medical Association or its state affiliated veterinary  
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the  
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for  
14 Continuing Medical Education (ACCME) or approved by the  
15 American Medical Association (AMA), providers recognized by  
16 the American Dental Association Continuing Education  
17 Recognition Program (ADA CERP), and AMA or ADA affiliated  
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those  
20 veterinarians taking self-study courses, which may include, but  
21 are not limited to, reading journals, viewing video recordings, or  
22 listening to audio recordings. The taking of these courses shall be  
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical  
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing  
27 education approval bodies for the purpose of approving continuing  
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval  
30 shall have the option of applying to the board or to a  
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,  
33 on a prospective basis, that a provider of continuing veterinary  
34 medical education authorized pursuant to paragraph (1) or (3) is  
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses  
37 sponsored or cosponsored by those entities listed in paragraph (1)  
38 between January 1, 2000, and January 1, 2001, shall be credited  
39 toward a veterinarian's continuing education requirement under  
40 this section.

1 (c) Every person renewing his or her license issued pursuant to  
2 Section 4846.4, or any person applying for relicensure or for  
3 reinstatement of his or her license to active status, shall submit  
4 proof of compliance with this section to the board certifying that  
5 he or she is in compliance with this section. Any false statement  
6 submitted pursuant to this section shall be a violation subject to  
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license  
9 renewal. This section shall apply only to second and subsequent  
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all  
12 applicants to verify the completion of the continuing education  
13 requirement. Applicants shall maintain records of completion of  
14 required continuing education coursework for a period of four  
15 years and shall make these records available to the board for  
16 auditing purposes upon request. If the board, during this audit,  
17 questions whether any course reported by the veterinarian satisfies  
18 the continuing education requirement, the veterinarian shall provide  
19 information to the board concerning the content of the course; the  
20 name of its sponsor and cosponsor, if any; and specify the specific  
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an  
23 inactive license under Section 701 shall submit an application on  
24 a form provided by the board. In order to restore an inactive license  
25 to active status, the veterinarian shall have completed a minimum  
26 of 36 hours of continuing education within the last two years  
27 preceding application. The inactive license status of a veterinarian  
28 shall not deprive the board of its authority to institute or continue  
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article  
31 by a veterinarian constitutes unprofessional conduct and grounds  
32 for disciplinary action or for the issuance of a citation and the  
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing  
35 education requirement any veterinarian who for reasons of health,  
36 military service, or undue hardship cannot meet those requirements.  
37 Applications for waivers shall be submitted on a form provided  
38 by the board.

39 (i) The administration of this section may be funded through  
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed  
2 the costs of administering the corresponding provisions of this  
3 section.

4 (j) For those continuing education providers not listed in  
5 paragraph (1) of subdivision (b), the board or its recognized  
6 national approval agent shall establish criteria by which a provider  
7 of continuing education shall be approved. The board shall initially  
8 review and approve these criteria and may review the criteria as  
9 needed. The board or its recognized agent shall monitor, maintain,  
10 and manage related records and data. The board may impose an  
11 application fee, not to exceed two hundred dollars (\$200)  
12 biennially, for continuing education providers not listed in  
13 paragraph (1) of subdivision (b).

14 (k) (1) ~~On or after~~ Beginning January 1, 2018, a licensed  
15 veterinarian who renews his or her license shall complete a  
16 minimum of one credit hour of continuing education on the  
17 judicious use of medically important antimicrobial drugs every  
18 four years as part of his or her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important  
20 antimicrobial drug” means an antimicrobial drug listed in Appendix  
21 A of the federal Food and Drug Administration’s Guidance for  
22 Industry #152, including critically important, highly important,  
23 and important antimicrobial drugs, as that appendix may be  
24 amended.

25 *SEC. 15. Section 4848.1 is added to the Business and*  
26 *Professions Code, to read:*

27 *4848.1. (a) A veterinarian engaged in the practice of veterinary*  
28 *medicine, as defined in Section 4826, employed by the University*  
29 *of California while engaged in the performance of duties in*  
30 *connection with the School of Veterinary Medicine or employed*  
31 *by the Western University of Health Sciences while engaged in the*  
32 *performance of duties in connection with the College of Veterinary*  
33 *Medicine shall be licensed in California or shall hold a university*  
34 *license issued by the board.*

35 *(b) An applicant is eligible to hold a university license if all of*  
36 *the following are satisfied:*

37 *(1) The applicant is currently employed by the University of*  
38 *California or Western University of Health Sciences as defined in*  
39 *subdivision (a).*

1 (2) *Passes an examination concerning the statutes and*  
2 *regulations of the Veterinary Medicine Practice Act, administered*  
3 *by the board, pursuant to subparagraph (C) of paragraph (2) of*  
4 *subdivision (a) of Section 4848.*

5 (3) *Successfully completes the approved educational curriculum*  
6 *described in paragraph (5) of subdivision (b) of Section 4848 on*  
7 *regionally specific and important diseases and conditions.*

8 (c) *A university license:*

9 (1) *Shall be numbered as described in Section 4847.*

10 (2) *Shall cease to be valid upon termination of employment by*  
11 *the University of California or by the Western University of Health*  
12 *Sciences.*

13 (3) *Shall be subject to the license renewal provisions in Section*  
14 *4846.4.*

15 (4) *Shall be subject to denial, revocation, or suspension pursuant*  
16 *to Sections 4875 and 4883.*

17 (d) *An individual who holds a University License is exempt from*  
18 *satisfying the license renewal requirements of Section 4846.5.*

19 SEC. 16. *Section 4853.7 is added to the Business and*  
20 *Professions Code, to read:*

21 4853.7. *A premise registration that is not renewed within five*  
22 *years after its expiration may not be renewed and shall not be*  
23 *restored, reissued, or reinstated thereafter. However, an*  
24 *application for a new premise registration may be submitted and*  
25 *obtained if both of the following conditions are met:*

26 (a) *No fact, circumstance, or condition exists that, if the premise*  
27 *registration was issued, would justify its revocation or suspension.*

28 (b) *All of the fees that would be required for the initial premise*  
29 *registration are paid at the time of application.*

30 SEC. 17. *Section 825 of the Government Code is amended to*  
31 *read:*

32 825. (a) *Except as otherwise provided in this section, if an*  
33 *employee or former employee of a public entity requests the public*  
34 *entity to defend him or her against any claim or action against him*  
35 *or her for an injury arising out of an act or omission occurring*  
36 *within the scope of his or her employment as an employee of the*  
37 *public entity and the request is made in writing not less than 10*  
38 *days before the day of trial, and the employee or former employee*  
39 *reasonably cooperates in good faith in the defense of the claim or*  
40 *action, the public entity shall pay any judgment based thereon or*

1 any compromise or settlement of the claim or action to which the  
2 public entity has agreed.

3 If the public entity conducts the defense of an employee or  
4 former employee against any claim or action with his or her  
5 reasonable good-faith cooperation, the public entity shall pay any  
6 judgment based thereon or any compromise or settlement of the  
7 claim or action to which the public entity has agreed. However,  
8 where the public entity conducted the defense pursuant to an  
9 agreement with the employee or former employee reserving the  
10 rights of the public entity not to pay the judgment, compromise,  
11 or settlement until it is established that the injury arose out of an  
12 act or omission occurring within the scope of his or her  
13 employment as an employee of the public entity, the public entity  
14 is required to pay the judgment, compromise, or settlement only  
15 if it is established that the injury arose out of an act or omission  
16 occurring in the scope of his or her employment as an employee  
17 of the public entity.

18 Nothing in this section authorizes a public entity to pay that part  
19 of a claim or judgment that is for punitive or exemplary damages.

20 (b) Notwithstanding subdivision (a) or any other provision of  
21 law, a public entity is authorized to pay that part of a judgment  
22 that is for punitive or exemplary damages if the governing body  
23 of that public entity, acting in its sole discretion except in cases  
24 involving an entity of the state government, finds all of the  
25 following:

26 (1) The judgment is based on an act or omission of an employee  
27 or former employee acting within the course and scope of his or  
28 her employment as an employee of the public entity.

29 (2) At the time of the act giving rise to the liability, the employee  
30 or former employee acted, or failed to act, in good faith, without  
31 actual malice and in the apparent best interests of the public entity.

32 (3) Payment of the claim or judgment would be in the best  
33 interests of the public entity.

34 As used in this subdivision with respect to an entity of state  
35 government, “a decision of the governing body” means the  
36 approval of the Legislature for payment of that part of a judgment  
37 that is for punitive damages or exemplary damages, upon  
38 recommendation of the appointing power of the employee or  
39 former employee, based upon the finding by the Legislature and  
40 the appointing authority of the existence of the three conditions

1 for payment of a punitive or exemplary damages claim. The  
2 provisions of subdivision (a) of Section 965.6 shall apply to the  
3 payment of any claim pursuant to this subdivision.

4 The discovery of the assets of a public entity and the introduction  
5 of evidence of the assets of a public entity shall not be permitted  
6 in an action in which it is alleged that a public employee is liable  
7 for punitive or exemplary damages.

8 The possibility that a public entity may pay that part of a  
9 judgment that is for punitive damages shall not be disclosed in any  
10 trial in which it is alleged that a public employee is liable for  
11 punitive or exemplary damages, and that disclosure shall be  
12 grounds for a mistrial.

13 (c) Except as provided in subdivision (d), if the provisions of  
14 this section are in conflict with the provisions of a memorandum  
15 of understanding reached pursuant to Chapter 10 (commencing  
16 with Section 3500) of Division 4 of Title 1, the memorandum of  
17 understanding shall be controlling without further legislative action,  
18 except that if those provisions of a memorandum of understanding  
19 require the expenditure of funds, the provisions shall not become  
20 effective unless approved by the Legislature in the annual Budget  
21 Act.

22 (d) The subject of payment of punitive damages pursuant to this  
23 section or any other provision of law shall not be a subject of meet  
24 and confer under the provisions of Chapter 10 (commencing with  
25 Section 3500) of Division 4 of Title 1, or pursuant to any other  
26 law or authority.

27 (e) Nothing in this section shall affect the provisions of Section  
28 818 prohibiting the award of punitive damages against a public  
29 entity. This section shall not be construed as a waiver of a public  
30 entity's immunity from liability for punitive damages under Section  
31 1981, 1983, or 1985 of Title 42 of the United States Code.

32 (f) (1) Except as provided in paragraph (2), a public entity shall  
33 not pay a judgment, compromise, or settlement arising from a  
34 claim or action against an elected official, if the claim or action is  
35 based on conduct by the elected official by way of tortiously  
36 intervening or attempting to intervene in, or by way of tortiously  
37 influencing or attempting to influence the outcome of, any judicial  
38 action or proceeding for the benefit of a particular party by  
39 contacting the trial judge or any commissioner, court-appointed  
40 arbitrator, court-appointed mediator, or court-appointed special

1 referee assigned to the matter, or the court clerk, bailiff, or marshal  
2 after an action has been filed, unless he or she was counsel of  
3 record acting lawfully within the scope of his or her employment  
4 on behalf of that party. Notwithstanding Section 825.6, if a public  
5 entity conducted the defense of an elected official against such a  
6 claim or action and the elected official is found liable by the trier  
7 of fact, the court shall order the elected official to pay to the public  
8 entity the cost of that defense.

9 (2) If an elected official is held liable for monetary damages in  
10 the action, the plaintiff shall first seek recovery of the judgment  
11 against the assets of the elected official. If the elected official's  
12 assets are insufficient to satisfy the total judgment, as determined  
13 by the court, the public entity may pay the deficiency if the public  
14 entity is authorized by law to pay that judgment.

15 (3) To the extent the public entity pays any portion of the  
16 judgment or is entitled to reimbursement of defense costs pursuant  
17 to paragraph (1), the public entity shall pursue all available  
18 creditor's remedies against the elected official, including  
19 garnishment, until that party has fully reimbursed the public entity.

20 (4) This subdivision shall not apply to any criminal or civil  
21 enforcement action brought in the name of the people of the State  
22 of California by an elected district attorney, city attorney, or  
23 attorney general.

24 (g) *Notwithstanding subdivision (a), a public entity shall pay*  
25 *for a judgment or settlement for treble damage antitrust awards*  
26 *against a member of a regulatory board for an act or omission*  
27 *occurring within the scope of his or her employment as a member*  
28 *of a regulatory board.*

29 *SEC. 18. Section 11346.5 of the Government Code is amended*  
30 *to read:*

31 11346.5. (a) The notice of proposed adoption, amendment, or  
32 repeal of a regulation shall include the following:

33 (1) A statement of the time, place, and nature of proceedings  
34 for adoption, amendment, or repeal of the regulation.

35 (2) Reference to the authority under which the regulation is  
36 proposed and a reference to the particular code sections or other  
37 provisions of law that are being implemented, interpreted, or made  
38 specific.

1 (3) An informative digest drafted in plain English in a format  
2 similar to the Legislative Counsel’s digest on legislative bills. The  
3 informative digest shall include the following:

4 (A) A concise and clear summary of existing laws and  
5 regulations, if any, related directly to the proposed action and of  
6 the effect of the proposed action.

7 (B) If the proposed action differs substantially from an existing  
8 comparable federal regulation or statute, a brief description of the  
9 significant differences and the full citation of the federal regulations  
10 or statutes.

11 (C) A policy statement overview explaining the broad objectives  
12 of the regulation and the specific benefits anticipated by the  
13 proposed adoption, amendment, or repeal of a regulation, including,  
14 to the extent applicable, nonmonetary benefits such as the  
15 protection of public health and safety, worker safety, or the  
16 environment, the prevention of discrimination, the promotion of  
17 fairness or social equity, and the increase in openness and  
18 transparency in business and government, among other things.

19 (D) An evaluation of whether the proposed regulation is  
20 inconsistent or incompatible with existing state regulations.

21 (4) Any other matters as are prescribed by statute applicable to  
22 the specific state agency or to any specific regulation or class of  
23 regulations.

24 (5) A determination as to whether the regulation imposes a  
25 mandate on local agencies or school districts and, if so, whether  
26 the mandate requires state reimbursement pursuant to Part 7  
27 (commencing with Section 17500) of Division 4.

28 (6) An estimate, prepared in accordance with instructions  
29 adopted by the Department of Finance, of the cost or savings to  
30 any state agency, the cost to any local agency or school district  
31 that is required to be reimbursed under Part 7 (commencing with  
32 Section 17500) of Division 4, other nondiscretionary cost or  
33 savings imposed on local agencies, and the cost or savings in  
34 federal funding to the state.

35 For purposes of this paragraph, “cost or savings” means  
36 additional costs or savings, both direct and indirect, that a public  
37 agency necessarily incurs in reasonable compliance with  
38 regulations.

39 (7) If a state agency, in proposing to adopt, amend, or repeal  
40 any administrative regulation, makes an initial determination that

1 the action may have a significant, statewide adverse economic  
2 impact directly affecting business, including the ability of  
3 California businesses to compete with businesses in other states,  
4 it shall include the following information in the notice of proposed  
5 action:

6 (A) Identification of the types of businesses that would be  
7 affected.

8 (B) A description of the projected reporting, recordkeeping, and  
9 other compliance requirements that would result from the proposed  
10 action.

11 (C) The following statement: “The (name of agency) has made  
12 an initial determination that the (adoption/amendment/repeal) of  
13 this regulation may have a significant, statewide adverse economic  
14 impact directly affecting business, including the ability of  
15 California businesses to compete with businesses in other states.  
16 The (name of agency) (has/has not) considered proposed  
17 alternatives that would lessen any adverse economic impact on  
18 business and invites you to submit proposals. Submissions may  
19 include the following considerations:

20 (i) The establishment of differing compliance or reporting  
21 requirements or timetables that take into account the resources  
22 available to businesses.

23 (ii) Consolidation or simplification of compliance and reporting  
24 requirements for businesses.

25 (iii) The use of performance standards rather than prescriptive  
26 standards.

27 (iv) Exemption or partial exemption from the regulatory  
28 requirements for businesses.”

29 (8) If a state agency, in adopting, amending, or repealing any  
30 administrative regulation, makes an initial determination that the  
31 action will not have a significant, statewide adverse economic  
32 impact directly affecting business, including the ability of  
33 California businesses to compete with businesses in other states,  
34 it shall make a declaration to that effect in the notice of proposed  
35 action. In making this declaration, the agency shall provide in the  
36 record facts, evidence, documents, testimony, or other evidence  
37 upon which the agency relies to support its initial determination.

38 An agency’s initial determination and declaration that a proposed  
39 adoption, amendment, or repeal of a regulation may have or will  
40 not have a significant, adverse impact on businesses, including the

1 ability of California businesses to compete with businesses in other  
2 states, shall not be grounds for the office to refuse to publish the  
3 notice of proposed action.

4 (9) A description of all cost impacts, known to the agency at  
5 the time the notice of proposed action is submitted to the office,  
6 that a representative private person or business would necessarily  
7 incur in reasonable compliance with the proposed action.

8 If no cost impacts are known to the agency, it shall state the  
9 following:

10 “The agency is not aware of any cost impacts that a  
11 representative private person or business would necessarily incur  
12 in reasonable compliance with the proposed action.”

13 (10) A statement of the results of the economic impact  
14 assessment required by subdivision (b) of Section 11346.3 or the  
15 standardized regulatory impact analysis if required by subdivision  
16 (c) of Section 11346.3, a summary of any comments submitted to  
17 the agency pursuant to subdivision (f) of Section 11346.3 and the  
18 agency’s response to those comments.

19 (11) The finding prescribed by subdivision (d) of Section  
20 11346.3, if required.

21 (12) (A) A statement that the action would have a significant  
22 effect on housing costs, if a state agency, in adopting, amending,  
23 or repealing any administrative regulation, makes an initial  
24 determination that the action would have that effect.

25 (B) The agency officer designated in paragraph ~~(14)~~ (15) shall  
26 make available to the public, upon request, the agency’s evaluation,  
27 if any, of the effect of the proposed regulatory action on housing  
28 costs.

29 (C) The statement described in subparagraph (A) shall also  
30 include the estimated costs of compliance and potential benefits  
31 of a building standard, if any, that were included in the initial  
32 statement of reasons.

33 (D) For purposes of model codes adopted pursuant to Section  
34 18928 of the Health and Safety Code, the agency shall comply  
35 with the requirements of this paragraph only if an interested party  
36 has made a request to the agency to examine a specific section for  
37 purposes of estimating the costs of compliance and potential  
38 benefits for that section, as described in Section 11346.2.

39 (13) *If the regulatory action is submitted by a state board on*  
40 *which a controlling number of decisionmakers are active market*

1 *participants in the market the board regulates, a statement that*  
2 *the adopting agency has evaluated the impact of the proposed*  
3 *regulation on competition, and that the proposed regulation*  
4 *further a clearly articulated and affirmatively expressed state law*  
5 *to restrain competition.*

6 ~~(13)~~

7 (14) A statement that the adopting agency must determine that  
8 no reasonable alternative considered by the agency or that has  
9 otherwise been identified and brought to the attention of the agency  
10 would be more effective in carrying out the purpose for which the  
11 action is proposed, would be as effective and less burdensome to  
12 affected private persons than the proposed action, or would be  
13 more cost effective to affected private persons and equally effective  
14 in implementing the statutory policy or other provision of law. For  
15 a major regulation, as defined by Section 11342.548, proposed on  
16 or after November 1, 2013, the statement shall be based, in part,  
17 upon the standardized regulatory impact analysis of the proposed  
18 regulation, as required by Section 11346.3, as well as upon the  
19 benefits of the proposed regulation identified pursuant to  
20 subparagraph (C) of paragraph (3).

21 ~~(14)~~

22 (15) The name and telephone number of the agency  
23 representative and designated backup contact person to whom  
24 inquiries concerning the proposed administrative action may be  
25 directed.

