MEDICAL BOARD OF CALIFORNIA

FULL BOARD MEETING

OCT 24-25, 2013

LEGISLATIVE PACKET

2013 LEGISLATION

MEDICAL BOARD OF CALIFORNIA - 2013 TRACKER LIST
October 17, 2013

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
AB 154	Atkins	Healing Arts: Reproductive Health Care	Chaptered, #662	Neutral	6/24/13
AB 186	Maienschein	Professions & Vocations: Military Spouses: Temporary Licenses	Sen. B&P	Support - 2-year Bill	6/24/13
AB 496	Gordon	Task Force: LGBT Cultural Competency	Inactive File	Support – 2-year Bill	6/25/13
AB 512	Rendon	Sponsored Health Care Events: Sunset Extension	Chaptered, #111	Support	Intro.
AB 565	Salas	California Physician Corps Program	Chaptered, #378	Support	9/3/13
AB 589	Fox	Underrepresented Medical Specialties	Asm. Health	2-year Bill	Intro.
AB 635	Ammiano	Drug Overdose Treatment: Liability	Chaptered, #707	Support	8/22/13
AB 809	Logue	Healing Arts: Telehealth	Sen. Health	Support – 2-year Bill	6/25/13
AB 831	Bloom	Drug Overdoses	Held in Approps.	Support –2-year Bill	4/3/13
AB 860	Perea	Medical School Scholarships	Held in Approps.	Support –2-year Bill	4/8/13
AB 916	Eggman	Healing Arts: False or Misleading Advertising	Sen. B&P	Support – 2-year Bill	Intro.
AB 1000	Wieckowski	Physical Therapists: Direct Access to Services	Chaptered, #620	Neutral	9/6/13
AB 1003	Maienschein	Professional Corporations: Healing Arts Practitioners	Asm. B&P	2-year bill – merged into AB 1000	4/1/13
AB 1176	Bocanegra & Bonta	Medical Residency Training Program Grants	Held in Approps.	Support –2-year Bill	4/23/13
AB 1182	Brown	Medically Underserved Areas	Assembly	SPOT	Intro.
AB 1269	Gray	Medicine: Special Faculty Permit	Asm. B&P	SPOT	Intro.

Green – Positions Taken, Pink – Chaptered, Orange – Vetoed, Blue – Spot or 2-year Bill

MEDICAL BOARD OF CALIFORNIA - 2013 TRACKER LIST
October 17, 2013

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
AB 1278	Hueso	Integrative Cancer Treatment	Now SB 117		SB 117
AB 1288	Perez, V.	Medical Board of California: Licensing Application	Chaptered, #307	Neutral	6/6/13
AB 1308	Bonilla	Midwifery	Chaptered, #665	Support if Amended	9/6/13
ACR 40	Perez	Donate Life California Day	Chaptered, #19	Support	4/8/13
SB 20	Hernandez	Health Care: Workforce Training	Held in Approps.	Support – 2-year Bill	2/14/13
SB 21	Roth	UC Riverside Medical School: Funding	Chaptered, #203	Support	8/5/13
SB 62	Lieu	Coroners: Reporting Requirements: Prescription Drug Use	Vetoed	Support	9/3/13
SB 117	Hueso	Integrative Cancer Treatment	Sen. B&P	Neutral – 2-year Bill	4/30/13
SB 304	Lieu	Healing Arts: Sunset Bill	Chaptered, #515	Support if Amended	9/6/13
SB 305	Lieu	Healing Arts: Boards	Chaptered, #516	Support	9/6/13
SB 352	Pavley	Medical Assistants: Supervision	Chaptered, #286	Support	6/19/13
SB 410	Yee	Anesthesiologist Assistants	Senate	2-year Bill	4/30/13
SB 439	Steinberg	Medical Marijuana	Asm. Health	2-year Bill	8/5/13
SB 491	Hernandez	Nurse Practitioners	Held in Approps.	Oppose – 2-year Bill	8/14/13
SB 492	Hernandez	Optometrist Practice: Licensure	Asm. B&P	OUA – 2-year Bill	8/5/13
SB 493	Hernandez	Pharmacy Practice	Chaptered, #469	Support	9/6/13

Green – Positions Taken, Pink – Chaptered, Orange – Vetoed, Blue – Spot or 2-year Bill

MEDICAL BOARD OF CALIFORNIA - 2013 TRACKER LIST
October 17, 2013

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
SB 670	Steinberg	Physicians and Surgeons: Drug Prescribing Privileges	Chaptered, #399	Support	9/11/13
SB 701	Emmerson	Hospital-Affiliated Outpatient Settings	Sen. B&P	2-year Bill	Intro.
SB 796	Nielsen	Medicine: Physicians and Surgeons	Senate	SPOT	Intro.
SB 809	DeSaulnier	Controlled Substances: Reporting: CURES	Chaptered, #400	Support if Amended	9/3/13
SCR 8	DeSaulnier	Prescription Drug Abuse Awareness Month	Chaptered, #26	Support	4/18/13

Green – Positions Taken, Pink – Chaptered, Orange – Vetoed, Blue – Spot or 2-year Bill

AB 154

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 154
Author:	Atkins
Chapter:	662
Bill Date:	June 24, 2013, Amended
Subject:	Reproductive Health Care
Sponsor:	ACCESS Women's Health Justice American Civil Liberties Union of California Black Women for Wellness California Latinas for Reproductive Justice NARAL Pro-Choice California Planned Parenthood Affiliates of California
Position:	Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill eliminates the distinction in existing law between "surgical" and "nonsurgical" abortions and allows physician assistants (PAs), nurse practitioners (NPs), and certified nurse-midwives (CNMs) to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy, if specified training is completed and clinical competency is validated.

This bill requires NPs and CNMs to adhere to standardized procedures, and for PAs to comply with protocols, that include specific information in order to perform abortion by aspiration techniques. This bill specifies that it is unprofessional conduct for NPs, CNMs or PAs to perform an aspiration abortion without prior completion of training and validation of clinical competency.

ANALYSIS:

This bill codifies the Health Workforce Pilot Project (HWPP) #171, coordinated through the Office of Statewide Health Planning and Development (OSHPD) and sponsored by the Advancing New Standards in Reproductive Health (ANSIRH) program at the University of California, San Francisco (UCSF). The purpose of the pilot project was to evaluate the safety, effectiveness and acceptability of NPs, NMs, and PAs in providing aspiration abortions, and to evaluate the implementation of a standardized, competency based curriculum in provision of aspiration abortion care.

As part of the pilot, 40 NPs, CNMs and PAs were trained to be competent in aspiration abortion care. Clinicians participated in a comprehensive didactic and supervised clinical training program, which included a written exam and competency-based evaluation process. Trainee competency was evaluated daily, and at the end of training, on confidence, procedural performance, patient care, communication /interpersonal skills, professionalism, practice-based learning, and clinical knowledge.

This bill requires PAs, NPs, and CNMs to complete specified training and achieve clinical competency, which was also required as a part of the pilot project, before they are allowed to perform abortions by aspiration techniques.

This bill requires NPs and CNMs to adhere to standardized procedures and for PAs to comply with protocols, that include the following information, in order to perform abortion by aspiration techniques:

- The extent of supervision by a physician and surgeon with relevant training and expertise.
- Procedures for transferring patients to the care of the physician and surgeon or hospital.
- Procedures for obtaining assistance and consultation from a physician and surgeon.
- Procedures for providing emergency care until physician assistance and consultation are available.
- The method of periodic review of the provisions of standardized procedures and protocols.

This bill specifically states that it is unprofessional conduct for NPs, CNMs or PAs to perform an aspiration abortion without prior completion of training and validation of clinical competency.

STATISTICS of the HWPP Pilot Project (#171) (Taken from the Peer Reviewed Study published in the American Journal of Public Health):

Patient sample selection, enrollment and consent:

- 5,675 first-trimester aspiration abortion procedures were completed by NPs/CNMs/PAs and 5,812 procedures were completed by physicians, for a total of 11,487 abortion procedures.

Abortion-related complications summary:

- A complication is identified at the time of the procedure (immediate) or after the procedure (delayed) and classified as either major (defined by the project's Data and Clinical Safety Monitoring Committee (DCSMC) as "complications requiring abortion-related surgeries, transfusion or hospitalization") or minor.
- Overall abortion-related complication rate: 1.3% of all procedures (152 of 11,487) had abortion-related complication diagnoses.
- Group-specific abortion-related complication rate: 1.8% for NPs, CNMs, and PAs and 0.9% for physicians.
- 96% (146 out of 152) of abortion-related complications were minor; 6 cases were classified as major complications.
- The most common type of minor abortion-related complications reported were incomplete abortion, hematometra, and failed abortion. Major abortion-related complications include hemorrhage, infection, and uterine perforation.
- The peer reviewed study found that abortion complications were clinically equivalent between newly trained NPs, CNMs, and PAs and physicians.

According to the author's office, this bill is needed to ensure that women in California have access to early abortion. According to the author's office early abortion access is a critical public health issue as many women in California do not have sufficient access to aspiration abortion because many counties in California lack an abortion provider, which requires women to travel a significant distance for care. The sponsors believe that increasing the number of providers for aspiration abortions will increase the ability of women to receive safe reproductive health care from providers in their community.

FISCAL: None

SUPPORT: ACCESS Women's Health Justice (sponsor); American Civil Liberties Union of California (Sponsor); Black Women for Wellness California (sponsor); Latinas for Reproductive Justice (sponsor); NARAL Pro-Choice California (sponsor); and Planned Parenthood Affiliates of California (sponsor); ACT for Women and Girls; American Association of University Women; American College of Nurse-Midwives; American Nurses Association; Asian Communities for Reproductive Justice; Bay Area Communities for Health Education; Board of Registered Nursing; Business and Professional Women of Nevada County; California Academy of Physician Assistants; California Association for Nurse Practitioners; California Church IMPACT; California Family Health Council; California Medical Association; California National Organization for Women; California Nurse-Midwives Association; California Women's Health Alliance; California Women's Law Center; Cardea Institute; Center on Reproductive Rights and Justice at UC Berkeley School of Law; Choice USA; Citizens for Choice; Forward Together; Fresno Barrios Unidos; Khmer Girls in Action; Law Students for Reproductive Justice; League of Women Voters of California; National Asian Pacific American Women's Forum; National Association of Social Workers, California Chapter; National Center for Lesbian Rights; National Council of Jewish Women – California; National Health Law Program; National Latina Institute for Reproductive Health; National Network of Abortion Funds; Nevada County Citizens for Choice; Nursing Students for Choice – UCSF; Physicians for Reproductive Health; Planned Parenthood Advocacy Project of Los Angeles County; Planned Parenthood Mar Monte; Planned Parenthood of Orange and San Bernardino Counties; Planned Parenthood Pasadena & San Gabriel Valley; Planned Parenthood of Santa Barbara, Ventura, and San Luis Obispo Counties; Planned Parenthood of the Pacific Southwest; Reproductive Justice Coalition of Los Angeles; SEIU; Six Rivers Planned Parenthood; Students for Reproductive Justice at Stanford University; Women's Community Clinic; and Women's Health Specialists of California

OPPOSITION: California Catholic Conference; Capitol Resource Family Impact; Coalition for Women and Children; Concerned Women for America; California Right to Life Committee; Capitol Resource Family Impact; Greg Watkins, City Councilman, City of Shasta Lake; John Paul the Great Catholic University Students for Life; Life Legal Defense Fund; Pro-Life Mission: International; San Jose State Students

for Life; Traditional Values Coalition; and University of Southern California Students for Life

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff

Assembly Bill No. 154

CHAPTER 662

An act to amend Section 2253 of, and to add Sections 2725.4 and 3502.4 to, the Business and Professions Code, and to amend Section 123468 of the Health and Safety Code, relating to healing arts.

[Approved by Governor October 9, 2013. Filed with Secretary of State October 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 154, Atkins. Abortion.

Existing law makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a surgical abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing a surgical abortion without a valid license or certificate obtained in accordance with some other law that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion. Existing law also makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a nonsurgical abortion if the person does not have a valid license to practice as a physician and surgeon or does not have a valid license or certificate obtained in accordance with some other law authorizing him or her to perform or assist in performing the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing. Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Board within the jurisdiction of the Medical Board of California.

This bill would instead make it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform an abortion if the person does not have a valid license to practice as a physician and surgeon, except that it would not be a public offense for a person to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy if he or she holds a license or certificate authorizing him or her to perform the functions necessary for an abortion by medication or aspiration techniques. The bill would also require a nurse practitioner, certified nurse-midwife, or physician assistant to complete training, as specified, and to comply with standardized procedures or protocols, as specified, in order to perform an abortion by aspiration techniques, and

Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be used.

(b) In order to perform an abortion by aspiration techniques pursuant to Section 2253, a person with a license or certificate to practice as a nurse practitioner or a certified nurse-midwife shall adhere to standardized procedures developed in compliance with subdivision (c) of Section 2725 that specify all of the following:

(1) The extent of supervision by a physician and surgeon with relevant training and expertise.

(2) Procedures for transferring patients to the care of the physician and surgeon or a hospital.

(3) Procedures for obtaining assistance and consultation from a physician and surgeon.

(4) Procedures for providing emergency care until physician assistance and consultation are available.

(5) The method of periodic review of the provisions of the standardized procedures.

(c) A nurse practitioner or certified nurse-midwife who has completed training and achieved clinical competency through HWPP No. 171 shall be authorized to perform abortions by aspiration techniques pursuant to Section 2253, in adherence to standardized procedures described in subdivision (b).