26 ~~(15)~~

27 (16) The date by which comments submitted in writing must  
28 be received to present statements, arguments, or contentions in  
29 writing relating to the proposed action in order for them to be  
30 considered by the state agency before it adopts, amends, or repeals  
31 a regulation.

32 ~~(16)~~

33 (17) Reference to the fact that the agency proposing the action  
34 has prepared a statement of the reasons for the proposed action,  
35 has available all the information upon which its proposal is based,  
36 and has available the express terms of the proposed action, pursuant  
37 to subdivision (b).

38 ~~(17)~~

39 (18) A statement that if a public hearing is not scheduled, any  
40 interested person or his or her duly authorized representative may

1 request, no later than 15 days prior to the close of the written  
2 comment period, a public hearing pursuant to Section 11346.8.

3 ~~(18)~~

4 (19) A statement indicating that the full text of a regulation  
5 changed pursuant to Section 11346.8 will be available for at least  
6 15 days prior to the date on which the agency adopts, amends, or  
7 repeals the resulting regulation.

8 ~~(19)~~

9 (20) A statement explaining how to obtain a copy of the final  
10 statement of reasons once it has been prepared pursuant to  
11 subdivision (a) of Section 11346.9.

12 ~~(20)~~

13 (21) If the agency maintains an Internet Web site or other similar  
14 forum for the electronic publication or distribution of written  
15 material, a statement explaining how materials published or  
16 distributed through that forum can be accessed.

17 ~~(21)~~

18 (22) If the proposed regulation is subject to Section 11346.6, a  
19 statement that the agency shall provide, upon request, a description  
20 of the proposed changes included in the proposed action, in the  
21 manner provided by Section 11346.6, to accommodate a person  
22 with a visual or other disability for which effective communication  
23 is required under state or federal law and that providing the  
24 description of proposed changes may require extending the period  
25 of public comment for the proposed action.

26 (b) The agency representative designated in paragraph~~(14)~~ (15)  
27 of subdivision (a) shall make available to the public upon request  
28 the express terms of the proposed action. The representative shall  
29 also make available to the public upon request the location of  
30 public records, including reports, documentation, and other  
31 materials, related to the proposed action. If the representative  
32 receives an inquiry regarding the proposed action that the  
33 representative cannot answer, the representative shall refer the  
34 inquiry to another person in the agency for a prompt response.

35 (c) This section shall not be construed in any manner that results  
36 in the invalidation of a regulation because of the alleged inadequacy  
37 of the notice content or the summary or cost estimates, or the  
38 alleged inadequacy or inaccuracy of the housing cost estimates, if  
39 there has been substantial compliance with those requirements.

1     *SEC. 19. Section 11349 of the Government Code is amended*  
2 *to read:*

3     11349. The following definitions govern the interpretation of  
4 this chapter:

5     (a) “Necessity” means the record of the rulemaking proceeding  
6 demonstrates by substantial evidence the need for a regulation to  
7 effectuate the purpose of the statute, court decision, or other  
8 provision of law that the regulation implements, interprets, or  
9 makes specific, taking into account the totality of the record. For  
10 purposes of this standard, evidence includes, but is not limited to,  
11 facts, studies, and expert opinion.

12     (b) “Authority” means the provision of law which permits or  
13 obligates the agency to adopt, amend, or repeal a regulation.

14     (c) “Clarity” means written or displayed so that the meaning of  
15 regulations will be easily understood by those persons directly  
16 affected by them.

17     (d) “Consistency” means being in harmony with, and not in  
18 conflict with or contradictory to, existing statutes, court decisions,  
19 or other provisions of law.

20     (e) “Reference” means the statute, court decision, or other  
21 provision of law which the agency implements, interprets, or makes  
22 specific by adopting, amending, or repealing a regulation.

23     (f) “Nonduplication” means that a regulation does not serve the  
24 same purpose as a state or federal statute or another regulation.  
25 This standard requires that an agency proposing to amend or adopt  
26 a regulation must identify any state or federal statute or regulation  
27 which is overlapped or duplicated by the proposed regulation and  
28 justify any overlap or duplication. This standard is not intended  
29 to prohibit state agencies from printing relevant portions of  
30 enabling legislation in regulations when the duplication is necessary  
31 to satisfy the clarity standard in paragraph (3) of subdivision (a)  
32 of Section 11349.1. This standard is intended to prevent the  
33 indiscriminate incorporation of statutory language in a regulation.

34     (g) “Competitive impact” means that the record of the  
35 rulemaking proceeding or other documentation demonstrates that  
36 the regulation is authorized by a clearly articulated and  
37 affirmatively expressed state law, that the regulation furthers the  
38 public protection mission of the state agency, and that the impact  
39 on competition is justified in light of the applicable regulatory  
40 rationale for the regulation.

1     *SEC. 20. Section 11349.1 of the Government Code is amended*  
2 *to read:*

3     11349.1. (a) The office shall review all regulations adopted,  
4 amended, or repealed pursuant to the procedure specified in Article  
5 5 (commencing with Section 11346) and submitted to it for  
6 publication in the California Code of Regulations Supplement and  
7 for transmittal to the Secretary of State and make determinations  
8 using all of the following standards:

9     (1) Necessity.

10    (2) Authority.

11    (3) Clarity.

12    (4) Consistency.

13    (5) Reference.

14    (6) Nonduplication.

15    (7) *For those regulations submitted by a state board on which*  
16 *a controlling number of decisionmakers are active market*  
17 *participants in the market the board regulates, the office shall*  
18 *review for competitive impact.*

19     In reviewing regulations pursuant to this section, the office shall  
20 restrict its review to the regulation and the record of the rulemaking  
21 ~~proceeding~~, *except as directed in subdivision (h)*. The office shall  
22 approve the regulation or order of repeal if it complies with the  
23 standards set forth in this section and with this chapter.

24     (b) In reviewing proposed regulations for the criteria in  
25 subdivision (a), the office may consider the clarity of the proposed  
26 regulation in the context of related regulations already in existence.

27     (c) The office shall adopt regulations governing the procedures  
28 it uses in reviewing regulations submitted to it. The regulations  
29 shall provide for an orderly review and shall specify the methods,  
30 standards, presumptions, and principles the office uses, and the  
31 limitations it observes, in reviewing regulations to establish  
32 compliance with the standards specified in subdivision (a). The  
33 regulations adopted by the office shall ensure that it does not  
34 substitute its judgment for that of the rulemaking agency as  
35 expressed in the substantive content of adopted regulations.

36     (d) The office shall return any regulation subject to this chapter  
37 to the adopting agency if any of the following occur:

38     (1) The adopting agency has not prepared the estimate required  
39 by paragraph (6) of subdivision (a) of Section 11346.5 and has not

1 included the data used and calculations made and the summary  
2 report of the estimate in the file of the rulemaking.

3 (2) The agency has not complied with Section 11346.3.  
4 “Noncompliance” means that the agency failed to complete the  
5 economic impact assessment or standardized regulatory impact  
6 analysis required by Section 11346.3 or failed to include the  
7 assessment or analysis in the file of the rulemaking proceeding as  
8 required by Section 11347.3.

9 (3) The adopting agency has prepared the estimate required by  
10 paragraph (6) of subdivision (a) of Section 11346.5, the estimate  
11 indicates that the regulation will result in a cost to local agencies  
12 or school districts that is required to be reimbursed under Part 7  
13 (commencing with Section 17500) of Division 4, and the adopting  
14 agency fails to do any of the following:

15 (A) Cite an item in the Budget Act for the fiscal year in which  
16 the regulation will go into effect as the source from which the  
17 Controller may pay the claims of local agencies or school districts.

18 (B) Cite an accompanying bill appropriating funds as the source  
19 from which the Controller may pay the claims of local agencies  
20 or school districts.

21 (C) Attach a letter or other documentation from the Department  
22 of Finance which states that the Department of Finance has  
23 approved a request by the agency that funds be included in the  
24 Budget Bill for the next following fiscal year to reimburse local  
25 agencies or school districts for the costs mandated by the  
26 regulation.

27 (D) Attach a letter or other documentation from the Department  
28 of Finance which states that the Department of Finance has  
29 authorized the augmentation of the amount available for  
30 expenditure under the agency’s appropriation in the Budget Act  
31 which is for reimbursement pursuant to Part 7 (commencing with  
32 Section 17500) of Division 4 to local agencies or school districts  
33 from the unencumbered balances of other appropriations in the  
34 Budget Act and that this augmentation is sufficient to reimburse  
35 local agencies or school districts for their costs mandated by the  
36 regulation.

37 (4) The proposed regulation conflicts with an existing state  
38 regulation and the agency has not identified the manner in which  
39 the conflict may be resolved.

1 (5) The agency did not make the alternatives determination as  
2 required by paragraph (4) of subdivision (a) of Section 11346.9.

3 (6) *The office decides that the record of the rulemaking*  
4 *proceeding or other documentation for the proposed regulation*  
5 *does not demonstrate that the regulation is authorized by a clearly*  
6 *articulated and affirmatively expressed state law, that the*  
7 *regulation does not further the public protection mission of the*  
8 *state agency, or that the impact on competition is not justified in*  
9 *light of the applicable regulatory rationale for the regulation.*

10 (e) The office shall notify the Department of Finance of all  
11 regulations returned pursuant to subdivision (d).

12 (f) The office shall return a rulemaking file to the submitting  
13 agency if the file does not comply with subdivisions (a) and (b)  
14 of Section 11347.3. Within three state working days of the receipt  
15 of a rulemaking file, the office shall notify the submitting agency  
16 of any deficiency identified. If no notice of deficiency is mailed  
17 to the adopting agency within that time, a rulemaking file shall be  
18 deemed submitted as of the date of its original receipt by the office.  
19 A rulemaking file shall not be deemed submitted until each  
20 deficiency identified under this subdivision has been corrected.

21 (g) Notwithstanding any other law, return of the regulation to  
22 the adopting agency by the office pursuant to this section is the  
23 exclusive remedy for a failure to comply with subdivision (c) of  
24 Section 11346.3 or paragraph (10) of subdivision (a) of Section  
25 11346.5.

26 (h) *The office may designate, employ, or contract for the services*  
27 *of independent antitrust or applicable economic experts when*  
28 *reviewing proposed regulations for competitive impact. When*  
29 *reviewing a regulation for competitive impact, the office shall do*  
30 *all of the following:*

31 (1) *If the Director of Consumer Affairs issued a written decision*  
32 *pursuant to subdivision (c) of Section 109 of the Business and*  
33 *Professions Code, the office shall review and consider the decision*  
34 *and all supporting documentation in the rulemaking file.*

35 (2) *Consider whether the anticompetitive effects of the proposed*  
36 *regulation are clearly outweighed by the public policy merits.*

37 (3) *Provide a written opinion setting forth the office's findings*  
38 *and substantive conclusions under paragraph (2), including, but*  
39 *not limited to, whether rejection or modification of the proposed*  
40 *regulation is necessary to ensure that restraints of trade are related*

1 *to and advance the public policy underlying the applicable*  
2 *regulatory rationale.*

3 *SEC. 21. No reimbursement is required by this act pursuant*  
4 *to Section 6 of Article XIII B of the California Constitution because*  
5 *the only costs that may be incurred by a local agency or school*  
6 *district will be incurred because this act creates a new crime or*  
7 *infraction, eliminates a crime or infraction, or changes the penalty*  
8 *for a crime or infraction, within the meaning of Section 17556 of*  
9 *the Government Code, or changes the definition of a crime within*  
10 *the meaning of Section 6 of Article XIII B of the California*  
11 *Constitution.*

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MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1261  
**Author:** Stone  
**Bill Date:** February 18, 2016, Introduced  
**Subject:** Physicians and Surgeons: Licensure Exemption  
**Sponsor:** California Primary Care Association (CPCA)

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would authorize physicians licensed in another state to work in California free clinics for up to 60 days a year, as specified.

**BACKGROUND**

This bill is modeled after existing law, AB 2699 (Bass, Chapter 270, Statutes of 2010). This bill provided a framework whereby healing arts boards are authorized to adopt regulations under which a health care practitioner licensed and in good standing in another state, district or territory of the United States may, under specified conditions, provide health care services for a limited time in California (up to 10 days) without obtaining California licensure. These professional services only can be provided at free health care events sponsored by certain entities. The Medical Board of California (Board) opposed this bill because it believed that only physicians licensed in California should be allowed to practice medicine in California in order to ensure the highest quality medical care is being provided to individuals in California.

**ANALYSIS**

This bill would allow a physician who offers or provides health care services at a free clinic to be exempt from the requirement to be licensed as a physician in California. This bill would define free clinic as 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. In a free clinic there can be no charges directly to the patient. This bill would define a physician as any person, licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified.

This bill would require the physician, prior to providing services at a free clinic, to do the following:

- Obtain authorization from the Board to participate in a free clinic after submitting to the Board a copy of his or her valid license or certificate from each state where he or she holds licensure or certification and photographic identification. The Board would be required to notify the free clinic, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied.

- The physician must not have committed any act or been convicted of a crime constituting grounds for denial of licensure and must be in good standing in each state where he or she is licensed. The physician must have had the appropriate education and experience to participate in a free clinic, as determined by the Board. The physician must agree to comply with all applicable practice requirements, which will be adopted by the Board through regulations.
- The physician must submit to the Board, on a form prescribed by the Board, a request for authorization to practice without a license and pay a fee in an amount determined by the Board through regulations.
- The physician can provide services to uninsured or underinsured individuals, which means the individual does not have health care coverage, or if they have health care coverage, the coverage is not adequate to obtain the health care services offered by the physician. The services must be provided on a voluntary basis for a total of 60 days in a calendar year. The free clinic must be enrolled in the Medi-Cal program. The services must be provided without charge to the patient.

This bill would allow the Board to deny a physician authorization to practice without a license if the physician fails to comply with the requirements in this bill or for any act that would be grounds for denial of an application for licensure.

This bill would require a free clinic enrolled in the Medi-Cal Program, seeking to provide or arrange for the provision of health care services using an out of state physician, to register with the Board by completing a registration form that includes the following:

- The name of the free clinic.
- The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the free clinic.
- The address and telephone numbers of the free clinic's principal office and each individual listed in the bullet above.
- Any additional information required by the Board.

The registration form information must also be provided to the county health department of the county in which the health care services will be provided. The free clinic would be required to notify the Board and the county health department in writing of any change to the information submitted. The free clinic would be required to file a report with the Board and the county health department within 15 calendar days of the provision of health care services. The report must include the date, place, type, and general description of the care provided, along with a listing of the physicians who participated in providing that care. This bill would require the free clinic to maintain a list of physicians associated with the provision of health care services allowed under this bill, along with other specified information. This bill would prohibit a contract of liability insurance issued, amended or renewed in California on or after January 1, 2017 from excluding coverage of a physician or a free clinic that provides, or arranges for, the provision of health care services.

This bill would allow the Board to terminate authorization for a physician to provide

health care services for failure to comply with the law, as specified, and provides for an appeals process for the physician.

This bill would essentially expand the number of out-of-state physicians that can practice in California without obtaining a California physician and surgeon license.. Right now this is allowed only at sponsored health care events and only for up to 10 days. This bill would expand existing law and allow physicians licensed in other states to work at any free clinic enrolled in the Medi-Cal program and would allow these physicians to work up to 60 days per calendar year. The framework for this bill already exists, however, this is a significant expansion. Physicians treating patients in California should all be held to the same standards, in order to ensure that the highest quality medical care is being provided in California. The author's office does not know exactly how many free clinics there are in California, but the Board believes it will be a significant expansion.

The Board's primary mission is consumer protection, and physicians practicing in California should all be subject to the same laws and regulations when caring for patients in California. It should not matter where that care is being provided and to whom that care is being provided. For these reasons, Board staff suggests that the Board take an oppose position on this bill.

**FISCAL:** This bill is a significant expansion of current law what would result in increased workload. The Board anticipates it would need one position at the staff services analyst level to handle the increased workload and ensure that the registrants meet the requirements of law and have the correct documentation. The Board will also need to amend existing regulations. This would result in a cost of \$124,000 for the first year and \$111,000 in ongoing costs.

**SUPPORT:** None on file

**OPPOSITION:** None on file

**POSITION:** Recommendation: Oppose

**Introduced by Senator Stone**February 18, 2016

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An act to add Section 902 to the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1261, as introduced, Stone. Physicians and surgeons: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

Existing law provides, until January 1, 2018, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. Existing law also requires an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing

board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board.

This bill would provide an exemption similar to that sponsored event exemption to be administered by the Medical Board of California, applicable only to a physician, defined as a person licensed or certified in good standing in another jurisdiction of the United States, who offers or provides health care services for which he or she is licensed or certified, and who engages in acts that are subject to licensure or regulation under the Medical Practice Act. That exemption would be for health care services that are provided through free clinics, as defined, rather than through sponsored events. Such a physician would be authorized to volunteer for up to 60 days in a calendar year, which need not be consecutive.

Vote: majority. 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 902 is added to the Business and  
2 Professions Code, to read:

3 902. (a) For purposes of this section, the following definitions  
4 apply:

5 (1) “Board” means the Medical Board of California.

6 (2) “Free clinic” has the same meaning as defined in Section  
7 1204 of the Health and Safety Code.

8 (3) “Physician” means any person, licensed or certified in good  
9 standing in another state, district, or territory of the United States  
10 who offers or provides health care services for which he or she is  
11 licensed or certified and who engages in acts that are subject to  
12 licensure or regulation under Chapter 5 (commencing with Section  
13 2000).

14 (4) “Uninsured or underinsured person” means a person who  
15 does not have health care coverage, including private coverage or  
16 coverage through a program funded in whole or in part by a  
17 governmental entity, or a person who has health care coverage,  
18 but the coverage is not adequate to obtain those health care services  
19 offered by the physician under this section.

20 (b) A physician who offers or provides health care services at  
21 a free clinic is exempt from the requirement for licensure under

1 Chapter 5 (commencing with Section 2000) if all of the following  
2 requirements are met:

3 (1) Prior to providing those services, he or she does all of the  
4 following:

5 (A) Obtains authorization from the board to participate in a free  
6 clinic after submitting to the board a copy of his or her valid license  
7 or certificate from each state in which he or she holds licensure or  
8 certification and a photographic identification issued by one of the  
9 states in which he or she holds licensure or certification. The board  
10 shall notify the free clinic, within 20 calendar days of receiving a  
11 request for authorization, whether that request is approved or  
12 denied.

13 (B) Satisfies the following requirements:

14 (i) The physician has not committed any act or been convicted  
15 of a crime constituting grounds for denial of licensure or  
16 registration under Section 480 and is in good standing in each state  
17 in which he or she holds licensure or certification.

18 (ii) The physician has the appropriate education and experience  
19 to participate in a free clinic, as determined by the board.

20 (iii) The physician shall agree to comply with all applicable  
21 practice requirements set forth in this division and the regulations  
22 adopted pursuant to this division.

23 (C) Submits to the board, on a form prescribed by the board, a  
24 request for authorization to practice without a license, and pays a  
25 fee, in an amount determined by the board by regulation, which  
26 shall be available, upon appropriation, to cover the cost of  
27 developing the authorization process and processing the request.

28 (2) The services are provided under all of the following  
29 circumstances:

30 (A) To uninsured or underinsured persons.

31 (B) On voluntary basis, for a total of days not to exceed 60 days  
32 in a calendar year. The 60 days need not be consecutive.

33 (C) In association with a free clinic enrolled in the Medi-Cal  
34 program that complies with subdivision (d).

35 (D) Without charge to the recipient or to a third party on behalf  
36 of the recipient.

37 (c) The board may deny a physician authorization to practice  
38 without a license if the physician fails to comply with this section  
39 or for any act that would be grounds for denial of an application  
40 for licensure.

- 1 (d) A free clinic enrolled in the Medi-Cal program seeking to  
2 provide, or arrange for the provision of, health care services under  
3 this section shall do both of the following:
- 4 (1) Register with the board by completing a registration form  
5 that shall include all of the following:
- 6 (A) The name of the free clinic.  
7 (B) The name of the principal individual or individuals who are  
8 the officers or organizational officials responsible for the operation  
9 of the free clinic.  
10 (C) The address, including street, city, ZIP Code, and county,  
11 of the free clinic's principal office and each individual listed  
12 pursuant to subparagraph (B).  
13 (D) The telephone number for the principal office of the free  
14 clinic and each individual listed pursuant to subparagraph (B).  
15 (E) Any additional information required by the board.
- 16 (2) Provide the information listed in paragraph (1) to the county  
17 health department of the county in which the health care services  
18 will be provided, along with any additional information that may  
19 be required by that department.
- 20 (e) The free clinic shall notify the board and the county health  
21 department described in paragraph (2) of subdivision (d) in writing  
22 of any change to the information required under subdivision (d)  
23 within 30 calendar days of the change.
- 24 (f) Within 15 calendar days of the provision of health care  
25 services pursuant to this section, the free clinic shall file a report  
26 with the board and the county health department of the county in  
27 which the health care services were provided. This report shall  
28 contain the date, place, type, and general description of the care  
29 provided, along with a listing of the physicians who participated  
30 in providing that care.
- 31 (g) The free clinic shall maintain a list of physicians associated  
32 with the provision of health care services under this section. The  
33 free clinic shall maintain a copy of each physician's current license  
34 or certification and shall require each physician to attest in writing  
35 that his or her license or certificate is not suspended or revoked  
36 pursuant to disciplinary proceedings in any jurisdiction. The free  
37 clinic shall maintain these records for a period of at least five years  
38 following the provision of health care services under this section  
39 and shall, upon request, furnish those records to the board or any  
40 county health department.

1 (h) A contract of liability insurance issued, amended, or renewed  
2 in this state on or after January 1, 2017, shall not exclude coverage  
3 of a physician or a free clinic that provides, or arranges for the  
4 provision of, health care services under this section, provided that  
5 the practitioner or free clinic complies with this section.

6 (i) Subdivision (b) shall not be construed to authorize a physician  
7 to render care outside the scope of practice authorized by his or  
8 her license or certificate or this division.

9 (j) (1) The board may terminate authorization for a physician  
10 to provide health care services pursuant to this section for failure  
11 to comply with this section, any applicable practice requirement  
12 set forth in this division, any regulations adopted pursuant to this  
13 division, or for any act that would be grounds for discipline if done  
14 by a licensee of the board.

15 (2) The board shall provide both the free clinic and the physician  
16 with a written notice of termination including the basis for that  
17 termination. The physician may, within 30 days after the date of  
18 the receipt of notice of termination, file a written appeal to the  
19 board. The appeal shall include any documentation the physician  
20 wishes to present to the board.

21 (3) A physician whose authorization to provide health care  
22 services pursuant to this section has been terminated shall not  
23 provide health care services pursuant to this section unless and  
24 until a subsequent request for authorization has been approved by  
25 the board. A physician who provides health care services in  
26 violation of this paragraph shall be deemed to be practicing health  
27 care in violation of Chapter 5 (commencing with Section 2000),  
28 and be subject to any applicable administrative, civil, or criminal  
29 fines, penalties, and other sanctions provided in this division.

30 (k) The provisions of this section are severable. If any provision  
31 of this section or its application is held invalid, that invalidity shall  
32 not affect other provisions or applications that can be given effect  
33 without the invalid provision or application.

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1471  
**Author:** Hernandez  
**Bill Date:** April 21, 2016, Amended  
**Subject:** Health Professions Development: Loan Repayment  
**Sponsor:** Author

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would transfer specified moneys from the Managed Care Administrative Fines and Penalties Fund (MCAFPF) to the Medically Underserved Account for Physicians (MUAP) in the Health Professions Education Fund (HPEF) for use by the Steven M. Thompson Loan Repayment Program (STLRP).

**BACKGROUND**

The STLRP was created in 2002 via legislation which was co-sponsored by the Medical Board of California (Board). The STLRP encourages recently licensed physicians to practice in underserved locations in California by authorizing a plan for repayment of their student loans (up to \$105,000) in exchange for a minimum three years of service. In 2006, the administration of STLRP was transitioned from the Board to the Health Professions Education Foundation (HPEF). Since 1990, HPEF has administered statewide scholarship and loan repayment programs for a wide range of health professions' students and recent graduates, these programs are funded through grants and contributions from public and private agencies, hospitals, health plans, foundations, and corporations, as well as through a surcharge on the renewal fees of various health professionals, including a \$25 fee paid by physicians and surgeons.

**ANALYSIS**

Under current law, revenue from fines and penalties levied on health plans is deposited in the MCAFPF. Existing law requires fines and penalties collected up to \$1 million to be deposited in to the MUAP in the HPEF for purposes of the STLRP. Existing law requires any amount over the first \$1 million to be transferred to the Major Risk Medical Insurance Fund to be used, upon appropriation by the Legislature by the Major Risk Medical Insurance Program (MRMIP).

This bill would require, beginning January 1, 2017 and annually thereafter, any amount over the first \$2 million, including accrued interest, to be transferred to the HPEF for the STLRP program. This bill would allow one-half of these moneys to be prioritized to fund repayment of loans for those physicians who are trained in, and practice, psychiatry, as specified. This bill would also make other conforming changes and delete references to

inoperative programs.

According to the author, the STLRP was created in response to the physician shortage problem in underserved areas, but funding for this program has been unpredictable and insufficient, with demand exceeding available funding every year. Currently up to 20% of the available funding for the STLRP may be awarded to program applicants from specialties outside of the primary care specialties, including psychiatry, but is annually disbursed among other specialties. This bill would provide much needed funding for the STLRP to assist with loan repayment for physicians who agree to practice in medically underserved areas of the state, as well as prioritize new funds for those who are trained in, and practice, psychiatry. This bill would promote the Board's mission of access to care and Board staff suggests that the Board take a support position on this bill.

**FISCAL:** None

**SUPPORT:** None on file

**OPPOSITION:** None on file

**POSITION:** Recommendation: Support

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 14, 2016

**SENATE BILL**

**No. 1471**

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**Introduced by Senator Hernandez**

February 19, 2016

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An act to amend Sections 1341.45, 128551, and 128552 ~~of, and to add Section 128555.5 to,~~ of the Health and Safety Code, relating to health professions development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1471, as amended, Hernandez. Health professions development: loan repayment.

Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps Program within the Health Professions Education Foundation, which provides financial incentives, including repayment of educational loans, to a physician and surgeon who practices in a medically underserved area, ~~as defined~~ *defined, and who is trained in, and practices, in certain practice settings or primary specialties, as defined*. Existing law authorizes the selection committee to fill up to 20% of the available positions with program applicants from specialties outside of the primary specialties, including psychiatry. Existing law establishes the Medically Underserved Account for Physicians, a continuously appropriated account, within the Health Professions Education Fund that is managed by the Health Professions Education Foundation and the Office of Statewide Health Planning and Development, to primarily provide funding for the ongoing operations of the Steven M. Thompson Physician Corps Loan Repayment Program.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and imposes certain requirements on health care service plans. Existing law imposes various fines and administrative penalties on health care service plans for certain violations of the act, which are deposited into the Managed Care Administrative Fines and Penalties Fund. Existing law requires the first \$1,000,000 in the fund to be transferred each year to the Medically Underserved Account for Physicians and to be used, upon appropriation by the Legislature, for purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. Existing law requires all remaining funds to be transferred each year to the Major Risk Medical Insurance Fund and to be used, upon appropriation by the Legislature, for purposes of the Major Risk Medical Insurance Program.

~~This bill would expand the eligibility for loan repayment funds under the Steven M. Thompson Physician Corps Loan Repayment Program to include those physicians providing psychiatric services. The bill would provide that continuously appropriated funds deposited into the Medically Underserved Account for Physicians shall not be made available under the Steven M. Thompson Physician Corps Loan Repayment Program to fund the repayment of loans for those physicians providing psychiatric services or those physicians whose primary specialty is psychiatry, as specified.~~

The bill would instead require, after the first \$1,000,000 is transferred from the Managed Care Administrative Fines and Penalties Fund to the Medically Underserved Account for Physicians, \$1,000,000 to be transferred each year to the Major Risk Medical Insurance Fund to be used, upon appropriation by the Legislature, for the Major Risk Medical Insurance Program. The bill would require any amount remaining over the amounts transferred to the Medically Underserved Account for Physicians and the Major Risk Medical Insurance Fund to be transferred each year to the Medically Underserved Account for Physicians to be used, upon appropriation by the Legislature, for the Steven M. Thompson Physician Corps Loan Repayment Program, and provide that one-half of these moneys ~~are to be used~~ *may be prioritized* to fund the repayment of loans for those ~~physicians providing psychiatric services or those physicians whose primary specialty is psychiatry~~ *program applicants who are trained in, and practice, psychiatry*, under the Steven M. Thompson Physician Corps Loan Repayment Program.

The bill would also delete a reference to an obsolete program and make other technical, nonsubstantive changes.

Vote: majority. 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 1341.45 of the Health and Safety Code  
2 is amended to read:

3 1341.45. (a) There is hereby created in the State Treasury the  
4 Managed Care Administrative Fines and Penalties Fund.

5 (b) The fines and administrative penalties collected pursuant to  
6 this chapter, on and after September 30, 2008, shall be deposited  
7 into the Managed Care Administrative Fines and Penalties Fund.

8 (c) The fines and administrative penalties deposited into the  
9 Managed Care Administrative Fines and Penalties Fund shall be  
10 transferred by the department, annually, as follows:

11 (1) The first one million dollars (\$1,000,000) shall be transferred  
12 to the Medically Underserved Account for Physicians within the  
13 Health Professions Education Fund and shall, upon appropriation  
14 by the Legislature, be used for the purposes of the Steven M.  
15 Thompson Physician Corps Loan Repayment Program, as specified  
16 in Article 5 (commencing with Section 128550) of Chapter 5 of  
17 Part 3 of Division 107 and, notwithstanding Section 128555, shall  
18 not be used to provide funding for the Physician Volunteer  
19 Program.

20 (2) Until January 1, 2017, any amount over the first one million  
21 dollars (\$1,000,000), including accrued interest, in the fund shall  
22 be transferred to the Major Risk Medical Insurance Fund continued  
23 pursuant to Section 15893 of the Welfare and Institutions Code  
24 and shall, upon appropriation by the Legislature, be used for the  
25 Major Risk Medical Insurance Program for the purposes specified  
26 in Section 15894 of the Welfare and Institutions Code.

27 (3) On and after January 1, 2017, and annually thereafter, the  
28 second one million dollars (\$1,000,000) shall be transferred to the  
29 Major Risk Medical Insurance Fund continued pursuant to Section  
30 15893 of the Welfare and Institutions Code and shall, upon  
31 appropriation by the Legislature, be used for the Major Risk  
32 Medical Insurance Program for the purposes specified in Section  
33 15894 of the Welfare and Institutions Code.

1 (4) (A) On and after January 1, 2017 any amount over the first  
2 two million dollars (\$2,000,000), including accrued interest, in the  
3 fund shall be transferred to the Medically Underserved Account  
4 for Physicians within the Health Professions Education Fund and  
5 shall, upon appropriation by the Legislature, and subject to  
6 subparagraph (B), be used for the purposes of the Steven M.  
7 Thompson Physician Corps Loan Repayment Program, as specified  
8 in Article 5 (commencing with Section 128550) of Chapter 5 of  
9 Part 3 of Division 107 and, notwithstanding Section 128555, shall  
10 not be used to provide funding for the Physician Volunteer  
11 Program.

12 (B) ~~One-half~~ *Up to one-half* of the moneys deposited into the  
13 Medically Underserved Account for Physicians within the Health  
14 Professions Education Fund under this paragraph ~~shall, upon~~  
15 ~~appropriation by the Legislature, be used~~ *may be prioritized* to  
16 fund the repayment of ~~loans~~ *loans pursuant to paragraph (2) of*  
17 *subdivision (d) of Section 128553* for those ~~physicians providing~~  
18 ~~psychiatric services or those physicians whose primary specialty~~  
19 ~~is psychiatry~~ *program applicants who are trained in, and practice,*  
20 *psychiatry*, under the Steven M. Thompson Physician Corps Loan  
21 Repayment Program, ~~as specified in Article~~ *Program (Article 5*  
22 *commencing with Section 128550) of Chapter 5 of Part 3 of*  
23 ~~Division 107. 107).~~

24 (d) Notwithstanding subdivision (b) of Section 1356 and Section  
25 1356.1, the fines and administrative penalties authorized pursuant  
26 to this chapter shall not be used to reduce the assessments imposed  
27 on health care service plans pursuant to Section 1356.

28 SEC. 2. Section 128551 of the Health and Safety Code is  
29 amended to read:

30 128551. (a) It is the intent of this article that the Health  
31 Professions Education Foundation and the office provide the  
32 ongoing program management of the two programs identified in  
33 subdivision (b) of Section 128550 as a part of the California  
34 Physician Corps Program.

35 (b) For purposes of subdivision (a), the foundation shall consult  
36 with the Medical Board of California, Office of Statewide Health  
37 Planning and Development, and shall establish and consult with  
38 an advisory committee of not more than seven members, that shall  
39 include two members recommended by the California Medical  
40 Association and may include other members of the medical

1 community, including ethnic representatives, medical schools,  
2 health advocates representing ethnic communities, primary care  
3 clinics, public hospitals, and health systems, statewide agencies  
4 administering state and federally funded programs targeting  
5 underserved communities, and members of the public with  
6 expertise in health care issues.

7 SEC. 3. Section 128552 of the Health and Safety Code is  
8 amended to read:

9 128552. For purposes of this article, the following definitions  
10 shall apply:

11 (a) “Account” means the Medically Underserved Account for  
12 Physicians established within the Health Professions Education  
13 Fund pursuant to this article.

14 (b) “Foundation” means the Health Professions Education  
15 Foundation.

16 (c) “Fund” means the Health Professions Education Fund.

17 (d) “Medi-Cal threshold languages” means primary languages  
18 spoken by limited-English-proficient (LEP) population groups  
19 meeting a numeric threshold of 3,000, eligible LEP Medi-Cal  
20 beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP  
21 beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal  
22 beneficiaries residing in two contiguous ZIP Codes.

23 (e) “Medically underserved area” means an area defined as a  
24 health professional shortage area in Part 5 (commencing with  
25 Section 5.1) of Subchapter A of Chapter 1 of Title 42 of the Code  
26 of Federal Regulations or an area of the state where unmet priority  
27 needs for physicians exist as determined by the California  
28 Healthcare Workforce Policy Commission pursuant to Section  
29 128225.

30 (f) “Medically underserved population” means the Medi-Cal  
31 program and uninsured populations.

32 (g) “Office” means the Office of Statewide Health Planning and  
33 Development (OSHPD).

34 (h) “Physician Volunteer Program” means the Physician  
35 Volunteer Registry Program established by the Medical Board of  
36 California.

37 (i) “Practice setting,” for the purposes of this article only, means  
38 either of the following:

39 (1) A community clinic as defined in subdivision (a) of Section  
40 1204 and subdivision (c) of Section 1206, a clinic owned or

1 operated by a public hospital and health system, or a clinic owned  
 2 and operated by a hospital that maintains the primary contract with  
 3 a county government to fulfill the county’s role pursuant to Section  
 4 17000 of the Welfare and Institutions Code, which is located in a  
 5 medically underserved area and at least 50 percent of whose  
 6 patients are from a medically underserved population.

7 (2) A physician owned and operated medical practice setting  
 8 that provides primary care ~~or psychiatric services~~ located in a  
 9 medically underserved area and has a minimum of 50 percent of  
 10 patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries  
 11 of another publicly funded program that serves patients who earn  
 12 less than 250 percent of the federal poverty level.

13 (j) “Primary specialty” means family practice, internal medicine,  
 14 pediatrics, ~~psychiatry~~, or obstetrics/gynecology.

15 (k) “Program” means the Steven M. Thompson Physician Corps  
 16 Loan Repayment Program.

17 (l) “Selection committee” means a minimum three-member  
 18 committee of the board, that includes a member that was appointed  
 19 by the Medical Board of California.

20 ~~SEC. 4. Section 128555.5 is added to the Health and Safety~~  
 21 ~~Code, to read:~~

22 ~~128555.5. Notwithstanding subdivision (e) of Section 128555,~~  
 23 ~~funds deposited into the Medically Underserved Account for~~  
 24 ~~Physicians shall not be made available to fund the repayment of~~  
 25 ~~loans under the Steven M. Thompson Physician Corps Loan~~  
 26 ~~Repayment Program for those physicians providing psychiatric~~  
 27 ~~services or those physicians whose primary specialty is psychiatry,~~  
 28 ~~except as provided in subparagraph (B) of paragraph (4) of~~  
 29 ~~subdivision (e) of Section 1341.45.~~

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

**Bill Number:** SB 1478  
**Author:** Senate Business, Professions and Economic Development Committee  
**Bill Date:** March 10, 2016, Introduced  
**Subject:** Healing Arts  
**Sponsor:** Author and affected healing arts boards  
**Position:** Support provisions related to the Medical Board of California

**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 only includes 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). This bill would delete outdated sections of the BPC that are related to the Board.

**ANALYSIS**

- This bill would delete BPC Section 2029 that requires the Board to keep copies of complaints for 10 years. The Board already has its own record retention schedule and BPC Section 2227.5 only requires the Board to keep complaints for seven years or until the statute of limitations has expired, whichever is shorter. BPC Section 2230.5 sets forth the statute of limitations for filing an accusation, which is three years from the date the Board finds out about the event or seven years from the date of the event, whichever occurs first. Both of these section of law make BPC 2029 inapplicable.
- This bill would delete the Task Force created in BPC Section 852, as it no longer exists.
- This bill would also delete Sections 2380-2392 of the BPC, which create the Bureau of Medical Statistics in the Board. The Bureau of Medical Statistics does not exist, so this change is code clean up only.

These changes will remove outdated and inapplicable sections from the BPC and the Board is pleased to sponsor/support these provisions in SB 1478.

**FISCAL:** None  
**SUPPORT:** Medical Board of California  
**OPPOSITION:** None on File

**Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)**

March 10, 2016

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An act to amend Sections 1632, 1634.1, 2467, 4980.36, 4980.37, 4980.43, 4980.78, 4980.79, 4992.05, 4996.18, 4996.23, 4999.12, 4999.40, 4999.47, 4999.52, 4999.60, 4999.61, and 4999.120 of, to add Sections 4980.09 and 4999.12.5 to, to repeal Sections 852, 2029, 4980.40.5, and 4999.54 of, and to repeal Article 16 (commencing with Section 2380) of Chapter 5 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1478, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

Existing law provides for the licensure and regulation of healing arts professions and vocations by boards within the Department of Consumer Affairs.

(1) Existing law establishes the Task Force on Culturally and Linguistically Competent Physicians and Dentists. Existing law requires the task force to develop recommendations for a continuing education program that includes language proficiency standards of foreign language to be acquired to meet linguistic competency, identify the key cultural elements necessary to meet cultural competency by physicians, dentists, and their offices and assess the need for voluntary certification standards and examinations for cultural and linguistic competency.

This bill would delete those provisions.

(2) The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. Existing law requires

each applicant to, among other things, successfully complete the Part I and Part II written examinations of the National Board Dental Examination of the Joint Commission on National Dental Examinations.

This bill would instead require the applicant to successfully complete the written examination of the National Board Dental Examination of the Joint Commission on National Dental Examinations.