(d) It is unprofessional conduct for any nurse practitioner or certified nurse-midwife to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.

SEC. 3. Section 3502.4 is added to the Business and Professions Code, to read:

3502.4. (a) In order to receive authority from his or her supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall complete training either through training programs approved by the board pursuant to Section 3513 or by training to perform medical services which augment his or her current areas of competency pursuant to Section 1399.543 of Title 16 of the California Code of Regulations. Beginning January 1, 2014, and until January 1, 2016, the training and clinical competency protocols established by Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be used as training and clinical competency guidelines to meet this requirement.

(b) In order to receive authority from his or her supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall comply with protocols developed in compliance with Section 3502 that specify:

(1) The extent of supervision by a physician and surgeon with relevant training and expertise.

(2) Procedures for transferring patients to the care of the physician and surgeon or a hospital.

AB 512

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 512
Author:	Rendon
Chapter:	111
Bill Date:	February 20, 2013, Introduced
Subject:	Sponsored Health Care Events: Sunset Extension
Sponsor:	Los Angeles County Board of Supervisors
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill extends the sunset date in existing law, from 2014 to 2018, for provisions that authorize health care practitioners who are licensed or certified in other states to provide health care services on a voluntary basis to uninsured or underinsured individuals in California at sponsored free health care events.

ANALYSIS

AB 2699 (Bass, Chapter 270, Statutes of 2010) allowed health care practitioners, including physicians, who are not licensed to practice in California, but who hold a valid license or certificate in good standing in another state, to volunteer to provide health care services at sponsored free health care events, under specified circumstances. The bill required that all appropriate boards under the Department of Consumer Affairs (DCA) promulgate regulations before the bill could be implemented. The Medical Board was the first board under DCA to develop regulations, which became effective on August 20, 2012. Physicians licensed in other states are required to submit a request for authorization to practice without a California license at a sponsored free health care event to the Board and must also submit fingerprints before they can participate. The authorization period may not be for more than 10 days.

Existing law would sunset the ability for out-of-state health care practitioners to participate in sponsored free health care events in 2014. Although the Medical Board has promulgated regulations, many boards under DCA have not. The author and sponsor would like to extend the sunset date in existing law to allow health care practitioners to participate in sponsored free health care events and give the program more time to demonstrate its success. According to Los Angeles County, an extension of the sunset date in existing law will allow California to continue to provide access to needed health care and dental services to uninsured and underinsured consumers in this state.

Although the Board has only issued one physician permit under the program that was created by AB 2699, the Board has already done the work to promulgate regulations; as such, it seems reasonable to extend the sunset date to allow more individuals to provide health care

services at sponsored free health care events in California. This bill enables all boards to collect data and track the number of out-of-state health care practitioners that request authorization to participate in sponsored free health care events. This bill helps to ensure these events have enough providers to serve more uninsured and underinsured consumers in California; the Board has taken a support position on this bill.

FISCAL: None

SUPPORT: Los Angeles County Board of Supervisors (Sponsor)
Association of Healthcare Districts
California State Board of Pharmacy
Medical Board of California

OPPOSITION: California Nurses Association
American Nurses Association of California

IMPLEMENTATION:

- Newsletter Article
- Notify Board staff of sunset extension
- Continue to process requests for authorizations from physicians licensed in other states until 2018.

Assembly Bill No. 512

CHAPTER 111

An act to amend Section 901 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 16, 2013. Filed with Secretary of State August 16, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 512, Rendon. Healing arts: 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, 2014, 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 delete the January 1, 2014, date of repeal, and instead allow the exemption to operate until January 1, 2018.

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

SECTION 1. Section 901 of the Business and Professions Code is amended to read:

901. (a) For purposes of this section, the following provisions apply:

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (d).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

AB 565

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 565
Author:	Salas
Chapter:	378
Bill Date:	September 3, 2013, Amended
Subject:	California Physician Corps Program
Sponsor:	California Medical Association
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill strengthens the guidelines for selection of applicants to the Steven M. Thompson Physician Corps Loan Repayment Program (STLRP) and expands on the definition of practice settings for this program.

ANALYSIS:

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.

AB 565 amends the STLRP guidelines to require applicants to have three years of experience providing health care services to medically underserved populations or in a medically underserved area, which is defined in existing law as an area that is a health professional shortage area pursuant to the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission. Existing law only requires applicants to have three years of experience working in medically underserved areas or with medically underserved populations. This bill deletes the existing guideline that would seek to place the most qualified applicants in the areas with the greatest need and replaces it with a guideline that would give preference to applicants who agree to practice in a medically underserved area as defined in existing law, and who agree to serve a medically underserved population. This bill also requires that priority consideration be given to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting, defined in existing law as a medical practice located in a medically underserved area and at least 50 percent of the patients are from a medically underserved population.

This bill adds to the definition of a "practice setting" a physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of its patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the poverty level.

According to the author, California faces a misdistribution of physicians and there are shortages of primary care physicians in 74 percent of counties in California. In the last five years, only one physician has been selected to practice in Kings and Kern counties under the STLRP. The author and stakeholders have recognized the STLRP's high demand and the need to tighten the criteria to ensure that scarce resources are going to the most medically underserved communities.

Adding medically underserved areas from existing law to the guidelines will help to ensure that STLRP applicants are serving in the areas with the most need, which will further the Board's mission of promoting access to care; the Board has taken a support position on this bill.

FISCAL: None

SUPPORT: California Medical Association (Sponsor); American Academy of Pediatrics, California; American College of Emergency Physicians, California Chapter; Association of California Healthcare Districts; Board of Trustees of the Delano Joint Union High School District; California Academy of Physician Assistants; California Optometric Association; City of Hanford; Community Action Partnership of Kern; Community Clinic Association of Los Angeles County; Kern Medical Center; Medical Board of California; Osteopathic Physicians and Surgeons of California; Rural County Representatives of California; and Semitropic Elementary School District

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article

Assembly Bill No. 565

CHAPTER 378

An act to amend Sections 128552 and 128553 of the Health and Safety Code, relating to physicians and surgeons.

[Approved by Governor September 27, 2013. Filed with Secretary of State September 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 565, Salas. California Physician Corps Program.

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, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law authorizes the Office of Statewide Health Planning and Development to adopt guidelines by regulation and requires the foundation to use guidelines for selection and placement of program applicants. These guidelines provide priority consideration to applicants who meet specified criteria, including that the applicant has 3 years of experience working in medically underserved areas or with medically underserved populations. The guidelines also must seek to place the most qualified applicants in the areas with the greatest need.

This bill would delete the requirement that the guidelines seek to place the most qualified applicants in the areas of greatest need. The bill would require the guidelines for the selection and placement of program applicants to include criteria that would give priority consideration to program applicants who have 3 years of experience providing health care services to medically underserved populations or in a medically underserved area, as defined. The bill would require the guidelines to give priority to applicants who agree to practice in those areas and serve a medically underserved population, and would require the guidelines to give priority consideration to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting, as defined.

Existing law requires the foundation, in consultation with the Medical Board of California, Office of Statewide Planning and Development, and an advisory committee, to use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

This bill would instead require the foundation and the office to develop guidelines using specified criteria for selection and placement of applicants.

Existing law defines "practice setting," for these purposes, to include a community clinic, as defined, a clinic owned and operated by a public hospital and health system, or a clinic owned and operated by a hospital

Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(j) "Primary specialty" means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.

(*l*) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

SEC. 2. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act.

(b) The foundation and the office shall develop guidelines using the criteria specified in subdivision (c) for selection and placement of applicants. The foundation shall interpret the guidelines to apply to both osteopathic and allopathic physicians and surgeons.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience providing health care services to medically underserved populations or in a medically underserved area, as defined in subdivision (e) of Section 128552.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Give preference to applicants who agree to practice in a medically underserved area, as defined in subdivision (e) of Section 128552, and who agree to serve a medically underserved population.

(5) Give priority consideration to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting as defined in paragraph (2) of subdivision (i) of Section 128552.

AB 635

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 635
Author:	Ammiano
Chapter:	707
Bill Date:	August 22, 2013, Amended
Subject:	Drug Overdose Treatment: Liability
Sponsor:	Harm Reduction Coalition California Society of Addiction Medicine
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill allows health care providers to prescribe, dispense, and issue standing orders for an opioid antagonist to persons at risk of overdose, or their family member, friend, or other person in a position to assist persons at risk, without making them professionally, civilly or criminally liable, if acting within reasonable care. It also extends this same liability protection to individuals assisting in dispensing, distributing, or administering the opioid antagonist during an overdose. This bill requires a person who is prescribed or possesses an opioid antagonist pursuant to a standing order to receive training provided by an opioid overdose prevention and treatment training program.

BACKGROUND (taken from the fact sheet)

Naloxone is used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an overdosing person to breathe normally. Naloxone is a non-scheduled, inexpensive prescription medication with the same level of regulation as ibuprofen. Naloxone only works if a person has opioids in their system, and has no effect if opioids are absent.

In 2008, SB 797 (Ridley-Thomas, Chapter 477, Statutes of 2007) established a three-year overdose prevention pilot project. This bill granted immunity from civil and criminal penalties to licensed health care providers in seven counties (Alameda, Fresno, Humboldt, Los Angeles, Mendocino, San Francisco, and Santa Cruz) who worked with opioid overdose prevention and treatment training programs, if the provider acted with reasonable care when prescribing, dispensing, or distributing naloxone. The pilot was extended in 2010 and extended liability protection to third party administrators of naloxone. This pilot is now scheduled to sunset on January 1, 2016.

California's longest running naloxone prescription program in San Francisco has provided over 3,600 take-home naloxone prescriptions since 2003 through collaboration with

the San Francisco Department of Public Health. To date, 916 lives have been saved by laypersons trained by this program who administered the take-home naloxone during an overdose. According to the most recent data released by the Centers for Disease Control and Prevention (CDC), in 2008 there were 36,450 drug overdose deaths in the United States. According to CDC, overdose prevention programs in the United States distributing naloxone have trained over 50,000 lay persons to revive someone during an overdose, resulting in over 10,000 overdose reversals using naloxone.

ANALYSIS

This bill allows health care providers to prescribe, dispense, and issue standing orders for an opioid antagonist to persons at risk of overdose, or to their family member, friend, or other person in a position to assist persons at risk, without making them professionally, civilly or criminally liable, if acting within reasonable care. It also extends this same liability protection to individuals assisting in dispensing, distributing, or administering the opioid antagonist during an overdose.

This bill requires a person who is prescribed or possesses an opioid antagonist pursuant to a standing order to receive training provided by an opioid overdose prevention and treatment training program. An opioid overdose prevention and treatment training program is defined in the bill as a program operated by a local health jurisdiction or that is registered by a local health jurisdiction to train individuals to prevent, recognize, and respond to an opiate overdose, and that provides, at a minimum, training in the following: the causes of an opiate overdose; mouth to mouth resuscitation; how to contact appropriate emergency medical services; and how to administer an opioid antagonist.

This bill does not require a person who is prescribed an opioid antagonist directly from a licensed prescriber to receive training from an opioid prevention and treatment training program.

Language in existing law for the pilot project only provides civil and criminal liability, it does not exclude health care providers from "professional review". According to the author's office, the intent of the professional review language is to make it clear that the action of prescribing an opioid antagonist by standing order cannot be grounds for disciplinary action. Many states that have similar law include this type of language. Kentucky's statute says that a practitioner operating under the law shall not "be subject to disciplinary or other adverse action under any professional licensing statute". Illinois statute contains the same language, while Washington's statute says that actions under the law "shall not constitute unprofessional conduct". Massachusetts law declares that a naloxone script "shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice".

Drug overdoses are now the leading cause of injury death in the United States, surpassing motor vehicle crash deaths. The Board is supportive of this bill, as it will encourage

licensed health care providers to begin prescribing naloxone to patients on chronic opioid pain medications in order to help address the prescription drug overdose epidemic. This is one element of many to address the issue of drug related overdose deaths in California, and will help to further the Board's mission of consumer protection.

FISCAL: None

SUPPORT: Harm Reduction Coalition (sponsor); California Society of Addiction Medicine (sponsor); Berkeley Needle Exchange Emergency Distribution; California Association of Alcohol & Drug Program Executives, Inc.; California Attorneys for Criminal Justice; California Opioid Maintenance Providers; California Public Defenders Association; City and County of San Francisco; Civil Justice Association of California; Common Ground, the Westside HIV Community Center; County Alcohol & Drug Program Administrators Association of California; Drug Policy Alliance; Harm Reduction Therapy Center; Homeless Health Care Los Angeles; Medical Board of California; National Coalition Against Prescription Drug Abuse; San Francisco Drug Users Union; and Shasta Community Health Center

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board staff

Assembly Bill No. 635

CHAPTER 707

An act to amend Section 1714.22 of the Civil Code, relating to drug overdose treatment.

[Approved by Governor October 10, 2013. Filed with Secretary of State October 10, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 635, Ammiano. Drug overdose treatment: liability.

Existing law authorizes a physician and surgeon to prescribe, dispense, or administer prescription drugs, including prescription-controlled substances, to an addict under his or her treatment, as specified. Existing law prohibits, except in the regular practice of his or her profession, any person from knowingly prescribing, administering, dispensing, or furnishing a controlled substance to or for any person who is not under his or her treatment for a pathology or condition other than an addiction to a controlled substance, except as specified.