(3) 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 keep a copy of a complaint it receives regarding the poor quality of care rendered by a licensee for 10 years from the date the board receives the complaint, as provided.

This bill would delete that requirement.

Existing law creates the Bureau of Medical Statistics within the board. Under existing law, the purpose of the bureau is to provide the board with statistical information necessary to carry out their functions of licensing, medical education, medical quality, and enforcement.

This bill would abolish that bureau.

(4) Under existing law, the California Board of Podiatric Medicine is responsible for the certification and regulation of the practice of podiatric medicine. Existing law requires the board to annually elect one of its members to act as president and vice president.

This bill would instead require the board to elect from its members a president, a vice president, and a secretary.

(5) The Board of Behavioral Sciences is responsible for administering, among others, the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act.

(A) Existing law, the Licensed Marriage and Family Therapist Act, provides for the regulation of the practice of marriage and family therapy by the Board of Behavioral Sciences. A violation of the act is a crime. Existing law requires the licensure of marriage and family therapists and the registration of marriage and family therapist interns. Under existing law, an “intern” is defined as an unlicensed person who has earned his or her master’s or doctoral degree qualifying him or her for licensure and is registered with the board. Existing law prohibits the abbreviation “MFTI” from being used in an advertisement unless the title “marriage and family therapist registered intern” appears in the advertisement.

Existing law, the Licensed Professional Clinical Counselor Act, provides for the regulation of the practice of professional clinical

counseling by the Board of Behavioral Sciences. Existing law requires the licensure of professional clinical counselors and the registration of professional clinical counselor interns. Under existing law, an “intern” is defined as an unlicensed person who meets specified requirements for registration and is registered with the board.

This bill, commencing January 1, 2018, would provide that certain specified titles using the term “intern” or any reference to the term “intern” in those acts shall be deemed to be a reference to an “associate,” as specified. Because this bill would change the definition of a crime, it would impose a state-mandated local program.

(B) The Licensed Marriage and Family Therapist Act generally requires specified applicants for licensure and registration to meet certain educational degree requirements, including having obtained that degree from a school, college, or university that, among other things, is accredited by a regional accrediting agency recognized by the United States Department of Education.

This bill would authorize that accreditation to be by a regional or national institutional accrediting agency recognized by the United States Department of Education.

Under the Licensed Marriage and Family Therapist Act, a specified doctoral or master’s degree approved by the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, is considered by the Board of Behavioral Sciences to meet the specified licensure and registration requirements if the degree is conferred on or before July 1, 2010. As an alternative, existing law requires the Board of Behavioral Sciences to accept those doctoral or master's degrees as equivalent degrees if those degrees are conferred by educational institutions accredited by specified associations.

This bill would delete those provisions.

(C) Under the Licensed Marriage and Family Therapist Act, an applicant for licensure is required to complete experience related to the practice of marriage and family therapy under the supervision of a supervisor. Existing law requires applicants, trainees who are unlicensed persons enrolled in an educational program to qualify for licensure, and interns who are unlicensed persons who have completed an educational program and is registered with the board to be at all times under the supervision of a supervisor. Existing law requires interns and trainees to only gain supervised experience as an employee or volunteer and prohibits experience from being gained as an independent contractor. Similarly, the Licensed Professional Clinical Counselor Act requires

clinical counselor trainees, interns, and applicants to perform services only as an employee or as a volunteer. The Licensed Professional Clinical Counselor Act prohibits gaining mental health experience by interns or trainees as an independent contractor.

The Clinical Social Worker Practice Act requires applicants to complete supervised experience related to the practice of clinical social work.

This bill would prohibit these persons from being employed as independent contractors and from gaining experience for work performed as an independent contractor reported on a specified tax form.

(D) The Licensed Professional Clinical Counselor Act defines the term “accredited” for the purposes of the act to mean a school, college, or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association. The act requires each educational institution preparing applicants to qualify for licensure to notify each of its students in writing that its degree program is designed to meet specified examination eligibility or registration requirements and to certify to the Board of Behavioral Sciences that it has provided that notice.

This bill would re-define “accredited” to mean a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education. The bill would additionally require an applicant for registration or licensure to submit to the Board of Behavioral Sciences a certification from the applicant’s educational institution specifying that the curriculum and coursework complies with those examination eligibility or registration requirements.

(6) This bill would additionally delete various obsolete provisions, make conforming changes, and make other nonsubstantive changes.

(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 852 of the Business and Professions Code  
2 is repealed.  
3 ~~852. (a) The Task Force on Culturally and Linguistically~~  
4 ~~Competent Physicians and Dentists is hereby created and shall~~  
5 ~~consist of the following members:~~  
6 ~~(1) The State Director of Health Services and the Director of~~  
7 ~~Consumer Affairs, who shall serve as cochairs of the task force.~~  
8 ~~(2) The Executive Director of the Medical Board of California.~~  
9 ~~(3) The Executive Director of the Dental Board of California.~~  
10 ~~(4) One member appointed by the Senate Committee on Rules.~~  
11 ~~(5) One member appointed by the Speaker of the Assembly.~~  
12 ~~(b) Additional task force members shall be appointed by the~~  
13 ~~Director of Consumer Affairs, in consultation with the State~~  
14 ~~Director of Health Services, as follows:~~  
15 ~~(1) Representatives of organizations that advocate on behalf of~~  
16 ~~California licensed physicians and dentists.~~  
17 ~~(2) California licensed physicians and dentists that provide~~  
18 ~~health services to members of language and ethnic minority groups.~~  
19 ~~(3) Representatives of organizations that advocate on behalf of,~~  
20 ~~or provide health services to, members of language and ethnic~~  
21 ~~minority groups.~~  
22 ~~(4) Representatives of entities that offer continuing education~~  
23 ~~for physicians and dentists.~~  
24 ~~(5) Representatives of California's medical and dental schools.~~  
25 ~~(6) Individuals with experience in developing, implementing,~~  
26 ~~monitoring, and evaluating cultural and linguistic programs.~~  
27 ~~(c) The duties of the task force shall include the following:~~  
28 ~~(1) Developing recommendations for a continuing education~~  
29 ~~program that includes language proficiency standards of foreign~~  
30 ~~language to be acquired to meet linguistic competency.~~  
31 ~~(2) Identifying the key cultural elements necessary to meet~~  
32 ~~cultural competency by physicians, dentists, and their offices.~~  
33 ~~(3) Assessing the need for voluntary certification standards and~~  
34 ~~examinations for cultural and linguistic competency.~~  
35 ~~(d) The task force shall hold hearings and convene meetings to~~  
36 ~~obtain input from persons belonging to language and ethnic~~  
37 ~~minority groups to determine their needs and preferences for having~~  
38 ~~culturally competent medical providers. These hearings and~~

1 ~~meetings shall be convened in communities that have large~~  
2 ~~populations of language and ethnic minority groups.~~

3 ~~(e) The task force shall report its findings to the Legislature and~~  
4 ~~appropriate licensing boards within two years after creation of the~~  
5 ~~task force.~~

6 ~~(f) The Medical Board of California and the Dental Board of~~  
7 ~~California shall pay the state administrative costs of implementing~~  
8 ~~this section.~~

9 ~~(g) Nothing in this section shall be construed to require~~  
10 ~~mandatory continuing education of physicians and dentists.~~

11 SEC. 2. Section 1632 of the Business and Professions Code is  
12 amended to read:

13 1632. (a) The board shall require each applicant to successfully  
14 complete the ~~Part I and Part II written examinations~~ *written*  
15 *examination* of the National Board Dental Examination of the Joint  
16 Commission on National Dental Examinations.

17 (b) The board shall require each applicant to successfully  
18 complete an examination in California law and ethics developed  
19 and administered by the board. The board shall provide a separate  
20 application for this examination. The board shall ensure that the  
21 law and ethics examination reflects current law and regulations,  
22 and ensure that the examinations are randomized. Applicants shall  
23 submit this application and required fee to the board in order to  
24 take this examination. In addition to the aforementioned  
25 application, the only other requirement for taking this examination  
26 shall be certification from the dean of the qualifying dental school  
27 attended by the applicant that the applicant has graduated, or will  
28 graduate, or is expected to graduate. Applicants who submit  
29 completed applications and certification from the dean at least 15  
30 days prior to a scheduled examination shall be scheduled to take  
31 the examination. Successful results of the examination shall, as  
32 established by board regulation, remain valid for two years from  
33 the date that the applicant is notified of having passed the  
34 examination.

35 (c) Except as otherwise provided in Section 1632.5, the board  
36 shall require each applicant to have taken and received a passing  
37 score on one of the following:

38 (1) A portfolio examination of the applicant's competence to  
39 enter the practice of dentistry. This examination shall be conducted  
40 while the applicant is enrolled in a dental school program at a

1 board-approved school located in California. This examination  
2 shall utilize uniform standards of clinical experiences and  
3 competencies, as approved by the board pursuant to Section 1632.1.  
4 The applicant shall pass a final assessment of the submitted  
5 portfolio at the end of his or her dental school program. Before  
6 any portfolio assessment may be submitted to the board, the  
7 applicant shall remit the required fee to the board to be deposited  
8 into the State Dentistry Fund, and a letter of good standing signed  
9 by the dean of his or her dental school or his or her delegate stating  
10 that the applicant has graduated or will graduate with no pending  
11 ethical issues.

12 (A) The portfolio examination shall not be conducted until the  
13 board adopts regulations to carry out this paragraph. The board  
14 shall post notice on its Internet Web site when these regulations  
15 have been adopted.

16 (B) The board shall also provide written notice to the Legislature  
17 and the Legislative Counsel when these regulations have been  
18 adopted.

19 (2) A clinical and written examination administered by the  
20 Western Regional Examining Board, which board shall determine  
21 the passing score for that examination.

22 (d) Notwithstanding subdivision (b) of Section 1628, the board  
23 is authorized to do either of the following:

24 (1) Approve an application for examination from, and to  
25 examine an applicant who is enrolled in, but has not yet graduated  
26 from, a reputable dental school approved by the board.

27 (2) Accept the results of an examination described in paragraph  
28 (2) of subdivision (c) submitted by an applicant who was enrolled  
29 in, but had not graduated from, a reputable dental school approved  
30 by the board at the time the examination was administered.

31 In either case, the board shall require the dean of that school or  
32 his or her delegate to furnish satisfactory proof that the applicant  
33 will graduate within one year of the date the examination was  
34 administered or as provided in paragraph (1) of subdivision (c).

35 SEC. 3. Section 1634.1 of the Business and Professions Code  
36 is amended to read:

37 1634.1. Notwithstanding Section 1634, the board may grant a  
38 license to practice dentistry to an applicant who submits all of the  
39 following to the board:

1 (a) A completed application form and all fees required by the  
2 board.

3 (b) Satisfactory evidence of having graduated from a dental  
4 school approved by the board or by the Commission on Dental  
5 Accreditation of the American Dental Association.

6 (c) Satisfactory evidence of having completed a clinically based  
7 advanced education program in general dentistry or an advanced  
8 education program in general practice residency that is, at  
9 minimum, one year in duration and is accredited by either the  
10 Commission on Dental Accreditation of the American Dental  
11 Association or a national accrediting body approved by the board.  
12 The advanced education program shall include a certification of  
13 clinical residency program completion approved by the board, to  
14 be completed upon the resident’s successful completion of the  
15 program in order to evaluate his or her competence to practice  
16 dentistry in the state.

17 (d) Satisfactory evidence of having successfully completed the  
18 ~~written examinations~~ *examination* of the National Board Dental  
19 Examination of the Joint Commission on National Dental  
20 Examinations.

21 (e) Satisfactory evidence of having successfully completed an  
22 examination in California law and ethics.

23 (f) Proof that the applicant has not failed the examination for  
24 licensure to practice dentistry under this chapter within five years  
25 prior to the date of his or her application for a license under this  
26 chapter.

27 SEC. 4. Section 2029 of the Business and Professions Code is  
28 repealed.

29 ~~2029. The board shall keep a copy of a complaint it receives  
30 regarding the poor quality of care rendered by a licensee for 10  
31 years from the date the board receives the complaint. For retrieval  
32 purposes, these complaints shall be filed by the licensee’s name  
33 and license number.~~

34 SEC. 5. Article 16 (commencing with Section 2380) of Chapter  
35 5 of Division 2 of the Business and Professions Code is repealed.

36 SEC. 6. Section 2467 of the Business and Professions Code is  
37 amended to read:

38 2467. (a) The board may convene from time to time as it deems  
39 necessary.

1 (b) Four members of the board constitute a quorum for the  
2 transaction of business at any meeting.

3 (c) It shall require the affirmative vote of a majority of those  
4 members present at a meeting, those members constituting at least  
5 a quorum, to pass any motion, resolution, or measure.

6 (d) The board shall ~~annually elect one of~~ *from* its members ~~to~~  
7 ~~act as president and a member to act as a president, a vice-president~~  
8 *president, and a secretary* who shall hold their respective positions  
9 at the pleasure of the board. The president may call meetings of  
10 the board and any duly appointed committee at a specified time  
11 and place.

12 SEC. 7. Section 4980.09 is added to the Business and  
13 Professions Code, to read:

14 4980.09. (a) The title “marriage and family therapist intern”  
15 or “marriage and family therapist registered intern” is hereby  
16 renamed “associate marriage and family therapist” or “registered  
17 associate marriage and family therapist,” respectively. Any  
18 reference in statute or regulation to a “marriage and family therapist  
19 intern” or “marriage and family therapist registered intern” shall  
20 be deemed a reference to an “associate marriage and family  
21 therapist” or “registered associate marriage and family therapist.”

22 (b) Nothing in this section shall be construed to expand or  
23 constrict the scope of practice of a person licensed or registered  
24 pursuant to this chapter.

25 (c) This section shall become operative January 1, 2018.

26 SEC. 8. Section 4980.36 of the Business and Professions Code  
27 is amended to read:

28 4980.36. (a) This section shall apply to the following:

29 (1) Applicants for licensure or registration who begin graduate  
30 study before August 1, 2012, and do not complete that study on  
31 or before December 31, 2018.

32 (2) Applicants for licensure or registration who begin graduate  
33 study before August 1, 2012, and who graduate from a degree  
34 program that meets the requirements of this section.

35 (3) Applicants for licensure or registration who begin graduate  
36 study on or after August 1, 2012.

37 (b) To qualify for a license or registration, applicants shall  
38 possess a doctoral or master’s degree meeting the requirements of  
39 this section in marriage, family, and child counseling, marriage  
40 and family therapy, couple and family therapy, psychology, clinical

1 psychology, counseling psychology, or counseling with an  
2 emphasis in either marriage, family, and child counseling or  
3 marriage and family therapy, obtained from a school, college, or  
4 university approved by the Bureau for Private Postsecondary  
5 Education, or accredited by either the Commission on Accreditation  
6 for Marriage and Family Therapy Education, or a regional *or*  
7 *national institutional* accrediting agency that is recognized by the  
8 United States Department of Education. The board has the authority  
9 to make the final determination as to whether a degree meets all  
10 requirements, including, but not limited to, course requirements,  
11 regardless of accreditation or approval.

12 (c) A doctoral or master's degree program that qualifies for  
13 licensure or registration shall do the following:

14 (1) Integrate all of the following throughout its curriculum:

15 (A) Marriage and family therapy principles.

16 (B) The principles of mental health recovery-oriented care and  
17 methods of service delivery in recovery-oriented practice  
18 environments, among others.

19 (C) An understanding of various cultures and the social and  
20 psychological implications of socioeconomic position, and an  
21 understanding of how poverty and social stress impact an  
22 individual's mental health and recovery.

23 (2) Allow for innovation and individuality in the education of  
24 marriage and family therapists.

25 (3) Encourage students to develop the personal qualities that  
26 are intimately related to effective practice, including, but not  
27 limited to, integrity, sensitivity, flexibility, insight, compassion,  
28 and personal presence.

29 (4) Permit an emphasis or specialization that may address any  
30 one or more of the unique and complex array of human problems,  
31 symptoms, and needs of Californians served by marriage and  
32 family therapists.

33 (5) Provide students with the opportunity to meet with various  
34 consumers and family members of consumers of mental health  
35 services to enhance understanding of their experience of mental  
36 illness, treatment, and recovery.

37 (d) The degree described in subdivision (b) shall contain no less  
38 than 60 semester or 90 quarter units of instruction that includes,  
39 but is not limited to, the following requirements:

40 (1) Both of the following:

1 (A) No less than 12 semester or 18 quarter units of coursework  
2 in theories, principles, and methods of a variety of  
3 psychotherapeutic orientations directly related to marriage and  
4 family therapy and marital and family systems approaches to  
5 treatment and how these theories can be applied therapeutically  
6 with individuals, couples, families, adults, including elder adults,  
7 children, adolescents, and groups to improve, restore, or maintain  
8 healthy relationships.

9 (B) Practicum that involves direct client contact, as follows:

10 (i) A minimum of six semester or nine quarter units of practicum  
11 in a supervised clinical placement that provides supervised  
12 fieldwork experience.

13 (ii) A minimum of 150 hours of face-to-face experience  
14 counseling individuals, couples, families, or groups.

15 (iii) A student must be enrolled in a practicum course while  
16 counseling clients, except as specified in subdivision (c) of Section  
17 4980.42.

18 (iv) The practicum shall provide training in all of the following  
19 areas:

20 (I) Applied use of theory and psychotherapeutic techniques.

21 (II) Assessment, diagnosis, and prognosis.

22 (III) Treatment of individuals and premarital, couple, family,  
23 and child relationships, including trauma and abuse, dysfunctions,  
24 healthy functioning, health promotion, illness prevention, and  
25 working with families.

26 (IV) Professional writing, including documentation of services,  
27 treatment plans, and progress notes.

28 (V) How to connect people with resources that deliver the  
29 quality of services and support needed in the community.

30 (v) Educational institutions are encouraged to design the  
31 practicum required by this subparagraph to include marriage and  
32 family therapy experience in low income and multicultural mental  
33 health settings.

34 (vi) In addition to the 150 hours required in clause (ii), 75 hours  
35 of either of the following, or a combination thereof:

36 (I) Client centered advocacy, as defined in Section 4980.03.

37 (II) Face-to-face experience counseling individuals, couples,  
38 families, or groups.

39 (2) Instruction in all of the following:

- 1 (A) Diagnosis, assessment, prognosis, and treatment of mental  
2 disorders, including severe mental disorders, evidence-based  
3 practices, psychological testing, psychopharmacology, and  
4 promising mental health practices that are evaluated in peer  
5 reviewed literature.
- 6 (B) Developmental issues from infancy to old age, including  
7 instruction in all of the following areas:
- 8 (i) The effects of developmental issues on individuals, couples,  
9 and family relationships.
- 10 (ii) The psychological, psychotherapeutic, and health  
11 implications of developmental issues and their effects.
- 12 (iii) Aging and its biological, social, cognitive, and  
13 psychological aspects. This coursework shall include instruction  
14 on the assessment and reporting of, as well as treatment related  
15 to, elder and dependent adult abuse and neglect.
- 16 (iv) A variety of cultural understandings of human development.
- 17 (v) The understanding of human behavior within the social  
18 context of socioeconomic status and other contextual issues  
19 affecting social position.
- 20 (vi) The understanding of human behavior within the social  
21 context of a representative variety of the cultures found within  
22 California.
- 23 (vii) The understanding of the impact that personal and social  
24 insecurity, social stress, low educational levels, inadequate housing,  
25 and malnutrition have on human development.
- 26 (C) The broad range of matters and life events that may arise  
27 within marriage and family relationships and within a variety of  
28 California cultures, including instruction in all of the following:
- 29 (i) A minimum of seven contact hours of training or coursework  
30 in child abuse assessment and reporting as specified in Section 28,  
31 and any regulations promulgated thereunder.
- 32 (ii) Spousal or partner abuse assessment, detection, intervention  
33 strategies, and same gender abuse dynamics.
- 34 (iii) Cultural factors relevant to abuse of partners and family  
35 members.
- 36 (iv) Childbirth, child rearing, parenting, and stepparenting.
- 37 (v) Marriage, divorce, and blended families.
- 38 (vi) Long-term care.
- 39 (vii) End of life and grief.
- 40 (viii) Poverty and deprivation.

- 1 (ix) Financial and social stress.
- 2 (x) Effects of trauma.
- 3 (xi) The psychological, psychotherapeutic, community, and
- 4 health implications of the matters and life events described in
- 5 clauses (i) to (x), inclusive.
- 6 (D) Cultural competency and sensitivity, including a familiarity
- 7 with the racial, cultural, linguistic, and ethnic backgrounds of
- 8 persons living in California.
- 9 (E) Multicultural development and cross-cultural interaction,
- 10 including experiences of race, ethnicity, class, spirituality, sexual
- 11 orientation, gender, and disability, and their incorporation into the
- 12 psychotherapeutic process.
- 13 (F) The effects of socioeconomic status on treatment and
- 14 available resources.
- 15 (G) Resilience, including the personal and community qualities
- 16 that enable persons to cope with adversity, trauma, tragedy, threats,
- 17 or other stresses.
- 18 (H) Human sexuality, including the study of physiological,
- 19 psychological, and social cultural variables associated with sexual
- 20 behavior and gender identity, and the assessment and treatment of
- 21 psychosexual dysfunction.
- 22 (I) Substance use disorders, co-occurring disorders, and
- 23 addiction, including, but not limited to, instruction in all of the
- 24 following:
  - 25 (i) The definition of substance use disorders, co-occurring
  - 26 disorders, and addiction. For purposes of this subparagraph,
  - 27 “co-occurring disorders” means a mental illness and substance
  - 28 abuse diagnosis occurring simultaneously in an individual.
  - 29 (ii) Medical aspects of substance use disorders and co-occurring
  - 30 disorders.
  - 31 (iii) The effects of psychoactive drug use.
  - 32 (iv) Current theories of the etiology of substance abuse and
  - 33 addiction.
  - 34 (v) The role of persons and systems that support or compound
  - 35 substance abuse and addiction.
  - 36 (vi) Major approaches to identification, evaluation, and treatment
  - 37 of substance use disorders, co-occurring disorders, and addiction,
  - 38 including, but not limited to, best practices.
  - 39 (vii) Legal aspects of substance abuse.

- 1 (viii) Populations at risk with regard to substance use disorders  
2 and co-occurring disorders.
- 3 (ix) Community resources offering screening, assessment,  
4 treatment, and followup for the affected person and family.
- 5 (x) Recognition of substance use disorders, co-occurring  
6 disorders, and addiction, and appropriate referral.
- 7 (xi) The prevention of substance use disorders and addiction.
- 8 (J) California law and professional ethics for marriage and  
9 family therapists, including instruction in all of the following areas  
10 of study:
- 11 (i) Contemporary professional ethics and statutory, regulatory,  
12 and decisional laws that delineate the scope of practice of marriage  
13 and family therapy.
- 14 (ii) The therapeutic, clinical, and practical considerations  
15 involved in the legal and ethical practice of marriage and family  
16 therapy, including, but not limited to, family law.
- 17 (iii) The current legal patterns and trends in the mental health  
18 professions.
- 19 (iv) The psychotherapist-patient privilege, confidentiality, the  
20 patient dangerous to self or others, and the treatment of minors  
21 with and without parental consent.
- 22 (v) A recognition and exploration of the relationship between  
23 a practitioner's sense of self and human values and his or her  
24 professional behavior and ethics.
- 25 (vi) Differences in legal and ethical standards for different types  
26 of work settings.
- 27 (vii) Licensing law and licensing process.
- 28 (e) The degree described in subdivision (b) shall, in addition to  
29 meeting the requirements of subdivision (d), include instruction  
30 in case management, systems of care for the severely mentally ill,  
31 public and private services and supports available for the severely  
32 mentally ill, community resources for persons with mental illness  
33 and for victims of abuse, disaster and trauma response, advocacy  
34 for the severely mentally ill, and collaborative treatment. This  
35 instruction may be provided either in credit level coursework or  
36 through extension programs offered by the degree-granting  
37 institution.
- 38 (f) The changes made to law by this section are intended to  
39 improve the educational qualifications for licensure in order to  
40 better prepare future licentiates for practice, and are not intended

1 to expand or restrict the scope of practice for marriage and family  
2 therapists.

3 SEC. 9. Section 4980.37 of the Business and Professions Code  
4 is amended to read:

5 4980.37. (a) This section shall apply to applicants for licensure  
6 or registration who begin graduate study before August 1, 2012,  
7 and complete that study on or before December 31, 2018. Those  
8 applicants may alternatively qualify under paragraph (2) of  
9 subdivision (a) of Section 4980.36.

10 (b) To qualify for a license or registration, applicants shall  
11 possess a doctor's or master's degree in marriage, family, and child  
12 counseling, marriage and family therapy, couple and family  
13 therapy, psychology, clinical psychology, counseling psychology,  
14 or counseling with an emphasis in either marriage, family, and  
15 child counseling or marriage and family therapy, obtained from a  
16 school, college, or university accredited by a regional *or national*  
17 *institutional* accrediting agency that is recognized by the United  
18 States Department of Education or approved by the Bureau for  
19 Private Postsecondary Education. The board has the authority to  
20 make the final determination as to whether a degree meets all  
21 requirements, including, but not limited to, course requirements,  
22 regardless of accreditation or approval. In order to qualify for  
23 licensure pursuant to this section, a doctor's or master's degree  
24 program shall be a single, integrated program primarily designed  
25 to train marriage and family therapists and shall contain no less  
26 than 48 semester or 72 quarter units of instruction. This instruction  
27 shall include no less than 12 semester units or 18 quarter units of  
28 coursework in the areas of marriage, family, and child counseling,  
29 and marital and family systems approaches to treatment. The  
30 coursework shall include all of the following areas:

31 (1) The salient theories of a variety of psychotherapeutic  
32 orientations directly related to marriage and family therapy, and  
33 marital and family systems approaches to treatment.

34 (2) Theories of marriage and family therapy and how they can  
35 be utilized in order to intervene therapeutically with couples,  
36 families, adults, children, and groups.

37 (3) Developmental issues and life events from infancy to old  
38 age and their effect on individuals, couples, and family  
39 relationships. This may include coursework that focuses on specific  
40 family life events and the psychological, psychotherapeutic, and

1 health implications that arise within couples and families,  
2 including, but not limited to, childbirth, child rearing, childhood,  
3 adolescence, adulthood, marriage, divorce, blended families,  
4 stepparenting, abuse and neglect of older and dependent adults,  
5 and geropsychology.

6 (4) A variety of approaches to the treatment of children.

7 The board shall, by regulation, set forth the subjects of instruction  
8 required in this subdivision.

9 (c) (1) In addition to the 12 semester or 18 quarter units of  
10 coursework specified in subdivision (b), the doctor's or master's  
11 degree program shall contain not less than six semester or nine  
12 quarter units of supervised practicum in applied psychotherapeutic  
13 technique, assessments, diagnosis, prognosis, and treatment of  
14 premarital, couple, family, and child relationships, including  
15 dysfunctions, healthy functioning, health promotion, and illness  
16 prevention, in a supervised clinical placement that provides  
17 supervised fieldwork experience within the scope of practice of a  
18 marriage and family therapist.

19 (2) For applicants who enrolled in a degree program on or after  
20 January 1, 1995, the practicum shall include a minimum of 150  
21 hours of face-to-face experience counseling individuals, couples,  
22 families, or groups.

23 (3) The practicum hours shall be considered as part of the 48  
24 semester or 72 quarter unit requirement.

25 (d) As an alternative to meeting the qualifications specified in  
26 subdivision (b), the board shall accept as equivalent degrees those  
27 master's or doctor's degrees granted by educational institutions  
28 whose degree program is approved by the Commission on  
29 Accreditation for Marriage and Family Therapy Education.

30 (e) In order to provide an integrated course of study and  
31 appropriate professional training, while allowing for innovation  
32 and individuality in the education of marriage and family therapists,  
33 a degree program that meets the educational qualifications for  
34 licensure or registration under this section shall do all of the  
35 following:

36 (1) Provide an integrated course of study that trains students  
37 generally in the diagnosis, assessment, prognosis, and treatment  
38 of mental disorders.

39 (2) Prepare students to be familiar with the broad range of  
40 matters that may arise within marriage and family relationships.

1 (3) Train students specifically in the application of marriage  
2 and family relationship counseling principles and methods.

3 (4) Encourage students to develop those personal qualities that  
4 are intimately related to the counseling situation such as integrity,  
5 sensitivity, flexibility, insight, compassion, and personal presence.

6 (5) Teach students a variety of effective psychotherapeutic  
7 techniques and modalities that may be utilized to improve, restore,  
8 or maintain healthy individual, couple, and family relationships.

9 (6) Permit an emphasis or specialization that may address any  
10 one or more of the unique and complex array of human problems,  
11 symptoms, and needs of Californians served by marriage and  
12 family therapists.

13 (7) Prepare students to be familiar with cross-cultural mores  
14 and values, including a familiarity with the wide range of racial  
15 and ethnic backgrounds common among California's population,  
16 including, but not limited to, Blacks, Hispanics, Asians, and Native  
17 Americans.

18 (f) Educational institutions are encouraged to design the  
19 practicum required by this section to include marriage and family  
20 therapy experience in low income and multicultural mental health  
21 settings.

22 (g) This section shall remain in effect only until January 1, 2019,  
23 and as of that date is repealed, unless a later enacted statute, that  
24 is enacted before January 1, 2019, deletes or extends that date.

25 SEC. 10. Section 4980.40.5 of the Business and Professions  
26 Code is repealed.

27 ~~4980.40.5. (a) A doctoral or master's degree in marriage,~~  
28 ~~family, and child counseling, marital and family therapy, couple~~  
29 ~~and family therapy, psychology, clinical psychology, counseling~~  
30 ~~psychology, or counseling with an emphasis in either marriage,~~  
31 ~~family, and child counseling, or marriage and family therapy,~~  
32 ~~obtained from a school, college, or university approved by the~~  
33 ~~Bureau for Private Postsecondary Education as of June 30, 2007,~~  
34 ~~shall be considered by the board to meet the requirements necessary~~  
35 ~~for licensure as a marriage and family therapist and for registration~~  
36 ~~as a marriage and family therapist intern provided that the degree~~  
37 ~~is conferred on or before July 1, 2010.~~

38 ~~(b) As an alternative to meeting the qualifications specified in~~  
39 ~~subdivision (a) of Section 4980.40, the board shall accept as~~  
40 ~~equivalent degrees those doctoral or master's degrees that otherwise~~

1 ~~meet the requirements of this chapter and are conferred by~~  
2 ~~educational institutions accredited by any of the following~~  
3 ~~associations:~~

- 4 ~~(1) Northwest Commission on Colleges and Universities.~~
- 5 ~~(2) Middle States Association of Colleges and Secondary~~
- 6 ~~Schools.~~
- 7 ~~(3) New England Association of Schools and Colleges.~~
- 8 ~~(4) North Central Association of Colleges and Secondary~~
- 9 ~~Schools.~~
- 10 ~~(5) Southern Association of Colleges and Schools.~~

11 SEC. 11. Section 4980.43 of the Business and Professions  
12 Code is amended to read:

13 4980.43. (a) To qualify for licensure as specified in Section  
14 4980.40, each applicant shall complete experience related to the  
15 practice of marriage and family therapy under a supervisor who  
16 meets the qualifications set forth in Section 4980.03. The  
17 experience shall comply with the following:

- 18 (1) A minimum of 3,000 hours of supervised experience
- 19 completed during a period of at least 104 weeks.
- 20 (2) A maximum of 40 hours in any seven consecutive days.
- 21 (3) A minimum of 1,700 hours obtained after the qualifying
- 22 master's or doctoral degree was awarded.
- 23 (4) A maximum of 1,300 hours obtained prior to the award date
- 24 of the qualifying master's or doctoral degree.
- 25 (5) A maximum of 750 hours of counseling and direct supervisor
- 26 contact prior to the award date of the qualifying master's or
- 27 doctoral degree.
- 28 (6) No hours of experience may be gained prior to completing
- 29 either 12 semester units or 18 quarter units of graduate instruction.
- 30 (7) No hours of experience may be gained more than six years
- 31 prior to the date the application for examination eligibility was
- 32 filed, except that up to 500 hours of clinical experience gained in
- 33 the supervised practicum required by subdivision (c) of Section
- 34 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
- 35 of Section 4980.36 shall be exempt from this six-year requirement.
- 36 (8) A minimum of 1,750 hours of direct counseling with
- 37 individuals, groups, couples, or families, that includes not less than
- 38 500 total hours of experience in diagnosing and treating couples,
- 39 families, and children.

1 (9) A maximum of 1,250 hours of nonclinical practice,  
2 consisting of direct supervisor contact, administering and  
3 evaluating psychological tests, writing clinical reports, writing  
4 progress or process notes, client centered advocacy, and workshops,  
5 seminars, training sessions, or conferences directly related to  
6 marriage and family therapy that have been approved by the  
7 applicant's supervisor.

8 (10) It is anticipated and encouraged that hours of experience  
9 will include working with elders and dependent adults who have  
10 physical or mental limitations that restrict their ability to carry out  
11 normal activities or protect their rights.

12 This subdivision shall only apply to hours gained on and after  
13 January 1, 2010.

14 (b) An individual who submits an application for examination  
15 eligibility between January 1, 2016, and December 31, 2020, may  
16 alternatively qualify under the experience requirements that were  
17 in place on January 1, 2015.

18 (c) All applicants, trainees, and registrants shall be at all times  
19 under the supervision of a supervisor who shall be responsible for  
20 ensuring that the extent, kind, and quality of counseling performed  
21 is consistent with the training and experience of the person being  
22 supervised, and who shall be responsible to the board for  
23 compliance with all laws, rules, and regulations governing the  
24 practice of marriage and family therapy. Supervised experience  
25 shall be gained by an intern or trainee only as an employee or as  
26 a volunteer. The requirements of this chapter regarding gaining  
27 hours of experience and supervision are applicable equally to  
28 employees and volunteers. ~~Experience shall not be gained by an~~  
29 ~~intern or trainee as an independent contractor. Associates and~~  
30 ~~trainees shall not be employed as independent contractors, and~~  
31 ~~shall not gain experience for work performed as an independent~~  
32 ~~contractor, reported on an IRS Form 1099, or both.~~

33 (1) If employed, an intern shall provide the board with copies  
34 of the corresponding W-2 tax forms for each year of experience  
35 claimed upon application for licensure.

36 (2) If volunteering, an intern shall provide the board with a letter  
37 from his or her employer verifying the intern's employment as a  
38 volunteer upon application for licensure.

39 (d) Except for experience gained by attending workshops,  
40 seminars, training sessions, or conferences as described in

1 paragraph (9) of subdivision (a), supervision shall include at least  
2 one hour of direct supervisor contact in each week for which  
3 experience is credited in each work setting, as specified:

4 (1) A trainee shall receive an average of at least one hour of  
5 direct supervisor contact for every five hours of client contact in  
6 each setting. No more than six hours of supervision, whether  
7 individual or group, shall be credited during any single week.

8 (2) An individual supervised after being granted a qualifying  
9 degree shall receive at least one additional hour of direct supervisor  
10 contact for every week in which more than 10 hours of client  
11 contact is gained in each setting. No more than six hours of  
12 supervision, whether individual or group, shall be credited during  
13 any single week.

14 (3) For purposes of this section, “one hour of direct supervisor  
15 contact” means one hour per week of face-to-face contact on an  
16 individual basis or two hours per week of face-to-face contact in  
17 a group.

18 (4) Direct supervisor contact shall occur within the same week  
19 as the hours claimed.

20 (5) Direct supervisor contact provided in a group shall be  
21 provided in a group of not more than eight supervisees and in  
22 segments lasting no less than one continuous hour.

23 (6) Notwithstanding paragraph (3), an intern working in a  
24 governmental entity, a school, a college, or a university, or an  
25 institution that is both nonprofit and charitable may obtain the  
26 required weekly direct supervisor contact via two-way, real-time  
27 videoconferencing. The supervisor shall be responsible for ensuring  
28 that client confidentiality is upheld.

29 (7) All experience gained by a trainee shall be monitored by the  
30 supervisor as specified by regulation.

31 (8) The six hours of supervision that may be credited during  
32 any single week pursuant to paragraphs (1) and (2) shall apply to  
33 supervision hours gained on or after January 1, 2009.

34 (e) (1) A trainee may be credited with supervised experience  
35 completed in any setting that meets all of the following:

36 (A) Lawfully and regularly provides mental health counseling  
37 or psychotherapy.

38 (B) Provides oversight to ensure that the trainee’s work at the  
39 setting meets the experience and supervision requirements set forth

1 in this chapter and is within the scope of practice for the profession  
2 as defined in Section 4980.02.

3 (C) Is not a private practice owned by a licensed marriage and  
4 family therapist, a licensed professional clinical counselor, a  
5 licensed psychologist, a licensed clinical social worker, a licensed  
6 physician and surgeon, or a professional corporation of any of  
7 those licensed professions.

8 (2) Experience may be gained by the trainee solely as part of  
9 the position for which the trainee volunteers or is employed.

10 (f) (1) An intern may be credited with supervised experience  
11 completed in any setting that meets both of the following:

12 (A) Lawfully and regularly provides mental health counseling  
13 or psychotherapy.

14 (B) Provides oversight to ensure that the intern's work at the  
15 setting meets the experience and supervision requirements set forth  
16 in this chapter and is within the scope of practice for the profession  
17 as defined in Section 4980.02.

18 (2) An applicant shall not be employed or volunteer in a private  
19 practice, as defined in subparagraph (C) of paragraph (1) of  
20 subdivision (e), until registered as an intern.

21 (3) While an intern may be either a paid employee or a  
22 volunteer, employers are encouraged to provide fair remuneration  
23 to interns.

24 (4) Except for periods of time during a supervisor's vacation or  
25 sick leave, an intern who is employed or volunteering in private  
26 practice shall be under the direct supervision of a licensee that has  
27 satisfied subdivision (g) of Section 4980.03. The supervising  
28 licensee shall either be employed by and practice at the same site  
29 as the intern's employer, or shall be an owner or shareholder of  
30 the private practice. Alternative supervision may be arranged during  
31 a supervisor's vacation or sick leave if the supervision meets the  
32 requirements of this section.

33 (5) Experience may be gained by the intern solely as part of the  
34 position for which the intern volunteers or is employed.

35 (g) Except as provided in subdivision (h), all persons shall  
36 register with the board as an intern to be credited for postdegree  
37 hours of supervised experience gained toward licensure.

38 (h) Postdegree hours of experience shall be credited toward  
39 licensure so long as the applicant applies for the intern registration  
40 within 90 days of the granting of the qualifying master's or doctoral

1 degree and is thereafter granted the intern registration by the board.  
2 An applicant shall not be employed or volunteer in a private  
3 practice until registered as an intern by the board.

4 (i) Trainees, interns, and applicants shall not receive any  
5 remuneration from patients or clients, and shall only be paid by  
6 their employers.