Existing law authorizes, until January 1, 2016, and only in specified counties, a licensed health care provider, who is already permitted pursuant to existing law to prescribe an opioid antagonist, as defined, and who is acting with reasonable care, to prescribe and subsequently dispense or distribute an opioid antagonist in conjunction with an opioid overdose prevention and treatment training program, as defined, without being subject to civil liability or criminal prosecution. Existing law requires a local health jurisdiction that operates or registers an opioid overdose prevention and treatment training program to collect prescribed data and report it to the Senate and Assembly Committees on Judiciary by January 1, 2015.

Existing law authorizes, until January 1, 2016, and only in specified counties, a person who is not licensed to administer an opioid antagonist to do so in an emergency without fee if the person has received specified training information and believes in good faith that the other person is experiencing a drug overdose. Existing law prohibits that person, as a result of his or her acts or omissions, from being liable for any violation of any professional licensing statute, or subject to any criminal prosecution arising from or related to the unauthorized practice of medicine or the possession of an opioid antagonist.

This bill would revise and recast these provisions to instead authorize a licensed health care provider who is permitted by law to prescribe an opioid antagonist and is acting with reasonable care to prescribe and subsequently dispense or distribute an opioid antagonist for the treatment of an opioid overdose to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an

to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(2) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the administration of an opioid antagonist to a person at risk of an opioid-related overdose by a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.

(d) (1) A person who is prescribed or possesses an opioid antagonist pursuant to a standing order shall receive the training provided by an opioid overdose prevention and treatment training program.

(2) A person who is prescribed an opioid antagonist directly from a licensed prescriber shall not be required to receive training from an opioid prevention and treatment training program.

(e) A licensed health care provider who acts with reasonable care shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for issuing a prescription or order pursuant to subdivision (b) or (c).

(f) Notwithstanding any other law, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. Notwithstanding any other law, a person not otherwise licensed to administer an opioid antagonist, but trained as required under paragraph (1) of subdivision (d), who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration.

O

AB 1000

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1000
Author:	Wieckowski and Maienschein
Chapter:	620
Bill Date:	September 6, 2013, Amended
Subject:	Physical Therapists: Direct Access to Services: Professional Corporations
Sponsor:	California Physical Therapy Association
Position:	Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill allows a physical therapist (PT) to see a patient for a specified period of time and requires the PT to provide specified notice to the patient regarding the direct PT services. This bill specifies that it does not restrict or alter the scope of practice of any other health care professional.

This bill also incorporates the language from AB 1003 (Maienschein), which the Board had taken a position of support. The language from AB 1003 specifies that the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical corporation does not limit employment by professional corporations to the licensed professionals listed in that section and specifies that any person duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act, may be employed to render professional services by a professional corporation listed in existing law. This bill also adds physical therapists, and other licensed professionals, to the listing in the Corporations Code.

ANALYSIS:

This bill allows a patient to directly access PT services, without being referred by a physician, provided that the treatment is within the scope of a PT and the following conditions are met:

- If the PT has reason to believe the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a PT or the patient is not progressing toward documented treatment goals as demonstrated by the objective, measurable, or functional improvement, the PT shall refer the patient to a physician, an osteopathic physician, or to a dentist, podiatrist or chiropractor.
- The PT shall disclose to the patient any financial interest in treating the patient, and, if working in a professional corporation, shall comply with existing law

related to advertising.

- The PT shall notify the patient's physician, with the patient's written authorization, that the PT is treating the patient.

This bill allows a PT to treat a patient for 45 calendar days or 12 visits, whichever occurs first. Once this limit has been reached, the PT's plan of care must be signed, dated, and approved by a physician, osteopathic physician, or podiatrist, acting within his or her scope of practice. Approval of the PT's plan of care must include an in-person patient examination and evaluation of the patient's condition, and if indicated, testing by the physician, osteopathic physician, or podiatrist.

This bill specifies that it does not expand or modify the scope of practice of a PT, including the prohibition on a PT to diagnose a disease. This bill specifies that it does not require a health care service plan, insurer, worker's compensation insurance plan, employer, or state program to provide coverage for direct access to treatment by a PT. This bill also specifies that it does not restrict or alter the scope of practice of any other health care professional.

This bill requires a PT to provide notice to a patient before initiating PT treatment services. The notice must be provided orally and in writing to the patient in at least 14-point type and signed by the patient. The notice states that the patient is receiving direct PT treatment services by a PT licensed by the Physical Therapy Board of California. The notice further states the limits for PT care being provided (45 calendar days or 12 visits, whichever occurs first) and the requirement for approval and sign off by a physician, osteopathic physician or podiatrist, of the PT's plan of care and the requirements for an in-person patient examination and evaluation.

Lastly, this bill adds the language from AB 1003 (Maienschein), which the Board had taken a position of support. The language specifies that the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical corporation does not limit employment by professional corporations to the licensed professionals listed in that section and would specify that any person duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act, may be employed to render professional services by a professional corporation listed in existing law. This bill also adds physical therapists, occupational therapists, and other licensed professionals, to the listing in the Corporations Code.

SB 543 (Steinberg, Chapter 448, Statutes of 2011) was signed into law and was effective from January 1, 2012 to January 1, 2013. This bill specified that no physical therapist shall be subject to discipline by the Physical Therapy Board for providing physical therapy services as a professional employee of a professional medical corporation; this provision was sunset on January 1, 2013. The language in SB 543 was added because the Physical Therapy Board was attempting to take action against physical therapists employed by a medical corporation. SB 543 put this issue in a holding pattern, until January 1, 2013; however, this

issue was not addressed in legislation last year, so it still remains an issue that must be addressed. This bill now codifies the practice that has been allowed for over 20 years and will allow physicians in medical corporations to employ physical therapists. The Board is supportive of these provisions.

Although this bill allows patients to directly access PT services, it imposes limits on how long a patient can see a PT before the PT's plan of care is required to be reviewed by a physician, osteopathic physician, or podiatrist, and requires the patient to get an in-patient examination and evaluation before the plan of care can be approved and signed off. This bill also requires the patient to be provided information on the requirements in this bill regarding time limits for receiving direct PT services and requires the patient to sign the notice before the PT can provide services. This bill includes language that has been negotiated by interested parties. The Board believes this bill includes adequate safeguards to ensure consumer protection; as such, the Board has taken a neutral position on this bill.

FISCAL: None

SUPPORT: California Physical Therapy Association (Sponsor)
California Medical Association
California Orthopaedic Association
Mount St. Mary's College Doctor of Physical Therapy Program

OPPOSITION: California Association of Physician Groups
California Board of Chiropractic Examiners
California Chiropractic Association
Independent Physical Therapists of California
Physical Therapy Business Alliance

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff

Assembly Bill No. 1000

CHAPTER 620

An act to amend Sections 2406 and 2660 of, and to add Sections 2406.5 and 2620.1 to, the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to healing arts.

[Approved by Governor October 7, 2013. Filed with Secretary of State October 7, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, Wieckowski. Physical therapists: direct access to services: professional corporations.

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act makes it a crime to violate any of its provisions. The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.

This bill would specify that patients may access physical therapy treatment directly and would, in those circumstances, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice or if the patient is not progressing, to disclose to the patient any financial interest he or she has in treating the patient, and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient who initiated services directly for the lesser of more than 45 calendar days or 12 visits, except as specified, and would prohibit a physical therapist from performing services on that patient before obtaining the patient's signature on a specified notice regarding these limitations on treatment. The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under certain existing law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act authorizes specified healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating

to ownership of shares. Existing law also defines a medical corporation or podiatry corporation that is authorized to render professional services as long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians, psychologists, registered nurses, optometrists, podiatrists or, in the case of a medical corporation only, physician assistants, are in compliance with the act.

This bill would specify that those provisions do not limit employment by a professional corporation of only those specified licensed professionals. The bill would authorize any person duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to be employed to render professional services by a professional corporation. The bill would expressly add physical therapists and occupational therapists to the list of healing arts professionals who may be professional employees of a medical corporation or podiatry corporation, and would add licensed physical therapists to the list of healing arts practitioners who may be shareholders, officers, or directors of a medical corporation or a podiatric medical corporation. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would also require a practitioner, except as specified, who refers a patient to a physical therapist who is employed by a professional corporation to make a specified disclosure to the patient.

This bill would incorporate additional changes to Section 2660 of the Business and Professions Code proposed by SB 198 that would become operative if this bill and SB 198 are enacted and this bill is chaptered last.

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.

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

SECTION 1. The Legislature finds and declares that an individual's access to early intervention to physical therapy treatment may decrease the duration of a disability, reduce pain, and lead to a quicker recovery.

SEC. 2. Section 2406 of the Business and Professions Code is amended to read:

2406. A medical corporation or podiatry corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians and surgeons, psychologists, registered nurses, optometrists, podiatrists, chiropractors, acupuncturists, naturopathic doctors, physical therapists, occupational therapists, or, in the case of a medical corporation only, physician assistants, marriage and family therapists, clinical counselors,

or clinical social workers, are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the board.

SEC. 3. Section 2406.5 is added to the Business and Professions Code, to read:

2406.5. (a) When a physician and surgeon, podiatrist, or other referring practitioner refers a patient to receive services by a physical therapist employed by a professional corporation as defined in Section 13401 of the Corporations Code, the referring practitioner shall comply with Article 6 (commencing with Section 650) of Chapter 1, and shall provide notice of the following to the patient, orally and in writing, in at least 14-point type and signed by the patient:

(1) That the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the medical or podiatry corporation.

(2) If the patient chooses to be treated by an employed physical therapist, any financial interest the referring practitioner has in the corporation.

(b) This section shall not apply to a physician and surgeon, podiatrist, or other referring practitioner who is in a medical group with which a health care service plan, that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and is also exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, exclusively contracts to provide professional medical services for its enrollees.

SEC. 4. Section 2620.1 is added to the Business and Professions Code, to read:

2620.1. (a) In addition to receiving those services authorized by Section 2620, a person may initiate physical therapy treatment directly from a licensed physical therapist if the treatment is within the scope of practice of physical therapists, as defined in Section 2620, and all of the following conditions are met:

(1) If, at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a physical therapist or the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement, the physical therapist shall refer the patient to a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California or to a person licensed to practice dentistry, podiatric medicine, or chiropractic.

(2) The physical therapist shall comply with Section 2633, and shall disclose to the patient any financial interest he or she has in treating the

patient and, if working in a physical therapy corporation, shall comply with Article 6 (commencing with Section 650) of Chapter 1.

(3) With the patient's written authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient.

(4) The physical therapist shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care. Approval of the physical therapist's plan of care shall include an in-person patient examination and evaluation of the patient's condition and, if indicated, testing by the physician and surgeon or podiatrist.

(b) The conditions in paragraph (4) of subdivision (a) do not apply to a physical therapist when he or she is only providing wellness physical therapy services to a patient as described in subdivision (a) of Section 2620.

(c) (1) This section does not expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(2) This section does not restrict or alter the scope of practice of any other health care professional.

(d) Nothing in this section shall be construed to require a health care service plan, insurer, workers' compensation insurance plan, employer, or state program to provide coverage for direct access to treatment by a physical therapist.

(e) When a person initiates physical therapy treatment services directly, pursuant to this section, the physical therapist shall not perform physical therapy treatment services without first providing the following notice to the patient, orally and in writing, in at least 14-point type and signed by the patient:

"Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of up to 45 calendar days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within

his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care and that an in-person patient examination and evaluation was conducted by the physician and surgeon or podiatrist.

_____
Patient's Signature/Date"

SEC. 5. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Advertising in violation of Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(e) Habitual intemperance.

(f) Addiction to the excessive use of any habit-forming drug.

(g) Gross negligence in his or her practice as a physical therapist or physical therapist assistant.

(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

(i) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(j) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(l) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the

board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(m) The commission of verbal abuse or sexual harassment.

(n) Failure to comply with the provisions of Section 2620.1.

SEC. 5.5. Section 2660 of the Business and Professions Code is amended to read:

2660. Unprofessional conduct constitutes grounds for citation, discipline, denial of a license, or issuance of a probationary license. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), issue a citation, impose discipline, deny a license, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license issued under this chapter for unprofessional conduct that includes, in addition to other provisions of this chapter, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter, any regulations duly adopted under this chapter, or the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(b) Advertising in violation of Section 17500.

(c) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(d) Practicing or offering to practice beyond the scope of practice of physical therapy.

(e) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(f) Unlawful possession or use of, or conviction of a criminal offense involving, a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, as follows:

(1) Obtaining or possessing in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administering to himself or herself, or furnishing or administering to another, any controlled substances or any dangerous drug.

(2) Using any controlled substance or any dangerous drug.

(3) Conviction of a criminal offense involving the consumption or self-administration of, or the possession of, or falsification of a record

pertaining to, any controlled substance or any dangerous drug, in which event the record of the conviction is conclusive evidence thereof.

(g) Failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(h) Gross negligence or repeated acts of negligence in practice or in the delivery of physical therapy care.

(i) Aiding or abetting any person to engage in the unlawful practice of physical therapy.

(j) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

(*l*) The commission of verbal abuse or sexual harassment.

(m) Engaging in sexual misconduct or violating Section 726.

(n) Permitting a physical therapist assistant or physical therapy aide under one's supervision or control to perform, or permitting the physical therapist assistant or physical therapy aide to hold himself or herself out as competent to perform, professional services beyond the level of education, training, and experience of the physical therapist assistant or aide.