7 (j) Trainees, interns, and applicants shall only perform services  
8 at the place where their employers regularly conduct business,  
9 which may include performing services at other locations, so long  
10 as the services are performed under the direction and control of  
11 their employer and supervisor, and in compliance with the laws  
12 and regulations pertaining to supervision. For purposes of  
13 paragraph (3) of subdivision (a) of Section 2290.5, interns and  
14 trainees working under licensed supervision, consistent with  
15 subdivision (c), may provide services via telehealth within the  
16 scope authorized by this chapter and in accordance with any  
17 regulations governing the use of telehealth promulgated by the  
18 board. Trainees and interns shall have no proprietary interest in  
19 their employers' businesses and shall not lease or rent space, pay  
20 for furnishings, equipment, or supplies, or in any other way pay  
21 for the obligations of their employers.

22 (k) Trainees, interns, or applicants who provide volunteered  
23 services or other services, and who receive no more than a total,  
24 from all work settings, of five hundred dollars (\$500) per month  
25 as reimbursement for expenses actually incurred by those trainees,  
26 interns, or applicants for services rendered in any lawful work  
27 setting other than a private practice shall be considered employees  
28 and not independent contractors. The board may audit applicants  
29 who receive reimbursement for expenses, and the applicants shall  
30 have the burden of demonstrating that the payments received were  
31 for reimbursement of expenses actually incurred.

32 (l) Each educational institution preparing applicants for licensure  
33 pursuant to this chapter shall consider requiring, and shall  
34 encourage, its students to undergo individual, marital or conjoint,  
35 family, or group counseling or psychotherapy, as appropriate. Each  
36 supervisor shall consider, advise, and encourage his or her interns  
37 and trainees regarding the advisability of undertaking individual,  
38 marital or conjoint, family, or group counseling or psychotherapy,  
39 as appropriate. Insofar as it is deemed appropriate and is desired  
40 by the applicant, the educational institution and supervisors are

1 encouraged to assist the applicant in locating that counseling or  
2 psychotherapy at a reasonable cost.

3 SEC. 12. Section 4980.78 of the Business and Professions  
4 Code is amended to read:

5 4980.78. (a) This section applies to persons who apply for  
6 licensure or registration on or after January 1, 2016, and who do  
7 not hold a license as described in Section 4980.72.

8 (b) For purposes of Section 4980.74, education is substantially  
9 equivalent if all of the following requirements are met:

10 (1) The degree is obtained from a school, college, or university  
11 accredited by ~~an~~ *a regional or national institutional* accrediting  
12 agency that is recognized by the United States Department of  
13 Education and consists of, at a minimum, the following:

14 (A) (i) For an applicant who obtained his or her degree within  
15 the timeline prescribed by subdivision (a) of Section 4980.36, the  
16 degree shall contain no less than 60 semester or 90 quarter units  
17 of instruction.

18 (ii) Up to 12 semester or 18 quarter units of instruction may be  
19 remediated, if missing from the degree. The remediation may occur  
20 while the applicant is registered as an intern.

21 (B) For an applicant who obtained his or her degree within the  
22 timeline prescribed by subdivision (a) of Section 4980.37, the  
23 degree shall contain no less than 48 semester units or 72 quarter  
24 units of instruction.

25 (C) Six semester or nine quarter units of practicum, including,  
26 but not limited to, a minimum of 150 hours of face-to-face  
27 counseling, and an additional 75 hours of either face-to-face  
28 counseling or client-centered advocacy, or a combination of  
29 face-to-face counseling and client-centered advocacy.

30 (D) Twelve semester or 18 quarter units in the areas of marriage,  
31 family, and child counseling and marital and family systems  
32 approaches to treatment, as specified in subparagraph (A) of  
33 paragraph (1) of subdivision (d) of Section 4980.36.

34 (2) The applicant shall complete coursework in California law  
35 and ethics as follows:

36 (A) An applicant who completed a course in law and  
37 professional ethics for marriage and family therapists as specified  
38 in paragraph (7) of subdivision (a) of Section 4980.81, that did not  
39 contain instruction in California law and ethics, shall complete an  
40 18-hour course in California law and professional ethics. The

1 content of the course shall include, but not be limited to,  
2 advertising, scope of practice, scope of competence, treatment of  
3 minors, confidentiality, dangerous patients, psychotherapist-patient  
4 privilege, recordkeeping, patient access to records, state and federal  
5 laws relating to confidentiality of patient health information, dual  
6 relationships, child abuse, elder and dependent adult abuse, online  
7 therapy, insurance reimbursement, civil liability, disciplinary  
8 actions and unprofessional conduct, ethics complaints and ethical  
9 standards, termination of therapy, standards of care, relevant family  
10 law, therapist disclosures to patients, differences in legal and ethical  
11 standards in different types of work settings, and licensing law  
12 and licensing process. This coursework shall be completed prior  
13 to registration as an intern.

14 (B) An applicant who has not completed a course in law and  
15 professional ethics for marriage and family therapists as specified  
16 in paragraph (7) of subdivision (a) of Section 4980.81 shall  
17 complete this required coursework. The coursework shall contain  
18 content specific to California law and ethics. This coursework shall  
19 be completed prior to registration as an intern.

20 (3) The applicant completes the educational requirements  
21 specified in Section 4980.81 not already completed in his or her  
22 education. The coursework may be from an accredited school,  
23 college, or university as specified in paragraph (1), from an  
24 educational institution approved by the Bureau for Private  
25 Postsecondary Education, or from a continuing education provider  
26 that is acceptable to the board as defined in Section 4980.54.  
27 Undergraduate courses shall not satisfy this requirement.

28 (4) The applicant completes the following coursework not  
29 already completed in his or her education from an accredited  
30 school, college, or university as specified in paragraph (1) from  
31 an educational institution approved by the Bureau for Private  
32 Postsecondary Education, or from a continuing education provider  
33 that is acceptable to the board as defined in Section 4980.54.  
34 Undergraduate courses shall not satisfy this requirement.

35 (A) At least three semester units, or 45 hours, of instruction  
36 regarding the principles of mental health recovery-oriented care  
37 and methods of service delivery in recovery-oriented practice  
38 environments, including structured meetings with various  
39 consumers and family members of consumers of mental health

1 services to enhance understanding of their experience of mental  
2 illness, treatment, and recovery.

3 (B) At least one semester unit, or 15 hours, of instruction that  
4 includes an understanding of various California cultures and the  
5 social and psychological implications of socioeconomic position.

6 (5) An applicant may complete any units and course content  
7 requirements required under paragraphs (3) and (4) not already  
8 completed in his or her education while registered as an intern,  
9 unless otherwise specified.

10 (6) The applicant's degree title need not be identical to that  
11 required by subdivision (b) of Section 4980.36.

12 SEC. 13. Section 4980.79 of the Business and Professions  
13 Code is amended to read:

14 4980.79. (a) This section applies to persons who apply for  
15 licensure or registration on or after January 1, 2016, and who hold  
16 a license as described in Section 4980.72.

17 (b) For purposes of Section 4980.72, education is substantially  
18 equivalent if all of the following requirements are met:

19 (1) The degree is obtained from a school, college, or university  
20 accredited by ~~an~~ *a regional or national institutional* accrediting  
21 agency recognized by the United States Department of Education  
22 and consists of, at a minimum, the following:

23 (A) (i) For an applicant who obtained his or her degree within  
24 the timeline prescribed by subdivision (a) of Section 4980.36, the  
25 degree shall contain no less than 60 semester or 90 quarter units  
26 of instruction.

27 (ii) Up to 12 semester or 18 quarter units of instruction may be  
28 remediated, if missing from the degree. The remediation may occur  
29 while the applicant is registered as an intern.

30 (B) For an applicant who obtained his or her degree within the  
31 timeline prescribed by subdivision (a) of Section 4980.37, the  
32 degree shall contain no less than 48 semester or 72 quarter units  
33 of instruction.

34 (C) Six semester or nine quarter units of practicum, including,  
35 but not limited to, a minimum of 150 hours of face-to-face  
36 counseling, and an additional 75 hours of either face-to-face  
37 counseling or client-centered advocacy, or a combination of  
38 face-to-face counseling and client-centered advocacy.

1 (i) An out-of-state applicant who has been licensed for at least  
2 two years in clinical practice, as verified by the board, is exempt  
3 from this requirement.

4 (ii) An out-of-state applicant who has been licensed for less  
5 than two years in clinical practice, as verified by the board, who  
6 does not meet the practicum requirement, shall remediate it by  
7 obtaining 150 hours of face-to-face counseling, and an additional  
8 75 hours of either face-to-face counseling or client-centered  
9 advocacy, or a combination of face-to-face counseling and  
10 client-centered advocacy. These hours are in addition to the 3,000  
11 hours of experience required by this chapter, and shall be gained  
12 while registered as an intern.

13 (D) Twelve semester or 18 quarter units in the areas of marriage,  
14 family, and child counseling and marital and family systems  
15 approaches to treatment, as specified in subparagraph (A) of  
16 paragraph (1) of subdivision (d) of Section 4980.36.

17 (2) An applicant shall complete coursework in California law  
18 and ethics as follows:

19 (A) An applicant who completed a course in law and  
20 professional ethics for marriage and family therapists as specified  
21 in paragraph (7) of subdivision (a) of Section 4980.81 that did not  
22 include instruction in California law and ethics, shall complete an  
23 18-hour course in California law and professional ethics. The  
24 content of the course shall include, but not be limited to,  
25 advertising, scope of practice, scope of competence, treatment of  
26 minors, confidentiality, dangerous patients, psychotherapist-patient  
27 privilege, recordkeeping, patient access to records, state and federal  
28 laws relating to confidentiality of patient health information, dual  
29 relationships, child abuse, elder and dependent adult abuse, online  
30 therapy, insurance reimbursement, civil liability, disciplinary  
31 actions and unprofessional conduct, ethics complaints and ethical  
32 standards, termination of therapy, standards of care, relevant family  
33 law, therapist disclosures to patients, differences in legal and ethical  
34 standards in different types of work settings, and licensing law  
35 and licensing process. This coursework shall be completed prior  
36 to registration as an intern.

37 (B) An applicant who has not completed a course in law and  
38 professional ethics for marriage and family therapists as specified  
39 in paragraph (7) of subdivision (a) of Section 4980.81 shall  
40 complete this required coursework. The coursework shall include

1 content specific to California law and ethics. An applicant shall  
2 complete this coursework prior to registration as an intern.

3 (3) The applicant completes the educational requirements  
4 specified in Section 4980.81 not already completed in his or her  
5 education. The coursework may be from an accredited school,  
6 college, or university as specified in paragraph (1), from an  
7 educational institution approved by the Bureau for Private  
8 Postsecondary Education, or from a continuing education provider  
9 that is acceptable to the board as defined in Section 4980.54.  
10 Undergraduate coursework shall not satisfy this requirement.

11 (4) The applicant completes the following coursework not  
12 already completed in his or her education from an accredited  
13 school, college, or university as specified in paragraph (1) above,  
14 from an educational institution approved by the Bureau for Private  
15 Postsecondary Education, or from a continuing education provider  
16 that is acceptable to the board as defined in Section 4980.54.  
17 Undergraduate coursework shall not satisfy this requirement.

18 (A) At least three semester units, or 45 hours, of instruction  
19 pertaining to the principles of mental health recovery-oriented care  
20 and methods of service delivery in recovery-oriented practice  
21 environments, including structured meetings with various  
22 consumers and family members of consumers of mental health  
23 services to enhance understanding of their experience of mental  
24 illness, treatment, and recovery.

25 (B) At least one semester unit, or 15 hours, of instruction that  
26 includes an understanding of various California cultures and the  
27 social and psychological implications of socioeconomic position.

28 (5) An applicant's degree title need not be identical to that  
29 required by subdivision (b) of Section 4980.36.

30 (6) An applicant may complete any units and course content  
31 requirements required under paragraphs (3) and (4) not already  
32 completed in his or her education while registered as an intern,  
33 unless otherwise specified.

34 SEC. 14. Section 4992.05 of the Business and Professions  
35 Code is amended to read:

36 4992.05. (a) Effective January 1, 2016, an applicant for  
37 licensure as a clinical social worker shall pass the following two  
38 examinations as prescribed by the board:

39 (1) A California law and ethics examination.

40 (2) A clinical examination.

1 (b) Upon registration with the board, an associate *clinical* social  
2 worker registrant shall, within the first year of registration, take  
3 an examination on California law and ethics.

4 (c) A registrant may take the clinical examination only upon  
5 meeting all of the following requirements:

6 (1) Completion of all education requirements.

7 (2) Passage of the California law and ethics examination.

8 (3) Completion of all required supervised work experience.

9 (d) This section shall become operative on January 1, 2016.

10 SEC. 15. Section 4996.18 of the Business and Professions  
11 Code is amended to read:

12 4996.18. (a) A person who wishes to be credited with  
13 experience toward licensure requirements shall register with the  
14 board as an associate clinical social worker prior to obtaining that  
15 experience. The application shall be made on a form prescribed  
16 by the board.

17 (b) An applicant for registration shall satisfy the following  
18 requirements:

19 (1) Possess a master's degree from an accredited school or  
20 department of social work.

21 (2) Have committed no crimes or acts constituting grounds for  
22 denial of licensure under Section 480.

23 (3) Commencing January 1, 2014, have completed training or  
24 coursework, which may be embedded within more than one course,  
25 in California law and professional ethics for clinical social workers,  
26 including instruction in all of the following areas of study:

27 (A) Contemporary professional ethics and statutes, regulations,  
28 and court decisions that delineate the scope of practice of clinical  
29 social work.

30 (B) The therapeutic, clinical, and practical considerations  
31 involved in the legal and ethical practice of clinical social work,  
32 including, but not limited to, family law.

33 (C) The current legal patterns and trends in the mental health  
34 professions.

35 (D) The psychotherapist-patient privilege, confidentiality,  
36 dangerous patients, and the treatment of minors with and without  
37 parental consent.

38 (E) A recognition and exploration of the relationship between  
39 a practitioner's sense of self and human values, and his or her  
40 professional behavior and ethics.

1 (F) Differences in legal and ethical standards for different types  
2 of work settings.

3 (G) Licensing law and process.

4 (c) An applicant who possesses a master's degree from a school  
5 or department of social work that is a candidate for accreditation  
6 by the Commission on Accreditation of the Council on Social  
7 Work Education shall be eligible, and shall be required, to register  
8 as an associate clinical social worker in order to gain experience  
9 toward licensure if the applicant has not committed any crimes or  
10 acts that constitute grounds for denial of licensure under Section  
11 480. That applicant shall not, however, be eligible ~~for~~ *to take the*  
12 *clinical* examination until the school or department of social work  
13 has received accreditation by the Commission on Accreditation  
14 of the Council on Social Work Education.

15 (d) All applicants and registrants shall be at all times under the  
16 supervision of a supervisor who shall be responsible for ensuring  
17 that the extent, kind, and quality of counseling performed is  
18 consistent with the training and experience of the person being  
19 supervised, and who shall be responsible to the board for  
20 compliance with all laws, rules, and regulations governing the  
21 practice of clinical social work.

22 (e) Any experience obtained under the supervision of a spouse  
23 or relative by blood or marriage shall not be credited toward the  
24 required hours of supervised experience. Any experience obtained  
25 under the supervision of a supervisor with whom the applicant has  
26 a personal relationship that undermines the authority or  
27 effectiveness of the supervision shall not be credited toward the  
28 required hours of supervised experience.

29 (f) An applicant who possesses a master's degree from an  
30 accredited school or department of social work shall be able to  
31 apply experience the applicant obtained during the time the  
32 accredited school or department was in candidacy status by the  
33 Commission on Accreditation of the Council on Social Work  
34 Education toward the licensure requirements, if the experience  
35 meets the requirements of Section 4996.23. This subdivision shall  
36 apply retroactively to persons who possess a master's degree from  
37 an accredited school or department of social work and who  
38 obtained experience during the time the accredited school or  
39 department was in candidacy status by the Commission on  
40 Accreditation of the Council on Social Work Education.

1 (g) An applicant for registration or licensure trained in an  
 2 educational institution outside the United States shall demonstrate  
 3 to the satisfaction of the board that he or she possesses a master’s  
 4 of social work degree that is equivalent to a master’s degree issued  
 5 from a school or department of social work that is accredited by  
 6 the Commission on Accreditation of the Council on Social Work  
 7 Education. These applicants shall provide the board with a  
 8 comprehensive evaluation of the degree and shall provide any  
 9 other documentation the board deems necessary. The board has  
 10 the authority to make the final determination as to whether a degree  
 11 meets all requirements, including, but not limited to, course  
 12 requirements regardless of evaluation or accreditation.

13 (h) A registrant shall not provide clinical social work services  
 14 to the public for a fee, monetary or otherwise, except as an  
 15 employee.

16 (i) A registrant shall inform each client or patient prior to  
 17 performing any professional services that he or she is unlicensed  
 18 and is under the supervision of a licensed professional.

19 SEC. 16. Section 4996.23 of the Business and Professions  
 20 Code is amended to read:

21 4996.23. (a) To qualify for licensure as specified in Section  
 22 4996.2, each applicant shall complete 3,200 hours of post-master’s  
 23 degree supervised experience related to the practice of clinical  
 24 social work. The experience shall comply with the following:

25 (1) At least 1,700 hours shall be gained under the supervision  
 26 of a licensed clinical social worker. The remaining required  
 27 supervised experience may be gained under the supervision of a  
 28 licensed mental health professional acceptable to the board as  
 29 defined by a regulation adopted by the board.

30 (2) A minimum of 2,000 hours in clinical psychosocial  
 31 diagnosis, assessment, and treatment, including psychotherapy or  
 32 counseling.

33 (3) A maximum of 1,200 hours in client centered advocacy,  
 34 consultation, evaluation, research, direct supervisor contact, and  
 35 workshops, seminars, training sessions, or conferences directly  
 36 related to clinical social work that have been approved by the  
 37 applicant’s supervisor.

38 (4) Of the 2,000 clinical hours required in paragraph (2), no less  
 39 than 750 hours shall be face-to-face individual or group

1 psychotherapy provided to clients in the context of clinical social  
2 work services.

3 (5) A minimum of two years of supervised experience is required  
4 to be obtained over a period of not less than 104 weeks and shall  
5 have been gained within the six years immediately preceding the  
6 date on which the application for licensure was filed.

7 (6) Experience shall not be credited for more than 40 hours in  
8 any week.

9 (b) An individual who submits an application for examination  
10 eligibility between January 1, 2016, and December 31, 2020, may  
11 alternatively qualify under the experience requirements that were  
12 in place on January 1, 2015.

13 (c) “Supervision” means responsibility for, and control of, the  
14 quality of clinical social work services being provided.  
15 Consultation or peer discussion shall not be considered to be  
16 supervision.

17 (d) (1) Prior to the commencement of supervision, a supervisor  
18 shall comply with all requirements enumerated in Section 1870 of  
19 Title 16 of the California Code of Regulations and shall sign under  
20 penalty of perjury the “Responsibility Statement for Supervisors  
21 of an Associate Clinical Social Worker” form.

22 (2) Supervised experience shall include at least one hour of  
23 direct supervisor contact for a minimum of 104 weeks. For  
24 purposes of this subdivision, “one hour of direct supervisor contact”  
25 means one hour per week of face-to-face contact on an individual  
26 basis or two hours of face-to-face contact in a group conducted  
27 within the same week as the hours claimed.

28 (3) An associate shall receive at least one additional hour of  
29 direct supervisor contact for every week in which more than 10  
30 hours of face-to-face psychotherapy is performed in each setting  
31 in which experience is gained. No more than six hours of  
32 supervision, whether individual or group, shall be credited during  
33 any single week.

34 (4) Supervision shall include at least one hour of direct  
35 supervisor contact during each week for which experience is gained  
36 in each work setting. Supervision is not required for experience  
37 gained attending workshops, seminars, training sessions, or  
38 conferences as described in paragraph (3) of subdivision (a).