(o) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice physical therapy issued by that state, or the revocation, suspension, or restriction of the authority to practice physical therapy by any agency of the federal government.

(p) Viewing a completely or partially disrobed patient in the course of treatment if the viewing is not necessary to patient evaluation or treatment under current standards.

(q) Engaging in any act in violation of Section 650, 651, or 654.2.

(r) Charging a fee for services not performed.

(s) Misrepresenting documentation of patient care or deliberate falsifying of patient records.

(t) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients.

(u) The willful, unauthorized violation of professional confidence.

(v) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a patient in confidence during the course of treatment and all information about the patient that is obtained from tests or other means.

(w) Habitual intemperance.

(x) Failure to comply with the provisions of Section 2620.1.

SEC. 6. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section of only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(12) Licensed physical therapists.

(b) Podiatric medical corporation.

(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed physical therapists.

(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(10) Licensed professional clinical counselors.
(d) Speech-language pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech-language pathologists.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(g) Marriage and family therapist corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage and family therapists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.

(2) Registered nurses.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(k) Chiropractic corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(10) Licensed professional clinical counselors.
(*l*) Acupuncture corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed physician assistants.
(9) Licensed chiropractors.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(m) Naturopathic doctor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed physician assistants.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Licensed physical therapists.
(8) Licensed doctors of podiatric medicine.
(9) Licensed marriage and family therapists.
(10) Licensed clinical social workers.
(11) Licensed optometrists.
(12) Licensed professional clinical counselors.

(n) Dental corporation.
(1) Licensed physicians and surgeons.
(2) Dental assistants.
(3) Registered dental assistants.
(4) Registered dental assistants in extended functions.
(5) Registered dental hygienists.
(6) Registered dental hygienists in extended functions.
(7) Registered dental hygienists in alternative practice.
(o) Professional clinical counselor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Licensed marriage and family therapists.
(5) Registered nurses.
(6) Licensed chiropractors.
(7) Licensed acupuncturists.
(8) Naturopathic doctors.
(p) Physical therapy corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(5) Licensed occupational therapists.
(6) Licensed speech-language therapists.
(7) Licensed audiologists.
(8) Registered nurses.
(9) Licensed psychologists.
(10) Licensed physician assistants.

SEC. 7. Section 5.5 of this bill incorporates amendments to Section 2660 of the Business and Professions Code proposed by both this bill and Senate Bill 198. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 2660 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 198, in which case Section 5 of this bill shall not become operative.

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

O

AB 1288

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1288
Author:	Perez, V.
Chapter:	307
Bill Date:	June 6, 2013, Amended
Subject:	Medical Board & Osteopathic Medical Board: Licensing: Application Processing
Sponsor:	California Medical Association
Position:	Neutral

DESCRIPTION OF CURRENT LEGISLATION:

This bill requires the Medical Board of California (Board) to develop a process to give priority review status to the application of an applicant who can demonstrate that he or she intends to practice in a medically underserved area or population. This bill allows an applicant to demonstrate his or her intent to practice in a medically underserved area by providing proper documentation, including a letter from the employer. This bill also includes provisions that put the same requirements for a priority application review process on the Osteopathic Medical Board of California.

ANALYSIS:

Currently, the Board is completing an initial review of applications within 45 calendar days, well under the statutorily mandated 60 business days. However, many times the application does not have all the required information and primary source documentation at the time of initial review; only about 10% of applications are complete at initial review. The Board does not currently request any information on the application regarding where the applicant is planning on working once licensed.

This bill requires the Board to develop a process to give priority review status to an applicant who can demonstrate that he or she intends to practice in a medically underserved area or serve a medically underserved population as defined in existing law. This bill allows an applicant to demonstrate his or her intent to practice in a medically underserved area or serve a medically underserved population by providing proper documentation, including but not limited to, a letter from the employer indicating that the applicant has accepted employment and identifying a start date.

The Board does not currently have a process for priority review of applications and the application does not currently request information on where an applicant plans on practicing. However, the Board would be able to review these applications on a priority basis, but would need to revise the application to ask applicants to provide this additional information. The priority review process could be established, but it still would require the applicant to provide all the original source documentation, and this seems to be the

factor that extends the time for licensure for the majority of applicants, as it takes only seven working days from receipt of all approved documentation to issue the license.

The purpose of this bill is to ensure that applicants who intend on serving in an underserved area or serve an underserved population are licensed in a timely manner. The Board currently does not have any backlog in processing applications, and usually the initial review of the application is done before all the primary source documents are received. The Board has taken a neutral position on this bill.

FISCAL: Minimal and absorbable costs to develop a process for priority review status and to revise the licensing application.

SUPPORT: California Medical Association (sponsor)
Association of California Healthcare Districts
California Optometric Association

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Develop a process for priority review status
- Revise the licensing application
- Inform postgraduate training programs

Assembly Bill No. 1288

CHAPTER 307

An act to add Sections 2092 and 2099.6 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 9, 2013. Filed with Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1288, V. Manuel Pérez. Medical Board of California and Osteopathic Medical Board of California: licensing: application processing.

Existing law, the Medical Practice Act, provides for licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law establishes the Osteopathic Medical Board of California and authorizes the board to issue an originating or reciprocal osteopathic physician and surgeon's certificate to an applicant who satisfies specified criteria. Existing law establishes the California Healthcare Workforce Policy Commission and requires the commission to, among other things, identify specific areas of the state where unmet priority needs for primary care exist.

This bill would require the Medical Board of California and the Osteopathic Medical Board of California to develop a process to give priority review status to the application of an applicant who can demonstrate, as specified, that he or she intends to practice in a medically underserved area or serve a medically underserved population.

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

SECTION 1. Section 2092 is added to the Business and Professions Code, to read:

2092. (a) The board shall develop a process to give priority review status to the application of an applicant for a physician and surgeon's certificate who can demonstrate that he or she intends to practice in a medically underserved area or serve a medically underserved population as defined in Section 128565 of the Health and Safety Code.

(b) An applicant may demonstrate his or her intent to practice in a medically underserved area or serve a medically underserved population by providing proper documentation, including, but not limited to, a letter from the employer indicating that the applicant has accepted employment and stating the start date.

SEC. 2. Section 2099.6 is added to the Business and Professions Code, to read:

2099.6. (a) The Osteopathic Medical Board of California shall develop a process to give priority review status to the application of an applicant for an osteopathic physician and surgeon's certificate who can demonstrate that he or she intends to practice in a medically underserved area or serve a medically underserved population as defined in Section 128565 of the Health and Safety Code.

(b) An applicant may demonstrate his or her intent to practice in a medically underserved area or serve a medically underserved population by providing proper documentation, including, but not limited to, a letter from the employer indicating that the applicant has accepted employment and stating the start date.

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AB 1308

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1308
Author:	Bonilla
Chapter:	665
Bill Date:	September 6, 2013, Amended
Subject:	Midwifery
Sponsor:	American Congress of Obstetricians and Gynecologists (ACOG), District IX
Position:	Support if Amended

DESCRIPTION OF CURRENT LEGISLATION:

This bill removes the physician supervision requirement for licensed midwives (LMs) and requires LMs to only accept clients that meet the criteria for normal pregnancy and childbirth, as specified in this bill. If a potential client does not meet the criteria for normal pregnancy and childbirth, then the LM can refer that client to a physician trained in obstetrics and gynecology for examination; the LM can only accept the client if the physician examines the client and determines that the risk factors are not likely to significantly affect the course of pregnancy and childbirth.

This bill also allows LMs to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with the LMs scope of practice. This bill requires LMs to obtain informed consent, as specified in this bill.

This bill requires LMs to provide records and speak to the receiving physician if the client is transferred to a hospital. This bill requires the hospital to report each transfer of a planned out-of-hospital birth to the Medical Board of California (Board) and the California Maternal Quality Care Collaborative, using a form developed by the Board.

This bill requires all LMs to complete midwifery education programs and does not allow new licensees to substitute clinical experience for formal didactic education beginning January 1, 2015. This bill allows the Board, with input from the Midwifery Advisory Council (MAC), to look at the data elements required to be reported by LMs, to better coordinate with other reporting systems, including the reporting system of the Midwives Alliance of North America (MANA).

Lastly, this bill allows LMs to attend births in alternative birth centers (ABCs) and changes the standards of certification that must be met by an ABC to those established by the American Association of Birth Centers.

ANALYSIS

Background

Current law requires the Board to adopt regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery. Due to the inability to reach consensus on the supervision issue, the Board bifurcated this requirement and in 2006 adopted Standards of Care for Midwifery. Three previous attempts to resolve the physician supervision issue via legislation and/or regulation have been unsuccessful due to the widely divergent opinions of interested parties and their inability to reach consensus.

Although required by law, physician supervision is essentially unavailable to LMs performing home births, as California physicians are generally prohibited by their malpractice insurance companies from providing supervision of LMs who perform home births. According to these companies, if a physician supervises or participates in a home birth, the physician will lose insurance coverage resulting in loss of hospital privileges. The physician supervision requirement creates numerous barriers to care, in that if the LM needs to transfer a patient/baby to the hospital, many hospitals will not accept a patient transfer from a LM as the primary provider who does not have a supervising physician. California is currently the only state that requires physician supervision of LMs. Among states that regulate midwives, most require some sort of collaboration between the midwife and a physician.

LMs have difficulty securing diagnostic lab accounts, even though they are legally allowed to have lab accounts. Many labs require proof of physician supervision. In addition, LMs are not able to obtain the medical supplies they have been trained and are expected to use (oxygen and medical supplies that are included in approved licensed midwifery school curriculum (CCR section 1379.30)). The inability for a LM to order lab tests often means the patient will not obtain the necessary tests to help the LM monitor the patient during pregnancy. In addition, not being able to obtain the necessary medical supplies for the practice of midwifery adds additional risk to the LM's patient and the fetus or child.

AB 1308 Provisions

This bill removes the physician supervision requirement for licensed midwives (LMs) and requires LMs to only accept clients that meet the criteria for normal pregnancy and childbirth, which this bill defines as meeting the following conditions:

- There is an absence of both of the following:
    - Any preexisting maternal disease or condition likely to affect the pregnancy – this bill requires the Board to adopt regulation specifying these conditions.
    - Significant disease arising from the pregnancy.
- There is a singleton fetus.

- There is a cephalic presentation.
- The gestational age of the fetus is greater than 37 0/7 weeks and less than 42 0/7 completed weeks of pregnancy.
- Labor is spontaneous or induced in an outpatient setting.

This bill specifies that if a potential midwifery client meets the conditions of a normal pregnancy, but has a preexisting maternal disease or condition likely to affect the pregnancy or significant disease arising from the pregnancy, the LM must refer the potential client to a physician trained in obstetrics and gynecology for examination; the LM can only accept the client if the physician examines the client and determines that the risk factors are not likely to significantly affect the course of pregnancy and childbirth. This bill further specifies that, if at any point during the pregnancy, childbirth, or postpartum care a client's condition deviates from normal, the LM shall immediately refer or transfer the client to a physician. The LM may consult and remain in consultation with the physician after the referral or transfer. If the physician determines that the client's condition or concern has been resolved and is not likely to affect the course of pregnancy or childbirth, the LM may resume primary care of the client. If the physician determines that the client's condition or concern is not resolved, the LM may provide concurrent care with the physician, and if the client authorizes, be present during labor and childbirth and resume postpartum care, if appropriate.

This bill allows LMs to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with the LMs scope of practice.

This bill also requires LMs to obtain specific informed consent, orally and in writing, and as part of the client care plan, which must be signed and be part of the client's medical record. This information includes the following: the client is retaining a LM; license information for the LM; that many physicians do not have liability insurance coverage for planned out-of-hospital births; failure to consult with a physician, when advised, may affect the client's legal rights in any professional negligence actions; there are conditions outside the scope of a LM that will result in referral to a physician; the specific arrangements for referral to a physician; recommendations for preregistration at a hospital most likely to receive a transfer; if the client is informed that she has a condition mandating a transfer, the LM shall initiate the transfer; the availability of the text laws regulating LMs on the Board's Web site; that consultation with a physician does not alone create a physician-patient relationship or any other relationship with a physician; and that the LM is independently licensed and is solely responsible for the services provided to the client.

This bill requires LMs to provide records and speak to the receiving physician about labor up to the point of transfer if the client is transferred to a hospital. This bill requires the hospital to report each transfer of a planned out-of-hospital birth to the Board and the California Maternal Quality Care Collaborative, using a form developed by the Board.

This bill requires all LMs to complete midwifery education programs and does not allow new licensees to substitute clinical experience for formal didactic education beginning January 1, 2015; this deletes the challenge mechanism from statute.

This bill allows the Board, with input from the MAC, to look at the data elements required to be reported by LM to better coordinate with other reporting systems, including the reporting system of the MANA. This provision does not require any reporting changes, but only allows the Board and the MAC to look at potential changes.

This bill specifies that failure of a LM to consult with a physician, refer a client to a physician, or transfer a client to a hospital when necessary, constitutes unprofessional conduct.

Lastly, this bill allows LMs to attend births in alternative birth centers (ABCs) and changes the standards of certification that must be met by an ABC to those established by the American Association of Birth Centers.

Board Information

The Board, through the MAC, has held many meetings regarding physician supervision of LMs and has attempted to create regulations to address this issue. The concepts of collaboration, such as required consultation, referral, transfer of care, and physician liability have been discussed among the interested parties with little success. There is disagreement over the appropriate level of physician supervision, with LMs expressing concern with any limits being placed on their ability to practice independently. The physician and liability insurance communities have concerns over the safety of midwife-assisted homebirths, specifically delays and/or the perceived reluctance of LMs to refer patients when the situation warrants referral or transfer of care.

The Board, through the MAC, has also held meetings regarding the lab order and medical supplies/medication issues and has attempted to create regulatory language to address this issue. However, based upon discussions with interested parties, the lab order and medical supplies/medication issues needs to be addressed through the legislative process.

This bill addresses the physician supervision issue, which is of utmost importance for protection of consumers, and is the reason for all of the barriers to care that LMs currently face. This bill will only allow LMs to accept clients that meet the conditions of a normal pregnancy, which is more stringent than existing practice, as clients now can consent to receive services from LMs even if they do not meet criteria for a normal pregnancy. This bill requires a client to be examined by a physician and for the physician to approve care by a LM for clients that do not meet the normal pregnancy criteria. This bill also increases communication between LMs, physicians, and hospitals, if referral of care or a hospital transfer is required, which will also help to significantly increase consumer protection. This bill adds many items to the informed consent that LMs must provide to clients in order to increase transparency and provide more information to potential clients. This bill requires all LMs, starting in 2015, to

complete a formal midwifery education program, as this bill deletes the existing challenge mechanism that allows a LM to pass a test in lieu of completing a formal education program. This bill will help to ensure that consumers are protected and provided the best midwifery care possible and will also help the Board to more effectively regulate LMs.

FISCAL: Minimal and absorbable

SUPPORT: ACOG, District IX (sponsor)
Birth Network of Monterey County
California Association of Midwives
California Families for Access to Midwives
Central California Alliance for Health
International Cesarean Awareness Network
Medical Board of California (if amended)

OPPOSITION: None on File

IMPLEMENTATION:

- Newsletter article and notification to LMs
- Notify/Train Board staff
- Update the Board's Web site with changes to the law
- Work with interested parties and stakeholders to develop regulations specifying any preexisting maternal disease or condition likely to affect the pregnancy and any other regulations needed to implement this bill
- Develop processes and procedures for hospital reporting of each transfer of a planned out-of-hospital birth to the Board and develop a form for this reporting
- Place on the MAC's agenda a review of the existing reporting data elements and possible changes to coordinate with other reporting systems, including MANA
- Provide outreach to new LM applicants that the challenge mechanism will no longer be available effective January 1, 2015

Assembly Bill No. 1308

CHAPTER 665

An act to amend Sections 2507, 2508, 2513, 2516, and 2519 of, and to add Section 2510 to, the Business and Professions Code, and to amend Section 1204.3 of the Health and Safety Code, relating to professions and vocations.

[Approved by Governor October 9, 2013. Filed with Secretary of State October 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1308, Bonilla. Midwifery.

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. The license to practice midwifery authorizes the holder, under the supervision of a licensed physician and surgeon, as specified, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn. The act requires a midwife to immediately refer all complications to a physician and surgeon. Under the act, a licensed midwife is required to make certain oral and written disclosures to prospective clients. 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, among other things, no longer require a physician and surgeon to supervise a licensed midwife. The bill would require, if a potential midwife client fails to meet the conditions of a normal pregnancy or childbirth, as defined, but still desires to be a client, that the licensed midwife refer the woman to a physician and surgeon for examination. The bill would require the board to adopt regulations specifying certain of those conditions. The bill would authorize the licensed midwife to assist the woman only if the physician and surgeon determines, after examination, that the risk factors presented by the woman's disease or condition are not likely to significantly affect the course of pregnancy and childbirth. The bill would require a licensed midwife to immediately refer or transfer the client to a physician and surgeon if at any point during pregnancy, childbirth, or postpartum care a client's condition deviates from normal. The bill would authorize the licensed midwife to resume primary care of the client if the physician and surgeon determines that the client's condition or concern has been resolved, and to provide concurrent care if the client's condition or concern has not been resolved, as specified.

This bill would additionally authorize a licensed midwife to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice. The bill would require a licensed midwife to make additional disclosures to prospective clients, including, among other things, the specific arrangements for referral of complications to a physician and surgeon, and to obtain written, informed consent of those disclosures, as prescribed. By increasing the duties of a licensed midwife under the Licensed Midwifery Practice Act of 1993, the violation of which is a crime, the bill would impose a state-mandated local program. The bill would authorize the board to suspend or revoke the license of a licensed midwife for failing, when required, to consult with a physician and surgeon, to refer a client to a physician and surgeon, or to transfer a client to a hospital. The bill would require, if a client is transferred to a hospital, that the hospital report each transfer of a planned out-of-hospital birth to, among others, the board, using a form developed by the board.

Existing law requires a licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting to annually report specified information to the Office of Statewide Health Planning and Development.

This bill would authorize the board, with input from the Midwifery Advisory Council, to adjust the data elements required to be reported to better coordinate with other reporting systems, as specified.

Existing law requires an approved midwifery education program to offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience.

This bill would, beginning January 1, 2015, prohibit new licensees from substituting clinical experience for formal didactic education.

Existing law requires a licensed alternative birth center, and a licensed primary care clinic that provides services as an alternative birth center, to meet specified requirements, including the presence of at least 2 attendants during birth, one of whom shall be either a physician and surgeon or a certified nurse-midwife.

This bill would provide that a licensed midwife may also satisfy that requirement.

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.

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

SECTION 1. The Legislature finds and declares the following:

(a) Licensed midwives have been authorized to practice since 1993 under Senate Bill 350 (Chapter 1280 of the Statutes of 1993), which was authored

by Senator Killea. Additional legislation, Senate Bill 1950 (Chapter 1085 of the Statutes of 2002), which was authored by Senator Figueroa, was needed in 2002 to clarify certain practice issues. While the midwifery license does not specify or limit the practice setting in which licensed midwives may provide care, the reality is that the majority of births delivered by licensed midwives are planned as home births.

(b) Planned home births are safer when care is provided as part of a collaborative delivery model in which medical professionals may freely consult on patient care to maximize patient safety and positive outcomes. For a variety of reasons, this integration does not always occur, and creates a barrier to the best and safest care possible.

SEC. 2. Section 2507 of the Business and Professions Code is amended to read:

2507. (a) The license to practice midwifery authorizes the holder to attend cases of normal pregnancy and childbirth, as defined in paragraph (1) of subdivision (b), and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn.

(b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife to assist a woman in childbirth as long as progress meets criteria accepted as normal.

(1) Except as provided in paragraph (2), a licensed midwife shall only assist a woman in normal pregnancy and childbirth, which is defined as meeting all of the following conditions:

(A) There is an absence of both of the following:

(i) Any preexisting maternal disease or condition likely to affect the pregnancy.

(ii) Significant disease arising from the pregnancy.

(B) There is a singleton fetus.

(C) There is a cephalic presentation.

(D) The gestational age of the fetus is greater than 37 $\frac{6}{7}$ weeks and less than 42 $\frac{6}{7}$ completed weeks of pregnancy.

(E) Labor is spontaneous or induced in an outpatient setting.

(2) If a potential midwife client meets the conditions specified in subparagraphs (B) to (E), inclusive, of paragraph (1), but fails to meet the conditions specified in subparagraph (A) of paragraph (1), and the woman still desires to be a client of the licensed midwife, the licensed midwife shall provide the woman with a referral for an examination by a physician and surgeon trained in obstetrics and gynecology. A licensed midwife may assist the woman in pregnancy and childbirth only if an examination by a physician and surgeon trained in obstetrics and gynecology is obtained and the physician and surgeon who examined the woman determines that the risk factors presented by her disease or condition are not likely to significantly affect the course of pregnancy and childbirth.

(3) The board shall adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part of 1

of Division 3 of Title 2 of the Government Code) specifying the conditions described in subparagraph (A) of paragraph (1).

(c) (1) If at any point during a pregnancy, childbirth, or postpartum care a client's condition deviates from normal, the licensed midwife shall immediately refer or transfer the client to a physician and surgeon. The licensed midwife may consult and remain in consultation with the physician and surgeon after the referral or transfer.

(2) If a physician and surgeon determines that the client's condition or concern has been resolved such that the risk factors presented by a woman's disease or condition are not likely to significantly affect the course of pregnancy or childbirth, the licensed midwife may resume primary care of the client and resume assisting the client during her pregnancy, childbirth, or postpartum care.

(3) If a physician and surgeon determines the client's condition or concern has not been resolved as specified in paragraph (2), the licensed midwife may provide concurrent care with a physician and surgeon and, if authorized by the client, be present during the labor and childbirth, and resume postpartum care, if appropriate. A licensed midwife shall not resume primary care of the client.

(d) A licensed midwife shall not provide or continue to provide midwifery care to a woman with a risk factor that will significantly affect the course of pregnancy and childbirth, regardless of whether the woman has consented to this care or refused care by a physician or surgeon, except as provided in paragraph (3) of subdivision (c).

(e) The practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version of these means.

(f) A midwife is authorized to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice.

(g) This article does not authorize a midwife to practice medicine or to perform surgery.

SEC. 3. Section 2508 of the Business and Professions Code is amended to read:

2508. (a) A licensed midwife shall disclose in oral and written form to a prospective client as part of a client care plan, and obtain informed consent for, all of the following:

(1) All of the provisions of Section 2507.

(2) The client is retaining a licensed midwife, not a certified nurse-midwife, and the licensed midwife is not supervised by a physician and surgeon.

(3) The licensed midwife's current licensure status and license number.

(4) The practice settings in which the licensed midwife practices.

(5) If the licensed midwife does not have liability coverage for the practice of midwifery, he or she shall disclose that fact. The licensed midwife shall disclose to the client that many physicians and surgeons do not have liability

insurance coverage for services provided to someone having a planned out-of-hospital birth.

(6) The acknowledgment that if the client is advised to consult with a physician and surgeon, failure to do so may affect the client's legal rights in any professional negligence actions against a physician and surgeon, licensed health care professional, or hospital.

(7) There are conditions that are outside of the scope of practice of a licensed midwife that will result in a referral for a consultation from, or transfer of care to, a physician and surgeon.

(8) The specific arrangements for the referral of complications to a physician and surgeon for consultation. The licensed midwife shall not be required to identify a specific physician and surgeon.

(9) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary, and recommendations for preregistration at a hospital that has obstetric emergency services and is most likely to receive the transfer.

(10) If, during the course of care, the client is informed that she has or may have a condition indicating the need for a mandatory transfer, the licensed midwife shall initiate the transfer.

(11) The availability of the text of laws regulating licensed midwifery practices and the procedure for reporting complaints to the Medical Board of California, which may be found on the Medical Board of California's Internet Web site.

(12) Consultation with a physician and surgeon does not alone create a physician-patient relationship or any other relationship with the physician and surgeon. The informed consent shall specifically state that the licensed midwife and the consulting physician and surgeon are not employees, partners, associates, agents, or principals of one another. The licensed midwife shall inform the patient that he or she is independently licensed and practicing midwifery and in that regard is solely responsible for the services he or she provides.

(b) The disclosure and consent shall be signed by both the licensed midwife and the client and a copy of the disclosure and consent shall be placed in the client's medical record.

(c) The Medical Board of California may prescribe the form for the written disclosure and informed consent statement required to be used by a licensed midwife under this section.

SEC. 4. Section 2510 is added to the Business and Professions Code, to read:

2510. If a client is transferred to a hospital, the licensed midwife shall provide records, including prenatal records, and speak with the receiving physician and surgeon about labor up to the point of the transfer. The hospital shall report each transfer of a planned out-of-hospital birth to the Medical Board of California and the California Maternal Quality Care Collaborative using a standardized form developed by the board.

SEC. 5. Section 2513 of the Business and Professions Code is amended to read:

2513. (a) An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the board. Beginning January 1, 2015, new licensees shall not substitute clinical experience for formal didactic education.

(b) Completion of clinical experiences shall be verified by a licensed midwife or certified nurse-midwife, and a physician and surgeon, all of whom shall be current in the knowledge and practice of obstetrics and midwifery. Physicians and surgeons, licensed midwives, and certified nurse-midwives who participate in the verification and evaluation of an applicant's clinical experiences shall show evidence of current practice. The method used to verify clinical experiences shall be approved by the board.

(c) Upon successful completion of the requirements of paragraphs (1) and (2), the applicant shall also complete the licensing examination described in paragraph (1) of subdivision (a) of Section 2512.5.

SEC. 6. Section 2516 of the Business and Professions Code is amended to read:

2516. (a) Each licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted no later than March 30, for the prior calendar year, in a form specified by the board and shall contain all of the following:

(1) The midwife's name and license number.

(2) The calendar year being reported.

(3) The following information with regard to cases in California in which the midwife, or the student midwife supervised by the midwife, assisted during the previous year when the intended place of birth at the onset of care was an out-of-hospital setting:

(A) The total number of clients served as primary caregiver at the onset of care.

(B) The number by county of live births attended as primary caregiver.

(C) The number, by county, of cases of fetal demise, infant deaths, and maternal deaths attended as primary caregiver at the discovery of the demise or death.

(D) The number of women whose primary care was transferred to another health care practitioner during the antepartum period, and the reason for each transfer.

(E) The number, reason, and outcome for each elective hospital transfer during the intrapartum or postpartum period.

(F) The number, reason, and outcome for each urgent or emergency transport of an expectant mother in the antepartum period.

(G) The number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intrapartum or immediate postpartum period.

(H) The number of planned out-of-hospital births at the onset of labor and the number of births completed in an out-of-hospital setting.