1 (5) The six hours of supervision that may be credited during  
2 any single week pursuant to paragraph (3) shall apply only to  
3 supervision hours gained on or after January 1, 2010.

4 (6) Group supervision shall be provided in a group of not more  
5 than eight supervisees and shall be provided in segments lasting  
6 no less than one continuous hour.

7 (7) Of the 104 weeks of required supervision, 52 weeks shall  
8 be individual supervision, and of the 52 weeks of required  
9 individual supervision, not less than 13 weeks shall be supervised  
10 by a licensed clinical social worker.

11 (8) Notwithstanding paragraph (2), an associate clinical social  
12 worker working for a governmental entity, school, college, or  
13 university, or an institution that is both a nonprofit and charitable  
14 institution, may obtain the required weekly direct supervisor  
15 contact via live two-way videoconferencing. The supervisor shall  
16 be responsible for ensuring that client confidentiality is preserved.

17 (e) The supervisor and the associate shall develop a supervisory  
18 plan that describes the goals and objectives of supervision. These  
19 goals shall include the ongoing assessment of strengths and  
20 limitations and the assurance of practice in accordance with the  
21 laws and regulations. The associate shall submit to the board the  
22 initial original supervisory plan upon application for licensure.

23 (f) Experience shall only be gained in a setting that meets both  
24 of the following:

25 (1) Lawfully and regularly provides clinical social work, mental  
26 health counseling, or psychotherapy.

27 (2) Provides oversight to ensure that the associate's work at the  
28 setting meets the experience and supervision requirements set forth  
29 in this chapter and is within the scope of practice for the profession  
30 as defined in Section 4996.9.

31 (g) Experience shall not be gained until the applicant has been  
32 registered as an associate clinical social worker.

33 (h) Employment in a private practice as defined in subdivision  
34 (i) shall not commence until the applicant has been registered as  
35 an associate clinical social worker.

36 (i) A private practice setting is a setting that is owned by a  
37 licensed clinical social worker, a licensed marriage and family  
38 therapist, a licensed psychologist, a licensed professional clinical  
39 counselor, a licensed physician and surgeon, or a professional  
40 corporation of any of those licensed professions.

1 (j) Associates shall not be employed as independent contractors,  
2 and shall not gain experience for work performed as an  
3 independent contractor, reported on an IRS Form 1099, or both.

4 ~~(j)~~

5 (k) If volunteering, the associate shall provide the board with a  
6 letter from his or her employer verifying his or her voluntary status  
7 upon application for licensure.

8 ~~(k)~~

9 (l) If employed, the associate shall provide the board with copies  
10 of his or her W-2 tax forms for each year of experience claimed  
11 upon application for licensure.

12 ~~(l)~~

13 (m) While an associate may be either a paid employee or  
14 volunteer, employers are encouraged to provide fair remuneration  
15 to associates.

16 ~~(m)~~

17 (n) An associate shall not do the following:

18 (1) Receive any remuneration from patients or clients and shall  
19 only be paid by his or her employer.

20 (2) Have any proprietary interest in the employer's business.

21 (3) Lease or rent space, pay for furnishings, equipment, or  
22 supplies, or in any other way pay for the obligations of his or her  
23 employer.

24 ~~(n)~~

25 (o) An associate, whether employed or volunteering, may obtain  
26 supervision from a person not employed by the associate's  
27 employer if that person has signed a written agreement with the  
28 employer to take supervisory responsibility for the associate's  
29 social work services.

30 ~~(o)~~

31 (p) Notwithstanding any other provision of law, associates and  
32 applicants for examination shall receive a minimum of one hour  
33 of supervision per week for each setting in which he or she is  
34 working.

35 SEC. 17. Section 4999.12 of the Business and Professions  
36 Code is amended to read:

37 4999.12. For purposes of this chapter, the following terms have  
38 the following meanings:

39 (a) "Board" means the Board of Behavioral Sciences.

1 (b) “Accredited” means a school, college, or university  
2 accredited by the ~~Western Association of Schools and Colleges,~~  
3 ~~or its equivalent regional accrediting association.~~ *a regional or*  
4 *national institutional accrediting agency that is recognized by the*  
5 *United States Department of Education.*

6 (c) “Approved” means a school, college, or university that  
7 possessed unconditional approval by the Bureau for Private  
8 Postsecondary Education at the time of the applicant’s graduation  
9 from the school, college, or university.

10 (d) “Applicant” means an unlicensed person who has completed  
11 a master’s or doctoral degree program, as specified in Section  
12 4999.32 or 4999.33, as applicable, and whose application for  
13 registration as an intern is pending or who has applied for  
14 examination eligibility, or an unlicensed person who has completed  
15 the requirements for licensure specified in this chapter and is no  
16 longer registered with the board as an intern.

17 (e) “Licensed professional clinical counselor” or “LPCC” means  
18 a person licensed under this chapter to practice professional clinical  
19 counseling, as defined in Section 4999.20.

20 (f) “Intern” means an unlicensed person who meets the  
21 requirements of Section 4999.42 and is registered with the board.

22 (g) “Clinical counselor trainee” means an unlicensed person  
23 who is currently enrolled in a master’s or doctoral degree program,  
24 as specified in Section 4999.32 or 4999.33, as applicable, that is  
25 designed to qualify him or her for licensure under this chapter, and  
26 who has completed no less than 12 semester units or 18 quarter  
27 units of coursework in any qualifying degree program.

28 (h) “Approved supervisor” means an individual who meets the  
29 following requirements:

30 (1) Has documented two years of clinical experience as a  
31 licensed professional clinical counselor, licensed marriage and  
32 family therapist, licensed clinical psychologist, licensed clinical  
33 social worker, or licensed physician and surgeon who is certified  
34 in psychiatry by the American Board of Psychiatry and Neurology.

35 (2) Has received professional training in supervision.

36 (3) Has not provided therapeutic services to the clinical  
37 counselor trainee or intern.

38 (4) Has a current and valid license that is not under suspension  
39 or probation.

1 (i) “Client centered advocacy” includes, but is not limited to,  
2 researching, identifying, and accessing resources, or other activities,  
3 related to obtaining or providing services and supports for clients  
4 or groups of clients receiving psychotherapy or counseling services.

5 (j) “Advertising” or “advertise” includes, but is not limited to,  
6 the issuance of any card, sign, or device to any person, or the  
7 causing, permitting, or allowing of any sign or marking on, or in,  
8 any building or structure, or in any newspaper or magazine or in  
9 any directory, or any printed matter whatsoever, with or without  
10 any limiting qualification. It also includes business solicitations  
11 communicated by radio or television broadcasting. Signs within  
12 church buildings or notices in church bulletins mailed to a  
13 congregation shall not be construed as advertising within the  
14 meaning of this chapter.

15 (k) “Referral” means evaluating and identifying the needs of a  
16 client to determine whether it is advisable to refer the client to  
17 other specialists, informing the client of that judgment, and  
18 communicating that determination as requested or deemed  
19 appropriate to referral sources.

20 (l) “Research” means a systematic effort to collect, analyze, and  
21 interpret quantitative and qualitative data that describes how social  
22 characteristics, behavior, emotion, cognitions, disabilities, mental  
23 disorders, and interpersonal transactions among individuals and  
24 organizations interact.

25 (m) “Supervision” includes the following:

26 (1) Ensuring that the extent, kind, and quality of counseling  
27 performed is consistent with the education, training, and experience  
28 of the person being supervised.

29 (2) Reviewing client or patient records, monitoring and  
30 evaluating assessment, diagnosis, and treatment decisions of the  
31 clinical counselor trainee.

32 (3) Monitoring and evaluating the ability of the intern or clinical  
33 counselor trainee to provide services to the particular clientele at  
34 the site or sites where he or she will be practicing.

35 (4) Ensuring compliance with laws and regulations governing  
36 the practice of licensed professional clinical counseling.

37 (5) That amount of direct observation, or review of audio or  
38 videotapes of counseling or therapy, as deemed appropriate by the  
39 supervisor.

1 SEC. 18. Section 4999.12.5 is added to the Business and  
2 Professions Code, to read:

3 4999.12.5. (a) The title “professional clinical counselor intern”  
4 or “professional clinical counselor registered intern” is hereby  
5 renamed “associate professional clinical counselor” or “registered  
6 associate professional clinical counselor,” respectively. Any  
7 reference in any statute or regulation to a “professional clinical  
8 counselor intern” or “professional clinical counselor registered  
9 intern” shall be deemed a reference to an “associate professional  
10 clinical counselor” or “registered associate professional clinical  
11 counselor.”

12 (b) Nothing in this section shall be construed to expand or  
13 constrict the scope of practice of a person licensed or registered  
14 pursuant to this chapter.

15 (c) This section shall become operative January 1, 2018.

16 SEC. 19. Section 4999.40 of the Business and Professions  
17 Code is amended to read:

18 4999.40. (a) Each educational institution preparing applicants  
19 to qualify for licensure shall notify each of its students by means  
20 of its public documents or otherwise in writing that its degree  
21 program is designed to meet the requirements of Section 4999.32  
22 or 4999.33 and shall certify to the board that it has so notified its  
23 students.

24 (b) *An applicant for registration or licensure shall submit to*  
25 *the board a certification by the applicant’s educational institution*  
26 *that the institution’s required curriculum for graduation and any*  
27 *associated coursework completed by the applicant does one of the*  
28 *following:*

29 (1) *Meets all of the requirements set forth in Section 4999.32.*

30 (2) *Meets all of the requirements set forth in Section 4999.33.*

31 ~~(b)~~

32 (c) An applicant trained at an educational institution outside the  
33 United States shall demonstrate to the satisfaction of the board  
34 that he or she possesses a qualifying degree that is equivalent to a  
35 degree earned from an institution of higher education that is  
36 accredited or approved. These applicants shall provide the board  
37 with a comprehensive evaluation of the degree performed by a  
38 foreign credential evaluation service that is a member of the  
39 National Association of Credential Evaluation Services and shall  
40 provide any other documentation the board deems necessary.

1 SEC. 20. Section 4999.47 of the Business and Professions  
2 Code is amended to read:

3 4999.47. (a) Clinical counselor trainees, interns, and applicants  
4 shall perform services only as an employee or as a volunteer.

5 The requirements of this chapter regarding gaining hours of  
6 clinical mental health experience and supervision are applicable  
7 equally to employees and volunteers. ~~Experience shall not be~~  
8 ~~gained by interns or trainees as an independent contractor.~~  
9 *Associates and trainees shall not be employed as independent*  
10 *contractors, and shall not gain experience for work performed as*  
11 *an independent contractor, reported on an IRS Form 1099, or*  
12 *both.*

13 (1) If employed, a clinical counselor intern shall provide the  
14 board with copies of the corresponding W-2 tax forms for each  
15 year of experience claimed upon application for licensure as a  
16 professional clinical counselor.

17 (2) If volunteering, a clinical counselor intern shall provide the  
18 board with a letter from his or her employer verifying the intern's  
19 employment as a volunteer upon application for licensure as a  
20 professional clinical counselor.

21 (b) Clinical counselor trainees, interns, and applicants shall not  
22 receive any remuneration from patients or clients, and shall only  
23 be paid by their employers.

24 (c) While an intern may be either a paid employee or a volunteer,  
25 employers are encouraged to provide fair remuneration.

26 (d) Clinical counselor trainees, interns, and applicants who  
27 provide voluntary services or other services, and who receive no  
28 more than a total, from all work settings, of five hundred dollars  
29 (\$500) per month as reimbursement for expenses actually incurred  
30 by those clinical counselor trainees, interns, and applicants for  
31 services rendered in any lawful work setting other than a private  
32 practice shall be considered an employee and not an independent  
33 contractor.

34 (e) The board may audit an intern or applicant who receives  
35 reimbursement for expenses and the intern or applicant shall have  
36 the burden of demonstrating that the payments received were for  
37 reimbursement of expenses actually incurred.

38 (f) Clinical counselor trainees, interns, and applicants shall only  
39 perform services at the place where their employer regularly  
40 conducts business and services, which may include other locations,

1 as long as the services are performed under the direction and  
2 control of the employer and supervisor in compliance with the  
3 laws and regulations pertaining to supervision. Clinical counselor  
4 trainees, interns, and applicants shall have no proprietary interest  
5 in the employer's business.

6 (g) Each educational institution preparing applicants for  
7 licensure pursuant to this chapter shall consider requiring, and  
8 shall encourage, its students to undergo individual, marital or  
9 conjoint, family, or group counseling or psychotherapy, as  
10 appropriate. Each supervisor shall consider, advise, and encourage  
11 his or her interns and clinical counselor trainees regarding the  
12 advisability of undertaking individual, marital or conjoint, family,  
13 or group counseling or psychotherapy, as appropriate. Insofar as  
14 it is deemed appropriate and is desired by the applicant, the  
15 educational institution and supervisors are encouraged to assist  
16 the applicant in locating that counseling or psychotherapy at a  
17 reasonable cost.

18 SEC. 21. Section 4999.52 of the Business and Professions  
19 Code is amended to read:

20 4999.52. (a) ~~Except as provided in Section 4999.54, every~~  
21 *Every* applicant for a license as a professional clinical counselor  
22 shall be examined by the board. The board shall examine the  
23 candidate with regard to his or her knowledge and professional  
24 skills and his or her judgment in the utilization of appropriate  
25 techniques and methods.

26 (b) The examinations shall be given at least twice a year at a  
27 time and place and under supervision as the board may determine.

28 (c) The board shall not deny any applicant who has submitted  
29 a complete application for examination admission to the licensure  
30 examinations required by this section if the applicant meets the  
31 educational and experience requirements of this chapter, and has  
32 not committed any acts or engaged in any conduct that would  
33 constitute grounds to deny licensure.

34 (d) The board shall not deny any applicant whose application  
35 for licensure is complete admission to the examinations specified  
36 by paragraph (2) of subdivision (a) of Section 4999.53, nor shall  
37 the board postpone or delay this examination for any applicant or  
38 delay informing the candidate of the results of this examination,  
39 solely upon the receipt by the board of a complaint alleging acts  
40 or conduct that would constitute grounds to deny licensure.

1 (e) If an applicant for the examination specified by paragraph  
2 (2) of subdivision (a) of Section 4999.53, who has passed the  
3 California law and ethics examination, is the subject of a complaint  
4 or is under board investigation for acts or conduct that, if proven  
5 to be true, would constitute grounds for the board to deny licensure,  
6 the board shall permit the applicant to take this examination, but  
7 may notify the applicant that licensure will not be granted pending  
8 completion of the investigation.

9 (f) Notwithstanding Section 135, the board may deny any  
10 applicant who has previously failed either the California law and  
11 ethics examination, or the examination specified by paragraph (2)  
12 of subdivision (a) of Section 4999.53, permission to retake either  
13 examination pending completion of the investigation of any  
14 complaints against the applicant.

15 (g) Nothing in this section shall prohibit the board from denying  
16 an applicant admission to any examination, withholding the results,  
17 or refusing to issue a license to any applicant when an accusation  
18 or statement of issues has been filed against the applicant pursuant  
19 to Section 11503 or 11504 of the Government Code, respectively,  
20 or the application has been denied in accordance with subdivision  
21 (b) of Section 485.

22 (h) Notwithstanding any other provision of law, the board may  
23 destroy all examination materials two years following the date of  
24 an examination.

25 (i) On and after January 1, 2016, the examination specified by  
26 paragraph (2) of subdivision (a) of Section 4999.53 shall be passed  
27 within seven years of an applicant's initial attempt.

28 (j) A passing score on the clinical examination shall be accepted  
29 by the board for a period of seven years from the date the  
30 examination was taken.

31 (k) No applicant shall be eligible to participate in the  
32 examination specified by paragraph (2) of subdivision (a) of  
33 Section 4999.53, if he or she fails to obtain a passing score on this  
34 examination within seven years from his or her initial attempt. If  
35 the applicant fails to obtain a passing score within seven years of  
36 initial attempt, he or she shall obtain a passing score on the current  
37 version of the California law and ethics examination in order to  
38 be eligible to retake this examination.

39 (l) This section shall become operative on January 1, 2016.

1 SEC. 22. Section 4999.54 of the Business and Professions  
2 Code is repealed.

3 ~~4999.54. (a) Notwithstanding Section 4999.50, the board may~~  
4 ~~issue a license to any person who submits an application for a~~  
5 ~~license between January 1, 2011, and December 31, 2011, provided~~  
6 ~~that all documentation is submitted within 12 months of the board's~~  
7 ~~evaluation of the application, and provided he or she meets one of~~  
8 ~~the following sets of criteria:~~

9 (1) ~~He or she meets all of the following requirements:~~

10 (A) ~~Has a master's or doctoral degree from a school, college,~~  
11 ~~or university as specified in Section 4999.32, that is counseling or~~  
12 ~~psychotherapy in content. If the person's degree does not include~~  
13 ~~all the graduate coursework in all nine core content areas as~~  
14 ~~required by paragraph (1) of subdivision (c) of Section 4999.32,~~  
15 ~~a person shall provide documentation that he or she has completed~~  
16 ~~the required coursework prior to licensure pursuant to this chapter.~~  
17 ~~Except as specified in clause (ii), a qualifying degree must include~~  
18 ~~the supervised practicum or field study experience as required in~~  
19 ~~paragraph (3) of subdivision (c) of Section 4999.32.~~

20 (i) ~~A counselor educator whose degree contains at least seven~~  
21 ~~of the nine required core content areas shall be given credit for~~  
22 ~~coursework not contained in the degree if the counselor educator~~  
23 ~~provides documentation that he or she has taught the equivalent~~  
24 ~~of the required core content areas in a graduate program in~~  
25 ~~counseling or a related area.~~

26 (ii) ~~Degrees issued prior to 1996 shall include a minimum of~~  
27 ~~30 semester units or 45 quarter units and at least six of the nine~~  
28 ~~required core content areas specified in paragraph (1) of subdivision~~  
29 ~~(c) of Section 4999.32 and three semester units or four and one-half~~  
30 ~~quarter units of supervised practicum or field study experience.~~  
31 ~~The total number of units shall be no less than 48 semester units~~  
32 ~~or 72 quarter units.~~

33 (iii) ~~Degrees issued in 1996 and after shall include a minimum~~  
34 ~~of 48 semester units or 72 quarter units and at least seven of the~~  
35 ~~nine core content areas specified in paragraph (1) of subdivision~~  
36 ~~(c) of Section 4999.32.~~

37 (B) ~~Has completed all of the coursework or training specified~~  
38 ~~in subdivision (c) of Section 4999.32.~~

39 (C) ~~Has at least two years, full-time or the equivalent, of~~  
40 ~~postdegree counseling experience, that includes at least 1,700 hours~~

1 of experience in a clinical setting supervised by a licensed marriage  
2 and family therapist, a licensed clinical social worker, a licensed  
3 psychologist, a licensed physician and surgeon specializing in  
4 psychiatry, a professional clinical counselor or a person who is  
5 licensed in another state to independently practice professional  
6 clinical counseling, as defined in Section 4999.20, or a master's  
7 level counselor or therapist who is certified by a national certifying  
8 or registering organization, including, but not limited to, the  
9 National Board for Certified Counselors or the Commission on  
10 Rehabilitation Counselor Certification.