(I) The number of planned out-of-hospital births completed in an out-of-hospital setting that were any of the following:

(i) Twin births.

(ii) Multiple births other than twin births.

(iii) Breech births.

(iv) Vaginal births after the performance of a cesarean section.

(J) A brief description of any complications resulting in the morbidity or mortality of a mother or a neonate.

(K) Any other information prescribed by the board in regulations.

(b) The Office of Statewide Health Planning and Development shall maintain the confidentiality of the information submitted pursuant to this section, and shall not permit any law enforcement or regulatory agency to inspect or have copies made of the contents of any reports submitted pursuant to subdivision (a) for any purpose, including, but not limited to, investigations for licensing, certification, or regulatory purposes.

(c) The office shall report to the board, by April 30, those licensees who have met the requirements of subdivision (a) for that year.

(d) The board shall send a written notice of noncompliance to each licensee who fails to meet the reporting requirement of subdivision (a). Failure to comply with subdivision (a) will result in the midwife being unable to renew his or her license without first submitting the requisite data to the Office of Statewide Health Planning and Development for the year for which that data was missing or incomplete. The board shall not take any other action against the licensee for failure to comply with subdivision (a).

(e) The board, in consultation with the office and the Midwifery Advisory Council, shall devise a coding system related to data elements that require coding in order to assist in both effective reporting and the aggregation of data pursuant to subdivision (f). The office shall utilize this coding system in its processing of information collected for purposes of subdivision (f).

(f) The office shall report the aggregate information collected pursuant to this section to the board by July 30 of each year. The board shall include this information in its annual report to the Legislature.

(g) The board, with input from the Midwifery Advisory Council, may adjust the data elements required to be reported to better coordinate with other reporting systems, including the reporting system of the Midwives Alliance of North America (MANA), while maintaining the data elements unique to California. To better capture data needed for the report required by this section, the concurrent use of systems, including MANA's, by licensed midwives is encouraged.

(h) Notwithstanding any other law, a violation of this section shall not be a crime.

SEC. 7. Section 2519 of the Business and Professions Code is amended to read:

2519. The board may suspend or revoke the license of a midwife for any of the following:

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

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

(2) Conviction of a violation of Section 2052, in which event, the record of the conviction shall be conclusive evidence thereof.

(3) The use of advertising that is fraudulent or misleading.

(4) Obtaining or possessing in violation of law, or prescribing, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administering to himself or herself, or furnishing or administering to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(5) The use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Conviction of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in paragraphs (4) and (5), or the possession of, or falsification of, a record pertaining to, the substances described in paragraph (4), in which event the record of the conviction is conclusive evidence thereof.

(7) Commitment or confinement by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5), in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(8) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

(b) Procuring a license by fraud or misrepresentation.

(c) Conviction of a crime substantially related to the qualifications, functions, and duties of a midwife, as determined by the board.

(d) Procuring, aiding, abetting, attempting, agreeing to procure, offering to procure, or assisting at, a criminal abortion.

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

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

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

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

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

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

(1) Consult with a physician and surgeon.

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

(3) Transfer a client to a hospital.

SEC. 8. Section 1204.3 of the Health and Safety Code is amended to read:

1204.3. (a) An alternative birth center that is licensed as an alternative birth center specialty clinic pursuant to paragraph (4) of subdivision (b) of Section 1204 shall, as a condition of licensure, and a primary care clinic licensed pursuant to subdivision (a) of Section 1204 that provides services as an alternative birth center shall, meet all of the following requirements:

(1) Be a provider of comprehensive perinatal services as defined in Section 14134.5 of the Welfare and Institutions Code.

(2) Maintain a quality assurance program.

(3) Meet the standards for certification established by the American Association of Birth Centers, or at least equivalent standards as determined by the state department.

(4) In addition to standards of the American Association of Birth Centers regarding proximity to hospitals and presence of attendants at births, meet both of the following conditions:

(A) Be located in proximity, in time and distance, to a facility with the capacity for management of obstetrical and neonatal emergencies, including the ability to provide cesarean section delivery, within 30 minutes from time of diagnosis of the emergency.

(B) Require the presence of at least two attendants at all times during birth, one of whom shall be a physician and surgeon, a licensed midwife, or a certified nurse-midwife.

(5) Have a written policy relating to the dissemination of the following information to patients:

(A) A summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles.

(B) A listing of child passenger restraint system programs located within the county, as required by Section 27362 of the Vehicle Code.

(C) Information describing the risks of death or serious injury associated with the failure to utilize a child passenger restraint system.

(b) The state department shall issue a permit to a primary care clinic licensed pursuant to subdivision (a) of Section 1204 certifying that the primary care clinic has met the requirements of this section and may provide services as an alternative birth center. Nothing in this section shall be construed to require that a licensed primary care clinic obtain an additional license in order to provide services as an alternative birth center.

(c) (1) Notwithstanding subdivision (a) of Section 1206, no place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, shall be represented or otherwise held out to be an alternative birth center licensed by the state unless it meets the requirements of this section.

(2) Nothing in this subdivision shall be construed to prohibit licensed health care practitioners from providing birth related services, within the scope of their license, in a place or establishment described in paragraph (1).

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

O

ACR 40

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	ACR 40
Author:	Perez
Chapter:	19
Bill Date:	April 8, 2013, amended
Subject:	Donate Life California Day
Sponsor:	Donate Life California
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This resolution makes findings and declarations regarding the importance of organ donation. This resolution proclaims April 9, 2013, as Department of Motor Vehicles (DMV)/Donate Life California Day and April as DMV/Donate Life California Month in California. This resolution encourages all Californians to register with the Donate Life California Registry when applying for or renewing a driver's license or identification card.

ANALYSIS:

This resolution makes the following findings and declarations:

- More than 117,000 individuals nationwide and more than 21,000 Californians are currently on the national organ transplant wait list. While about one-third of these patients receive a transplant each year, another third die while waiting, due to a shortage of donated organs.
- An individual's donation of heart, lungs, liver, kidneys, pancreas, and small intestine can save up to eight lives.
- The donation of tissue can save and enhance the lives of up to 50 others, and a single blood donation can help three people in need.
- Californians by the millions are joining together to save and enhance lives by becoming registered donors and nearly nine million Californians have signed up with the state-authorized Donate Life California Organ and Tissue Donor Registry to ensure that their wishes to be an organ, eye, and tissue donor are honored.
- A California resident can register with the Donate Life California Registry when applying for or renewing his or her driver's license or identification card at the DMV.

The Board voted to be the honorary state sponsor of Donate Life California's specialized license plate, which will help to increase awareness and raise money for organ and tissue donation, education and outreach. This resolution will also help to raise awareness by proclaiming April 9, 2013 as DMV/Donate Life California Day and April as DMV/Donate Life California Month; as such, the Board supports this resolution.

FISCAL: None

SUPPORT: Donate Life California (Sponsor)
DMV

OPPOSITION: None on file

POSITION: Support

IMPLEMENTATION:

- Newsletter Articles

Assembly Concurrent Resolution No. 40

RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 40—Relative to organ donation.

[Filed with Secretary of State April 19, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 40, John A. Pérez. Donate Life California Day: driver's license.

This measure would designate April 9, 2013, as DMV/Donate Life California Day in the State of California, and April 2013 as DMV/Donate Life California Month in the State of California, and would encourage all Californians to sign up with the Donate Life California Organ and Tissue Donor Registry.

WHEREAS, Organ, tissue, eye, and blood donations are compassionate and life-giving acts looked upon and recognized with the highest regard; and

WHEREAS, More than 117,000 individuals nationwide and more than 21,000 Californians are currently on the national organ transplant wait list. While about one-third of these patients receive a transplant each year, another one-third die while waiting due to a shortage of donated organs; and

WHEREAS, A single individual's donation of heart, lungs, liver, kidneys, pancreas, and small intestine can save up to eight lives. The donation of tissue can save and enhance the lives of up to 50 others, and a single blood donation can help three people in need; and

WHEREAS, Millions of lives each year are saved and enhanced by donors of organs, tissue, eyes, and blood; and

WHEREAS, Californians by the millions are joining together to save and enhance lives by becoming registered donors. Nearly nine million Californians have signed up with the state-authorized Donate Life California Organ and Tissue Donor Registry to ensure that their wishes to be an organ, eye, and tissue donor are honored; and

WHEREAS, A California resident can register with the Donate Life California Registry when applying for or renewing his or her driver's license or identification card at the Department of Motor Vehicles; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in recognition of April as National Donate Life Month, the Legislature proclaims April 9, 2013, as DMV/Donate Life California Day in the State of California, and April 2013 as DMV/Donate Life California Month in the State of California. In doing so, the Legislature encourages all Californians to check "YES" when applying for or renewing a driver's license or identification card or by signing up at

www.donateLIFEcalifornia.org or www.doneVIDAcalifornia.org; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

O

SB 21

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 21
Author:	Roth
Chapter:	203
Bill Date:	August 5, 2013, amended
Subject:	UC Riverside Medical School: Funding
Sponsor:	California Medical Association & California Association of Physician Groups
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill lists a variety of findings and declarations. This bill requires the University of California (UC), Riverside School of Medicine to develop a program to identify eligible medical residents and to assist those residents to apply for physician retention programs, including the Steven M. Thompson Physician Corps Loan Repayment Program (STLRP).

ANALYSIS:

The foundation of the School of Medicine at UC Riverside goes back to 1974, when the UC Riverside / University of California, Los Angeles (UCLA) Thomas Haider Program in Biomedical Sciences was established. This program has allowed approximately 700 students to complete their first two years of medical school at UC Riverside, and their last two years at the David Geffen School of Medicine at UCLA, which confers their medical degrees.

In July 2008, the UC Board of Regents officially approved the proposed establishment of an independent four-year School of Medicine at UC Riverside, intended to serve the medically underserved in the Inland Empire. However, in the summer of 2011, UC Riverside failed to gain accreditation for an independent four-year medical school from the Liaison Committee on Medical Education (LCME), the national accrediting body for educational programs leading to the Medical Doctor degree in the United States. LCME withheld preliminary accreditation due to a lack of stable state funding support for the school. In April 2012, UC Riverside secured substantial new funding from a variety of non-state funding sources, and submitted a second accreditation application to LCME. In June 2012, a second accreditation site visit took place and in October 2012, UC Riverside received notification from LCME that its planned medical school received "preliminary accreditation." Preliminary accreditation from LCME enabled prospective students to begin applying to the UC Riverside School of Medicine in order to enroll in August 2013.

This Bill requires the UC Riverside School of Medicine to develop a program to identify eligible medical residents and to assist those residents to apply for physician retention programs, including STLRP. This bill previously included language that would have appropriated $15,000,000 to UC Riverside School of Medicine. However, it was amended to remove the appropriation language as the Higher Education Trailer Bill, AB 94, was amended to include a $15,000,000 appropriation allocated to UC Riverside School of Medicine. SB 21 now references AB 94 and the appropriation.

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.

According to the author's office, this bill seeks to address the primary care physician shortage faced by the Inland Empire by helping to ensure more doctors are educated and trained locally. According the Public Policy Institute of California, the Inland Empire is the fastest-growing region of the state and it is estimated that more than 300,000 residents of the Inland Empire will have health insurance coverage extended to them as a result of the Affordable Care Act. The U.S. Department of Health and Human Services' Council on Graduate Medical Education recommends that a given region have 60 to 80 primary care physicians per 100,000 residents and 85 to 105 specialists. The Inland Empire has about 40 primary care doctors and 70 specialists per 100,000 residents, which is a severe shortage.

This bill will help to increase access to care and help the Inland Empire area of California to prepare and be ready for implementation of the Affordable Care Act. The Board has taken a support position on this bill.

FISCAL: None to the Board

SUPPORT: California Medical Association (co-sponsor); California Association of Physician Groups (co-sponsor); Insurance Commissioner Dave Jones; Superintendent of Public Instruction Tom Torlakson; United States Congressmember Mark Takano; 23rd District PTA; Accounting Principals; AFSCME, AFL-CIO; Alexandria Smitz-R.C.P.R. Commission; All Temperature Air Inc.; All Temperature Air and Solar; Altura Credit Union; Alvaro Unified School District; Arlington High School; Artesian Design, Inc.; Associated Specialist in Hearing Disorder; Beautiful Women of God Seminars, International; Best & Krieger LLP; Bourns, Inc.; Bright Star Health Care, Menifee; Bud's Tire and Wheel, Inc.; Business Academy; Business Network International; California American College of Emergency Physicians; California Podiatric Medical Association; Central Counseling Center; Cheers Group, LLC; Cities of Jurupa Valley, Murrieta, Palm Desert, and Riverside; Citizens University Committee, University of California, Riverside; City of Riverside Council Member, Chris Mac Arthur; City of Riverside Fire Department; Community Connect; County of San Bernardino; Courtyard by Marriott, Riverside; D.S.L - The Boeing Company; EmbroidMe Riverside; Enterprise Media/The Press Telegram; Fine Touch Paint & Builder Inc.; Fox Performing Arts Center; Fox Riverside Theater Foundation; Gary

Christmas Consulting; Gram's BBQ; Greater Riverside Chambers of Commerce; Greshan Sonage; Home Instead Senior Care; Hyatt Place, Riverside; Inland Empire Architectural Specialties, Inc.; Inland Empire Economic Partnership; Jaguar Computer Systems; Johnson Machinery Co.; Kaiser Permanente; Karen Allen Salon and Spa; Latino Lawyers Association, Inc.; League of California Cities, Riverside Division; League of Women Voters, Riverside; Let's Network; Lexus of Riverside; Linda Lawyer Insurance Solutions; Luminex Software Inc.; March Joint Powers Authority; Martin Luther King, Jr. High School; Medical Board of California; Monoprice, Inc.; Olive Crest; Parkview Community Hospital; Premier Service Bank; ProAbition; PSOMAS Engineering, Inland Empire; Pur-a-Life Water Solutions; Quality Printing; Raceway Ford; Raincross Hospitality Corporation; Regional Properties Inc.; Remax Kings Realty; Rick Engineering; Riverside Art Museum; Riverside City Council; Riverside Community Health Foundation; Riverside Community Police Review Commission; Riverside Convention Center; Riverside County of Superintendent of Schools; Riverside County Outlaws; Riverside County P.O.M.S; Riverside County Peace Officers Memorial Foundation; Riverside Eye Specialist; Riverside Medical Clinic; Riverside Physician Network; Riverside Sport Hall of Fame; Riverside Unified School District; RLM Wealth Corporation, Inc.; Secure Care Self Storage; Security Bank of California; Sharp Business System; Smart Riverside; Southwest California Legislative Council; Southwest Riverside County Association of Realtors; Successful Physicians Monthly; Sylvan Learning; The Harijan Company; The Mission Hotel and Spa; The Wright Image; Thompson Engineering; Tri County Eye Institute; United Way of the Inland Valleys; University of California Deans of Schools of Medicine; University of California Office of the President; University of California Riverside Alumni Association; Villa Healthcare Center; Visiting Angels Home Care; Visiting Angels of Riverside County; Waddell and Reed, Inc.; Western and Satten; Western Municipal Water District; Western Riverside Council of Governments; and Zonta Club of Riverside

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article

Senate Bill No. 21

CHAPTER 203

An act relating to the University of California.

[Approved by Governor September 6, 2013. Filed with Secretary of State September 6, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 21, Roth. University of California: UC Riverside Medical School.

Existing provisions of the California Constitution establish the University of California as a public trust under the administration of the Regents of the University of California. The University of California system includes 10 campuses, which are located in Berkeley, Davis, Irvine, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz.

The bill would request the School of Medicine at the University of California, Riverside, to develop a program consistent with its mission, in conjunction with the health facilities of its medical residency programs, to identify eligible medical residents and to assist those medical residents to apply for physician retention programs, including, but not limited to, the Steven M. Thompson Physician Corps Loan Repayment Program.

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

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

(a) California's supply of primary care physicians is below what is considered sufficient to meet patient needs. In the rapidly growing and ethnically diverse area of inland southern California, the shortage is particularly severe, with just 40 primary care physicians per 100,000 patients, which is far fewer than the recommended range of 60 to 80 primary care physicians per 100,000 patients. Furthermore, Latinos, African Americans, and Native Americans are vastly underrepresented in the physician workforce.

(b) California lags substantially in the number of medical school seats per capita, having just 17.3 seats per 100,000 persons, compared to the United States average of 31.4 seats per 100,000 persons, according to statistics published by the Association of American Medical Colleges.

(c) According to the California HealthCare Foundation, 72 percent of California's 58 counties have an undersupply of primary care physicians, with primary care physicians making up just 34 percent of California's physician workforce.

(d) The University of California, Riverside, (UCR) has had a longstanding two-year medical education program and its independent four-year school of medicine has received preliminary accreditation from the Liaison Committee on Medical Education, the nationally recognized accrediting body for medical education programs leading to M.D. degrees in the United States and Canada. When this new four-year medical school opens in August 2013, it will become the first new public medical school in California in more than 40 years.

(e) This community-based medical school with a public mission to expand and diversify the region's physician workforce and to improve the health of people living in inland southern California has made a commitment to underserved patient populations.

(f) There are two principal determinants of where a physician practices: (1) where he or she grew up, and (2) where he or she completes residency training following medical school graduation.

(g) The UCR medical school has strategies to capitalize on both of these factors. Among these strategies are all of the following: (1) developing student pipeline programs that inspire more young people in the region to pursue careers in medicine and other allied health professions and to recruit them to the UCR medical school; (2) utilizing a holistic review of medical school applicants that takes into account diverse life experiences in addition to academic performance; (3) teaching a curriculum that emphasizes key competencies for primary care medicine, including wellness and prevention, evidence-based medicine, and chronic disease management; (4) creating new residency training programs in primary care and those short-supply specialties that are most needed in inland southern California; and (5) continuing UCR's commitment to the recruitment, retention, and advancement of talented students, faculty, and staff from historically excluded populations who are currently underrepresented in medical education and the practice of medicine.

(h) As a further incentive for medical students to choose primary care specialties, the UCR medical school has developed an innovative "loan-to-scholarship" program, is actively raising nonstate funds to expand that program, and is educating students and graduates about existing public and private physician recruitment and retention programs, including, but not limited to, the Steven M. Thompson Physician Corps Loan Repayment Program established pursuant to Article 5 (commencing with Section 128550) of Chapter 5 of Part 3 of Division 107 of the Health and Safety Code.

(i) The appropriation of state funding in the annual Budget Act, in accordance with Section 16 of Assembly Bill 94 of the 2013–14 Regular Session, to the UCR medical school will add more physicians to underserved areas in inland southern California and help California meet the objectives of the federal Patient Protection and Affordable Care Act (Public Law 111-148) in the short term and the long term by expanding the physician workforce.

SEC. 2. The School of Medicine at the University of California, Riverside, is requested to develop a program, consistent with its mission, in conjunction with the health facilities of its medical residency programs, to identify eligible medical residents and to assist those medical residents to apply for physician retention programs, including, but not limited to, the Steven M. Thompson Physician Corps Loan Repayment Program established pursuant to Article 5 (commencing with Section 128550) of Chapter 5 of Part 3 of Division 107 of the Health and Safety Code.

O

SB 62

OFFICE OF THE GOVERNOR

SEP 27 2013

To the Members of the California State Senate:

I am returning Senate Bill 62 without my signature.

The bill would require a county coroner to make a report to the Medical Board whenever a Schedule II, III or IV drug was found to be the cause of death.

While I am concerned about the harm caused by prescription drug misuse and overdose, the bill creates an unfunded mandate for the state, potentially in the millions of dollars.

Instead, I am signing SB 670, which gives the Medical Board better access to information needed to investigate suspicious deaths. I am also signing SB 809, which modestly increases practitioners' licensing fees to fund a sorely needed overhaul of the state's Controlled Substance Utilization Review and Evaluation System and Prescription Drug Monitoring Program.

I expect that these measures, along with more vigorous efforts by the Board, will help detect and prevent prescription drug abuse without further burdening taxpayers.

Sincerely,

Edmund G. Brown Jr.

Senate Bill No. 62

Passed the Senate September 10, 2013

_____

Secretary of the Senate

Passed the Assembly September 9, 2013

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2013, at _____ o'clock ____M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Section 802.5 of, and to add and repeal Section 2220.09 of, the Business and Professions Code, relating to coroners.

LEGISLATIVE COUNSEL'S DIGEST

SB 62, Lieu. Coroners: reporting requirements: prescription drug use.

Existing law requires a coroner to make a report, as specified, when he or she receives information that indicates that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence. Existing law requires the report to be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

This bill would require the coroner's report and other information to follow the report within 90 days or as soon as possible once the coroner's final report of investigation is complete. The bill, until January 1, 2018, would additionally require a coroner, when he or she receives information that indicates that the cause of death is due to a Schedule II, III, or IV drug, to provide that information, including whether the decedent was undergoing treatment for a terminal illness or chronic condition, if known, to the Medical Board of California on a form provided by the board and developed in consultation with the California State Coroners' Association. The bill would require that this form be submitted within 90 days, or as soon as possible, once the coroner's investigation is complete, and would provide that this form is confidential. By increasing the duties of county officers, this bill would create a state-mandated local program.

Existing law requires that any complaint against a physician and surgeon that is determined to involve quality of care meet certain criteria before it is referred to a field office for further investigation, except as specified.

This bill, until January 1, 2018, would require that any information received from a coroner pursuant to the provisions of this bill, that may be treated as a complaint against a physician

and surgeon and may be determined to involve quality of care, meet these criteria before referral to a field office for further investigation.

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.

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

SECTION 1. Section 802.5 of the Business and Professions Code is amended to read:

802.5. (a) When a coroner receives information that is based on findings that were reached by, or documented and approved by, a pathologist indicating that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence, a report shall be filed with the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. The initial report shall include the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information available. The initial report shall be followed, within 90 days or as soon as possible once the coroner's final report of investigation is complete, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) When a coroner receives information that is based on findings that were reached by, or documented and approved by, a pathologist indicating that the cause of death is due to a Schedule II, III, or IV drug, the information regarding the death of the decedent, including whether the decedent was undergoing treatment for a terminal illness or chronic condition, if known, shall be provided by the coroner to the Medical Board of California. The information shall be submitted on a form provided by the board, which shall be developed in consultation with the California State Coroners' Association. The form shall be submitted within 90

days, or as soon as possible, once the coroner's investigation is complete. The form may be submitted electronically.

(c) A report required by subdivision (a), and the form provided by the coroner pursuant to subdivision (b), shall be confidential. No coroner, physician and surgeon, or medical examiner, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her acting in compliance with subdivision (a) or (b). No pathologist, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her providing information under subdivision (a) or (b).

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. Section 802.5 is added to the Business and Professions Code, to read:

802.5. (a) When a coroner receives information that is based on findings that were reached by, or documented and approved by, a pathologist indicating that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence, a report shall be filed with the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. The initial report shall include the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information available. The initial report shall be followed, within 90 days or as soon as possible once the coroner's final report of investigation is complete, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) A report required by subdivision (a) shall be confidential. No coroner, physician and surgeon, or medical examiner, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her acting in compliance with subdivision (a). No pathologist, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her providing information under subdivision (a).

(c) This section shall be operative on January 1, 2018.

SEC. 3. Section 2220.09 is added to the Business and Professions Code, to read:

2220.09. (a) In the case of information received from a coroner pursuant to subdivision (b) of Section 802.5 that may be treated as a complaint and may be determined to involve quality of care, the board shall follow the criteria provided in Section 2220.08 for the information that involves quality of care before referral to a field office for further investigation.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

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

SB 304

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 304
Author:	Lieu
Chapter:	515
Bill Date:	September 6, 2013, Amended
Subject:	Healing Arts: Boards
Sponsor:	Author
Position:	Support if Amended

DESCRIPTION OF CURRENT LEGISLATION:

This is the Board's sunset bill, which includes language on a portion of the new issues from the Board's 2012 Sunset Review Report, and will extend the Board's sunset date for four years until July 1, 2018. This bill would also remove the sunset date from the provisions in existing law related to vertical enforcement.

There are some issues that are included in this bill that are not issues raised in the Board's sunset report. This bill requires the DCA director to approve the employment of the Board's selection of an Executive Director, if hired after January 1, 2014. This bill amends existing law regarding international medical graduates who have attended a disapproved school. Existing law passed in 2012 required these individuals to have practiced in another state, federal territory, or Canadian province for 20 years. This bill changes the practice requirement to 12 years.

This bill would also transfer all investigators and medical consultants employed by the Medical Board of California (Board) and their support staff to the Department of Consumer Affairs' (DCA) Division of Investigation (DOI).

ANALYSIS:

The Board included new issues in its 2012 Sunset Review Report to the Legislature and in its 2013 Supplemental Report. This report was submitted to the Legislature and the Legislature prepared a background paper that raised 39 issues, some of them related to the new issues included in the Board's Sunset Review Report. Here are the new issues that were included in the Board's Sunset Review Report and were/are included in this bill:

- Revise existing law, Business and Professions (B&P) Code Section 2177, in order to accommodate the upcoming two parts of the United States Medical Licensing Examination (USMLE) Step 3 examination, and any new evolving examination requirement - **This bill includes language to accommodate two parts of the USMLE Step 3 examination**
- Require all licensees who have an email address to provide the Board with an email

address, and specify that the email address shall be confidential - **This bill includes language that would require licensees who have an email address to provide the Board with an email address by July 1, 2014 and would specify that the email address is confidential and not subject to public disclosure. This bill requires the Board to send out a confirmation email to all physicians on an annual basis to ensure the Board has the correct email address for each physician.**

- The Board recommended that it be clarified in statute that residents in California accredited resident/fellowship programs are exempt from corporate practice laws related to how they are paid – **This bill includes language that clarifies that the corporate practice laws do not apply to physicians enrolled in an approved residency postgraduate training program or fellowship program.**
- The Board recommended that medical malpractice reports received pursuant to Section 801.01 be excluded from the requirements in existing law that require an upfront review by a medical expert with the expertise necessary to evaluate the specific standard of care issue raised in the complaint – **This bill includes language to exclude 801.01 reports from upfront review.**
- The Board recommended that the law be amended to allow a facility only 15 days to provide medical records, upon request, if the facility has electronic health records (EHRs) – **This bill includes language to require health care facilities that have EHRs to provide the authorizing patient's certified medical records to the Board within 15 days of receiving the request and would subject the health care facility to penalties if the facility does not adhere to the timeline.**
- The Board recommended amending existing law to require a respondent to provide the full expert reviewer report and to clarify the timeframes in existing law for providing the reports, such as 90 days from the filing of an accusation – **The language that was previously in this bill that would have required the complete expert reviewer report to be provided and that would have required the expert testimony information to be provided within 90 days from the filing of a notice of defense, was amended out of the bill due to issues raised by the California Medical Association.**
- The Board recommended that the provision in existing law that requires the Board to approve non-ABMS specialty boards be deleted. The Board suggested that the law should continue to require physicians to advertise as board certified only if they have been certified by ABMS boards and the four additional boards currently approved by the Board – **The language that was previously in this bill that would have deleted provisions in existing law that require the Board to approve non-ABMS specialty boards and only allows physicians to advertise that they have been certified by a non-ABMS board approved by the Board if it was approved prior to January 1, 2014 was amended out of the bill due to heavy opposition and concerns raised.**
- The Board recommended that the issue of midwife students/apprenticeships needs to be clarified in legislation, due to confusion in the midwifery community – **This bill includes language that would define a "bona fide student" as an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year**

postsecondary midwifery education program approved by the Board.