11 (D) Has a passing score on the following examinations:

12 (i) ~~The National Counselor Examination for Licensure and~~  
13 ~~Certification or the Certified Rehabilitation Counselor~~  
14 ~~Examination.~~

15 (ii) ~~The National Clinical Mental Health Counselor Examination.~~

16 (iii) ~~A California jurisprudence and ethics examination, when~~  
17 ~~developed by the board.~~

18 (2) ~~Is currently licensed as a marriage and family therapist in~~  
19 ~~the State of California, meets the coursework requirements~~  
20 ~~described in subparagraph (A) of paragraph (1), and passes the~~  
21 ~~examination described in subdivision (b).~~

22 (3) ~~Is currently licensed as a clinical social worker in the State~~  
23 ~~of California, meets the coursework requirements described in~~  
24 ~~subparagraph (A) of paragraph (1), and passes the examination~~  
25 ~~described in subdivision (b).~~

26 (b) (1) ~~The board and the Office of Professional Examination~~  
27 ~~Services shall jointly develop an examination on the differences,~~  
28 ~~if any differences exist, between the following:~~

29 (A) ~~The practice of professional clinical counseling and the~~  
30 ~~practice of marriage and family therapy.~~

31 (B) ~~The practice of professional clinical counseling and the~~  
32 ~~practice of clinical social work.~~

33 (2) ~~If the board, in consultation with the Office of Professional~~  
34 ~~Examination Services, determines that an examination is necessary~~  
35 ~~pursuant to this subdivision, an applicant described in paragraphs~~  
36 ~~(2) and (3) of subdivision (a) shall pass the examination as a~~  
37 ~~condition of licensure.~~

38 (e) ~~Nothing in this section shall be construed to expand or~~  
39 ~~constrict the scope of practice of professional clinical counseling,~~  
40 ~~as defined in Section 4999.20.~~

1 SEC. 23. Section 4999.60 of the Business and Professions  
2 Code is amended to read:

3 4999.60. (a) This section applies to persons who are licensed  
4 outside of California and apply for examination eligibility on or  
5 after January 1, 2016.

6 (b) The board may issue a license to a person who, at the time  
7 of submitting an application for a license pursuant to this chapter,  
8 holds a valid license as a professional clinical counselor, or other  
9 counseling license that allows the applicant to independently  
10 provide clinical mental health services, in another jurisdiction of  
11 the United States, if all of the following conditions are satisfied:

12 (1) The applicant's education is substantially equivalent, as  
13 defined in Section 4999.63.

14 (2) The applicant complies with subdivision-~~(b)~~ (c) of Section  
15 4999.40, if applicable.

16 (3) The applicant's supervised experience is substantially  
17 equivalent to that required for a license under this chapter. The  
18 board shall consider hours of experience obtained outside of  
19 California during the six-year period immediately preceding the  
20 date the applicant initially obtained the license described above.  
21 If the applicant has less than 3,000 hours of qualifying supervised  
22 experience, time actively licensed as a professional clinical  
23 counselor shall be accepted at a rate of 100 hours per month up to  
24 a maximum of 1,200 hours if the applicant's degree meets the  
25 practicum requirement described in subparagraph (C) of paragraph  
26 (1) of subdivision (b) of Section 4999.63 without exemptions or  
27 remediation.

28 (4) The applicant passes the examinations required to obtain a  
29 license under this chapter. An applicant who obtained his or her  
30 license or registration under another jurisdiction may apply for  
31 licensure with the board without taking the clinical examination  
32 if both of the following conditions are met:

33 (A) The applicant obtained a passing score on the licensing  
34 examination set forth in regulation as accepted by the board.

35 (B) The applicant's license or registration in that jurisdiction is  
36 in good standing at the time of his or her application and is not  
37 revoked, suspended, surrendered, denied, or otherwise restricted  
38 or encumbered.

39 SEC. 24. Section 4999.61 of the Business and Professions  
40 Code is amended to read:

1 4999.61. (a) This section applies to persons who apply for  
2 examination eligibility or registration on or after January 1, 2016,  
3 and who do not hold a license as described in Section 4999.60.

4 (b) The board shall accept education gained while residing  
5 outside of California for purposes of satisfying licensure or  
6 registration requirements if the education is substantially  
7 equivalent, as defined in Section 4999.62, and the applicant  
8 complies with subdivision ~~(b)~~ (c) of Section 4999.40, if applicable.

9 (c) The board shall accept experience gained outside of  
10 California for purposes of satisfying licensure or registration  
11 requirements if the experience is substantially equivalent to that  
12 required by this chapter.

13 SEC. 25. Section 4999.120 of the Business and Professions  
14 Code is amended to read:

15 4999.120. The board shall assess fees for the application for  
16 and the issuance and renewal of licenses and for the registration  
17 of interns to cover administrative and operating expenses of the  
18 board related to this chapter. Fees assessed pursuant to this section  
19 shall not exceed the following:

20 (a) The fee for the application for examination eligibility shall  
21 be up to two hundred fifty dollars (\$250).

22 (b) The fee for the application for intern registration shall be up  
23 to one hundred fifty dollars (\$150).

24 (c) The fee for the application for licensure shall be up to one  
25 hundred eighty dollars (\$180).

26 (d) The fee for the board-administered clinical examination, if  
27 the board chooses to adopt this examination in regulations, shall  
28 be up to two hundred fifty dollars (\$250).

29 (e) The fee for the law and ethics examination shall be up to  
30 one hundred fifty dollars (\$150).

31 ~~(f) The fee for the examination described in subdivision (b) of~~  
32 ~~Section 4999.54 shall be up to one hundred dollars (\$100):~~

33 ~~(g)~~

34 (f) The fee for the issuance of a license shall be up to two  
35 hundred fifty dollars (\$250).

36 ~~(h)~~

37 (g) The fee for annual renewal of an intern registration shall be  
38 up to one hundred fifty dollars (\$150).

39 (i)

1 (h) The fee for two-year renewal of licenses shall be up to two  
2 hundred fifty dollars (\$250).

3 ~~(j)~~

4 (i) The fee for issuance of a retired license shall be forty dollars  
5 (\$40).

6 ~~(k)~~

7 (j) The fee for rescoring an examination shall be twenty dollars  
8 (\$20).

9 ~~(t)~~

10 (k) The fee for issuance of a replacement license or registration  
11 shall be twenty dollars (\$20).

12 ~~(m)~~

13 (l) The fee for issuance of a certificate or letter of good standing  
14 shall be twenty-five dollars (\$25).

15 SEC. 26. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.

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**MBC TRACKER II BILLS****4/27/2016**

<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
AB 12	Cooley	State Government: Administrative Regulations: Review	Sen. Approps	08/19/15
AB 26	Jones-Sawyer	Medical Cannabis	Sen. B&P	01/25/16
AB 59	Waldron	Mental Health Services: Assisted Outpatient Treatment	Sen. Health	03/28/16
AB 73	Waldron	Patient Access to Prescribed Antiretroviral Drugs for HIV/AIDS	Sen. Health	01/05/16
AB 83	Gatto	Personal Data	Sen. Inactive File	07/15/15
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 259	Dababneh	Personal Information: Privacy	Sen. Approps	
AB 366	Bonta	Medi-Cal: Annual Access Monitoring Report	Sen. Approps	07/07/15
AB 419	Kim	Go BIZ: Regulations	Sen. B&P	05/04/15
AB 466	McCarty	State Civil Service: Employment Procedures	Sen. Inactive File	07/06/15
AB 507	Olsen	DCA: BreEZe System: Annual Report	Sen. B&P	07/09/15
AB 508	Garcia, C.	Public Health: Maternal Care	Senate	01/21/16
AB 533	Bonta	Health Care Coverage: Out-of-Network Coverage	Assembly	09/04/15
AB 572	Gaines	Diabetes Prevention: Treatment	Sen. Approps	07/02/15
AB 635	Atkins	Medical Interpretation Services	Sen. Inactive File	
AB 649	Patterson	Medical Waste: Law Enforcement Drug Take back Programs	Sen. Approps	06/24/15
AB 741	Williams	Mental Health: Community Care Facilities	Sen. Human Svcs	05/04/15
AB 766	Ridley-Thomas	Public School Health Center Support Program	Sen. Approps	04/27/15
AB 769	Jones-Sawyer	State Employees: Disciplinary Action	Sen. Approps	04/12/16
AB 796	Nazarian	Health Care Coverage: Autism and Pervasive Dev. Disorders	Sen. Health	01/13/16
AB 840	Ridley-Thomas	Nurses and Certified Nurse Assistants	Sen. PE&R	
AB 923	Steinorth	Respiratory Care Practitioners	Sen. B&P	01/04/16
AB 1001	Maienschein	Child Abuse: Reporting	Sen. Human Svcs	01/14/16
AB 1033	Garcia, E.	Economic Impact Analysis: Small Business Definition	Sen. Gov. Org.	02/08/16

**MBC TRACKER II BILLS**

4/27/2016

<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
AB 1067	Gipson	Foster Children: Rights	Sen. Human Svcs	01/14/16
AB 1069	Gordon	Prescription Drugs: Collection and Distribution Program	Sen. Approps	07/01/15
AB 1102	Santiago	Health Care Coverage: Medi-Cal Access Program	Sen. Inactive File	07/09/15
AB 1117	Garcia, C.	Medi-Cal: Vaccination Rates	Sen. Approps	06/01/15
AB 1299	Ridley-Thomas	Medi-Cal: Specialty Mental Health Services: Foster Children	Sen. Approps	07/16/15
AB 1300	Ridley-Thomas	Mental Health: Involuntary Commitment	Sen. Health	03/15/16
AB 1386	Low	Emergency Medical Care: Epinephrine Auto-Injectors	Sen. Health	01/13/16
AB 1575	Bonta	Medical Cannabis	Asm. Approps	04/25/16
AB 1639	Maienschein	Pupil Health: Sudden Cardiac Arrest Prevention Act	Assembly	04/07/16
AB 1644	Bonta	School-Based Early Mental Health Intervention and Prevention	Asm. Approps	04/14/16
AB 1648	Wilk	State Publications: Distribution	Asm. Approps	03/15/16
AB 1668	Calderon	Investigational Drugs, Biological Products, and Devices	Asm. Approps	03/07/16
AB 1696	Holden	Medi-Cal: Tobacco Cessation Services	Asm. Approps	03/28/16
AB 1703	Santiago	Inmates: Medical Treatment	Senate	
AB 1748	Mayes	Pupils: Pupil Health: Opioid Antagonist	Asm. Approps	04/25/16
AB 1763	Gipson	Health Care Coverage: Colorectal Cancer: Screening and Testing	Asm. Approps	
AB 1774	Bonilla	Clinical Laboratories: Licensure	Asm. Approps	04/25/16
AB 1795	Atkins	Health Care Programs: Cancer	Asm. Approps	03/28/16
AB 1805	Melendez	Elder and Dependent Adult Abuse	Assembly	
AB 1823	Bonilla	California Cancer Clinical Trials Program	Asm. Approps	04/12/16
AB 1827	Kim	Emergency Medical Services: Mobile Field Hospitals	Asm. Health	03/16/16
AB 1831	Low	Health Care Coverage: Prescription Drugs: Refills	Asm. Approps	
AB 1836	Maienschein	Mental Health: Conservatorship Hearings	Asm. Approps	03/31/16
AB 1852	Lackey	State Contracts: Contract Requirements	Assembly	
AB 1864	Cooley	Inquests: Sudden Unexplained Death in Childhood	Asm. Approps	03/17/16

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<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
AB 1868	Wagner	Regulations: Legislative Notice	Asm. Approps	
AB 1887	Low	State Government: Discrimination: Travel	Asm. Approps	04/07/16
AB 1939	Patterson	Licensing Requirements	Asm. Approps	04/12/16
AB 1949	Baker	Department of Consumer Affairs	Assembly	
AB 1954	Burke	Health Care Coverage: Reproductive Health Care Services	Asm. Approps	04/25/16
AB 1983	Lackey	Excluded Employees: Shift Seniority	Asm. Approps	
AB 2048	Gray	National Health Service Corps State Loan Repayment Program	Asm. Approps	04/07/16
AB 2083	Chu	Interagency Child Death Review	Asm. 3rd Reading	
AB 2084	Wood	Medi-Cal: Comprehensive Medication Management	Asm. Approps	
AB 2086	Cooley	Workers' Compensation: Neuropsychologists	Assembly	03/30/16
AB 2115	Wood	Health Care Coverage: Disclosures	Asm. Approps	04/20/16
AB 2119	Chu	Medical Information: Disclosure: Medical Examiners and Forensic Pathologists	Asm. Priv. &CP	
AB 2174	Jones	Ken Maddy California Cancer Registry	Asm. Approps	03/18/16
AB 2193	Salas	California Board of Podiatric Medicine: Physician Assistant Board: Extension	Sen. Approps	04/05/16
AB 2209	Bonilla	Health Care Coverage: Clinical Pathways	Asm. Approps	04/26/16
AB 2235	Thurmond	Board of Dentistry: Pediatric Anesthesia: Committee	Assembly	04/11/16
AB 2311	Brown	Emergency Services: Sign Language Interpreters	Asm. Approps	03/16/16
AB 2317	Mullin	California State University: Doctor of Audiology Degrees	Asm. Approps	
AB 2345	Ridley-Thomas	Commission on Health Care Cost Review	Asm. Approps	04/18/16
AB 2372	Burke	Health Care Coverage: HIV Specialists	Asm. Approps	04/25/16
AB 2394	Garcia, E.	Medi-Cal: Non-Medical Transportation	Asm. Approps	03/28/16
AB 2399	Nazarian	Pregnancy: Umbilical Cord Blood: Blood Testing	Asm. Approps	03/28/16

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<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
AB 2400	Nazarian	Prescription Drug Coverage: Prior Authorization and External Review	Asm. Approps	04/06/16
AB 2404	Cooley	Public Employees' Retirement System: Optional Settlements	Asm. Approps	04/12/16
AB 2407	Chavez	Workers' Compensation	Asm. Insurance	
AB 2421	Jones	Professions and Vocations	Assembly	
AB 2422	Jones	Medical Board of California (SPOT)	Assembly	
AB 2424	Gomez	Community-Based Health Improvement and Innovation Fund	Asm. Approps	04/06/16
AB 2436	Hernandez, R.	Health Care Coverage: Disclosures: Drug Pricing	Assembly	04/06/16
AB 2503	Obernalte	Workers' Compensation: Utilization Review	Asm. Insurance	04/19/16
AB 2512	Grove	Task Force on California Women Veterans Health	Asm. Approps	04/06/16
AB 2531	Burke	Reproductive Health and Research	Asm. 3rd Reading	
AB 2611	Low	The California Public Records Act: Exemptions	Asm. Approps	04/14/16
AB 2640	Gipson	Public Health: HIV	Asm. Approps	04/21/16
AB 2688	Gordon	Privacy: Commercial Health Monitoring Programs	Asm. Priv. &CP	04/11/16
AB 2696	Gaines, B.	Diabetes Prevention and Management	Asm. Approps	04/18/16
AB 2703	Linder	Medical Confidentiality: Authorizations	Asm. Health	03/18/16
AB 2737	Bonta	Nonprovider Health Care Districts	Asm. Approps	04/11/16
AB 2752	Nazarian	Health Care Coverage: Continuity of Care	Asm. Approps	04/26/16
AB 2843	Chau	Public Records: Employee Contact Information	Asm. Approps	03/18/16
AB 2853	Gatto	Public Records	Asm. Approps	04/13/16
AB 2859	Low	Professions and Vocations: Retired Category: Licenses	Asm. Approps	
Ab 2883	Ins. Comm.	Workers' Compensation: Utilization Review	Asm. Approps	03/29/16
ACA 3	Gallagher	Public Employees' Retirement	Asm. PER&SS	
ACR 131	Patterson	Professions and Vocations: Licensing Fees: Equity	Asm. Approps	
SB 3	Leno	Minimum Wage: Adjustment	Chaptered, #4	

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<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
SB 10	Lara	Health Care Coverage: Immigration Status	Asm. Health	04/13/16
SB 24	Hill	California Public Employees' Pension Reform Act	Assembly	01/05/16
SB 139	Galgiani	Controlled Substances	Assembly	08/18/15
SB 190	Beall	Health Care Coverage: Acquired Brain Injury	Sen. Health	04/06/15
SB 253	Monning	Juveniles: Psychotropic Medication	Asm. Inactive File	08/31/15
SB 275	Hernandez	Health Facility Data	Asm. Health	
SB 296	Cannella	Medi-Cal: Specialty Mental Health Services: Documentation	Sen. Inactive File	08/28/15
SB 315	Monning	Health Care Access Demonstration Project Grants	Asm. Inactive File	08/31/15
SB 447	Allen	Medi-Cal: Clinics: Enrollment Applications	Asm. Approps	08/24/15
SB 492	Liu	Coordinate Care Initiative: Consumer Ed. & Info. Guide	Senate	06/25/15
SB 547	Liu	Aging and Long-Term Care Services, Supports and Program. Coord.	Assembly	01/26/16
SB 573	Pan	Statewide Open Data Portal	Asm. Approps	07/09/15
SB 614	Leno	Medi-Cal: Mental Health Services	Asm. Inactive File	08/31/15
SB 780	Mendoza	Psychiatric Technicians and Assistants	Asm. PER&SS	
SB 914	Mendoza	Workers' Compensation: Medical Provider Networks	Assembly	01/26/16
SB 923	Hernandez	Health Care Coverage: Cost Sharing Changes	Sen. 3rd Reading	01/28/16
SB 932	Hernandez	Health Care Mergers, Acquisitions, and Collaborations	Sen. Approps	04/26/16
SB 938	Jackson	Conservatorships: Psychotropic Drugs	Sen. Approps	03/15/16
SB 950	Nielsen	Excluded Employees: Arbitration	Sen. Approps	03/31/16
SB 960	Hernandez	Medi-Cal Telehealth: Reproductive Health Care	Sen. Approps	04/26/16
SB 999	Pavley	Health Insurance: Contraceptives: Annual Supply	Sen. Approps	04/18/16
SB 1002	Monning	End of Life Option Act: Telephone Number	Sen. Approps	04/05/16
SB 1010	Hernandez	Health Care: Prescription Drug Costs	Sen. Approps	03/30/16
SB 1034	Mitchell	Health Care Coverage: Autism	Sen. Approps	04/26/16
SB 1058	Pan	State Employment: Supervisors	Sen. Approps	04/04/16

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<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
SB 1090	Mitchell	Sexually Transmitted Diseases: Outreach and Screening Services	Sen. Approps	04/12/16
SB 1095	Pan	Newborn Screening Program	Sen. Approps	
SB 1135	Monning	Health Care Coverage: Notice of Timely Access to Care	Sen. Approps	03/30/16
SB 1139	Lara	Health Professionals: Medical Residency Programs: Undocumented Immigrants	Sen. Approps	04/19/16
SB 1140	Moorlach	Legislature: Operation of Statutes	Sen. Gov. Org.	
SB 1155	Morrell	Professions and Vocations: Licenses: Military Service	Sen. Approps	03/28/16
SB 1159	Hernandez	California Health Care Cost and Quality Database	Sen. Approps	03/28/16
SB 1160	Mendoza	Workers' Compensation: Utilization Review	Sen. Approps	04/06/16
SB 1184	Cannella	Health Care: Workforce Training Programs	Senate	
SB 1220	McGuire	Child Welfare Services: Case Plans: Behavioral Health Services	Sen. Approps	04/06/16
SB 1229	Jackson	Home-Generated Pharmaceutical Waste: Secure Drug Take-Back Bins	Assembly	04/19/16
SB 1334	Stone	Crime Reporting: Health Practitioners: Reports	Sen. Approps	04/19/16
SB 1348	Cannella	Licensure Applications: Military Experience	Sen. Approps	
SB 1448	Glazer	Department of Consumer Affairs	Senate	
SB 1466	Mitchell	Early and Periodic Screening, Diagnosis, and Treatment Program	Sen. Approps	04/14/16
SCR 117	Pan	Palliative Care	Sen. Approps	
SR 17	Jackson	Relative to California Health Care Decisions Day	Sen. Adopted	03/16/15
SR 55	Bates	Relative to Drug Facts Week	Sen. Adopted	
SR 71	Berryhill	Relative to Organ Donation	Sen. Adopted	