- The Board suggested that existing law be amended to include certified nurse midwives (CNM) as being able to supervise midwifery students – **This bill includes language that would allow a CNM to supervise a midwifery student.**
- The Board recommended that language be added to existing law to allow the Board the authority to issue a cease practice order in cases where a licensee fails to comply with an order to compel a physical or mental examination - **This bill includes language that specifies that a licensee's failure to comply with an order to compel a physical or mental examination constitutes grounds for issuance of an interim suspension order.**
- The Board recommended that the Vertical Enforcement Program be continued and stated that the Board and the Health Quality Enforcement Section (HQES) will continue to work together to establish best practices and identify areas where improvements can be made – **This bill deletes the sunset date in the vertical enforcement statutes, making vertical enforcement permanent.**

This bill transfers the Board's investigators, medical consultants, and their support staff to the Department of Consumer Affairs' (DCA) Division of Investigation (DOI) and would create a new Health Quality Investigation Unit (HQIU) (previous amendments to the bill would have transferred the investigators and their support staff to the Department of Justice). The bill specifies that the transfer includes all sworn peace officer and medical consultant positions and all support staff positions for those peace officer and medical consultant positions. This bill further specifies that all civil service employees transferred shall retain their positions, status, and rights. This bill does not allow DCA to charge the Board an hourly rate for the performance of investigations. The transfer of the investigators, medical consultants, and their staff will occur no later than July 1, 2014.

This bill does not allow DCA to charge the Board an hourly rate for the performance of investigations. However, the overall intention of this language is that the transition be cost neutral to the Board.

The transfer of investigative staff means that Board investigators and support staff will become employees of DCA. The Board will retain control of receipt and triage of all complaints. Once a determination is made to investigate the matter, it will be referred to the new HQIU of DCA (formerly the Board's investigative unit). The HQIU will work with the Attorney General's Office (AGO) via the vertical enforcement/ prosecution model to investigate the allegations in complaints. At the completion of the investigation, the HQIU and the AGO will determine the appropriate disposition of the investigation, e.g. closure, referral to the District Attorney's office, referral to the AGO for the filing of an Accusation, referral to citation and fine, referral the Board for a pre-accusation public letter of reprimand, etc.

In the past, the case would then just continue through one of the avenues identified above for disposition. However, with the transition, the investigation and outcome of the case must be forwarded to the Board for review and concurrence with the suggested disposition.

Board staff must review the case disposition and determine whether the action taken by the HQIU and the AGO are warranted. If questions/concerns arise, then staff will need to discuss the matter with the AGO and HQIU. If the Board staff agrees with the outcome, the Board assumes control of the case and will either issue a citation and fine, follow the case through the administrative process (including review of the matter by the Board members), issue the public letter of reprimand, etc.

There are some issues that are included in this bill that are not issues raised in the Board's Sunset Report. This bill requires the DCA director to approve the employment of the Board's selection of an Executive Director, if hired after January 1, 2014. This bill also amends existing law regarding international medical graduates who have attended a disapproved school. Existing law passed in 2012 required these individuals to have practiced in another state, federal territory, or Canadian province for 20 years. This bill changes the practice requirement to 12 years.

This bill would also extend the timeframe in which an accusation must be filed once an interim suspension order (ISO) is issued. Currently, in order for the Board to stop a physician from practicing while the physician is under investigation, the Board must request an Interim Suspension Order (ISO), which must be granted by an Administrative Law Judge (ALJ). In existing law there is a 15-day time restraint in law to file an accusation after being granted an ISO, and a 30-day time restraint between the accusation being filed and a hearing being set, which means an investigation must be nearly complete in order to petition for an ISO. This bill would extend the timeframe to file an accusation from 15 days to 30 days, which would help to further the Board's mission of consumer protection.

This bill would address many of the new issues raised in the Board's 2012 Sunset Review Report and the 2013 Supplemental Report and includes language to make the legislative changes suggested by the Board to accommodate the continuing evolution of medical training and testing, to improve the efficiencies of the Board's Licensing and Enforcement Programs, and most importantly, to enhance consumer protection. The Board supported all the provisions in this bill except transferring the Board's investigators and their staff to DOI.

FISCAL: The intent is that the transfer of investigative staff be cost neutral to the Board.

SUPPORT: Center for Public Interest Law
Medical Board of California (if amended)

OPPOSITION: None on File

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Notify interested parties
- Work closely with DCA on the implementation plan for the transfer of investigators, medical consultants, and their support staff (this will be discussed at the Enforcement Committee)
- Update Web site to reflect all new changes to law that are included in this bill
- Revise renewal form to require email addresses to be reported if a physician has one
- Develop a process/procedure to send out a confirmation email to all physicians on an annual basis to ensure the Board has the correct email address for each physician
- Develop a process/procedure to ensure that 801.01 reports are excluded from the requirements in existing law that require an upfront review by a medical expert; these reports should go directly to investigative staff
- Notify the AGO to seek ISOs when a licensee fails to comply with an order to compel a physical or mental examination constitutes, as this is now grounds for issuance of an interim suspension order

Senate Bill No. 304

CHAPTER 515

An act to amend Sections 159.5, 160.5, 2001, 2020, 2021, 2135.7, 2177, 2220.08, 2225.5, 2514, 2569, 4800, 4804.5, 4809.5, 4809.7, and 4809.8 of, to amend, repeal, and add Sections 160 and 4836.1 of, to amend and add Section 2006 of, and to add Sections 2216.3, 2216.4, 2403, 4836.2, 4836.3, and 4836.4 to, the Business and Professions Code, to amend Sections 11529, 12529.6, and 12529.7 of, and to amend and repeal Sections 12529 and 12529.5 of, the Government Code, to amend Section 1248.15 of the Health and Safety Code, and to amend, repeal, and add Section 830.3 of the Penal Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor October 3, 2013. Filed with Secretary of State October 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 304, Lieu. Healing arts: boards.

(1) Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes the board to employ an executive director. Existing law provides that those provisions will be repealed on January 1, 2014, and, upon repeal, the board is subject to review by the Joint Sunset Review Committee.

This bill would instead repeal those provisions on January 1, 2018, and subject the board to review by the appropriate policy committees of the Legislature. The bill would authorize the board to employ an executive director by, and with the approval of, the Director of Consumer Affairs.

Existing law authorizes the board to issue a physician and surgeon's license to an applicant who acquired all or part of his or her medical education at a foreign medical school that is not recognized by the board if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has continuously practiced for a minimum of 10 years prior to the date of application or to an applicant who acquired any part of his or her professional instruction at a foreign medical school that has previously been disapproved by the board if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has continuously practiced for a minimum of 20 years prior to the date of application. For the purposes of these provisions, the board may combine the period of time that the applicant has held an unlimited and unrestricted license, but requires each applicant to have a minimum of 5 years continuous licensure and practice in a single state or federal territory.

This bill would instead authorize the board to issue a physician and surgeon's license to an applicant who acquired any part of his or her medical education from an unrecognized medical school if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has continuously practiced for a minimum of 10 years prior to the date of application, or from a disapproved medical school if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has continuously practiced for a minimum of 12 years prior to the date of application. The bill would reduce the minimum number of years that each applicant must have continuous licensure and practice in a single state or federal territory to 2 years and permit the period of continuous licensure and practice to occur in a Canadian province.

Existing law authorizes the Medical Board of California, if it publishes a directory of its licensees, as specified, to require persons licensed, as specified, to furnish specified information to the board for purposes of compiling the directory.

This bill would require that an applicant and licensee who has an electronic mail address report to the board that electronic mail address no later than July 1, 2014. The bill would provide that the electronic mail address is to be considered confidential, as specified.

Existing law requires an applicant for a physician and surgeon's certificate to obtain a passing score on Step 3 of the United States Medical Licensing Examination with not more than 4 attempts, subject to an exception.

This bill would require an applicant to have obtained a passing score on all parts of that examination with not more than 4 attempts, subject to the exception.

Existing law requires that a complaint, with exceptions, received by the board determined to involve quality of care, before referral to a field office for further investigation, meet certain criteria.

This bill would expand the types of reports that are exempted from that requirement.

Existing law provides for a civil penalty of up to $1,000 per day, as specified, to be imposed on a health care facility that fails to comply with a patient's medical record request, as specified, within 30 days.

This bill would shorten the time limit for compliance to 15 days for those health care facilities that have electronic health records.

Existing law establishes that corporations and other artificial legal entities have no professional rights, privileges, or powers.

This bill would provide that those provisions do not apply to physicians and surgeons or doctors of podiatric medicine enrolled in approved residency postgraduate training programs or fellowship programs.

(2) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of licensed midwives by the Medical Board of California. Existing law specifies that a midwife student meeting certain conditions is not precluded from engaging in the practice of midwifery as

part of his or her course of study, if certain conditions are met, including, that the student is under the supervision of a licensed midwife.

This bill would require that to engage in those practices, the student is to be enrolled and participating in a midwifery education program or enrolled in a program of supervised clinical training, as provided. The bill would add that the student is permitted to engage in those practices if he or she is under the supervision of a licensed nurse-midwife.

(3) Existing law provides for the regulation of registered dispensing opticians by the Medical Board of California and requires that the powers and duties of the board in that regard be subject to review by the Joint Sunset Review Committee as if those provisions were scheduled to be repealed on January 1, 2014.

This bill would instead make the powers and duties of the board subject to review by the appropriate policy committees of the Legislature as if those provisions were scheduled to be repealed on January 1, 2018.

(4) Existing law provides for the accreditation of outpatient settings, as defined, by the Medical Board of California, and requires outpatient settings to report adverse events, as defined, to the State Department of Public Health within specified time limits. Existing law provides for the imposition of a civil penalty in the event that an adverse event is not reported within the applicable time limit.

This bill would instead require those outpatient settings to report adverse events to the Medical Board of California within specified time limits and authorize the board to impose a civil penalty if an outpatient setting fails to timely report an adverse event.

(5) Existing law establishes the Medical Quality Hearing Panel, consisting of no fewer than 5 administrative law judges with certain medical training, within the Office of Administrative Hearings. Existing law authorizes those administrative law judges to issue interim orders suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Existing law requires that in all of those cases in which an interim order is issued, and an accusation is not filed and served within 15 days of the date in which the parties to the hearing have submitted the matter, the order be dissolved.

Under existing law, if a healing arts practitioner is unable to practice his or her profession safely due to mental or physical illness, his or her licensing agency may order the practitioner to be examined by specified professionals.

This bill would extend the time in which the accusation must be filed and served to 30 days from the date on which the parties to the hearing submitted the matter. The bill would also provide that a physician and surgeon's failure to comply with an order to be examined may constitute grounds for an administrative law judge of the Medical Quality Hearing Panel to issue an interim suspension order.

Existing law establishes the Health Quality Enforcement Section within the Department of Justice to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of

Psychology, or any committee under the jurisdiction of the Medical Board of California. Existing law provides for the funding for the section, and for the appointment of a Senior Assistant Attorney General to the section to carry out specified duties. Existing law requires that all complaints or relevant information concerning licensees that are within the jurisdiction of the boards served by the Health Quality Enforcement Section be made available to the Health Quality Enforcement Section. Existing law establishes the procedures for processing the complaints, assisting the boards or committees in establishing training programs for their staff, and for determining whether to bring a disciplinary proceeding against a licensee of the boards. Existing law provides for the repeal of those provisions, as provided, on January 1, 2014.

This bill would extend the operation of those provisions indefinitely and make those provisions applicable to the Physical Therapy Board of California and licensees within its jurisdiction.

Existing law establishes, until January 1, 2014, a vertical enforcement and prosecution model for cases before the Medical Board of California and requires the board to report to the Governor and Legislature on that model by March 1, 2012.

This bill would extend the date that report is due to March 1, 2015.

Existing law creates the Division of Investigation within the Department of Consumer Affairs and requires investigators who have the authority of peace officers to be in the division, except that investigators of the Medical Board of California and the Dental Board of California who have that authority are not required to be in the division.

This bill would require, effective July 1, 2014, that investigators of the Medical Board of California who have the authority of a peace officer be in the division and would protect the positions, status, and rights of those employees who are subsequently transferred as a result of these provisions. The bill would also, effective July 1, 2014, create within the Division of Investigation the Health Quality Investigation Unit.

(6) Existing law, 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. Existing law repeals the provisions establishing the board, and authorizing the board to appoint an executive officer, as of January 1, 2014. Under existing law, the board is subject to evaluation by the Joint Sunset Review Committee prior to its repeal.

This bill would provide that those provisions are instead repealed as of January 1, 2016. The bill, upon repeal of the board, would require that the board be subject to a specifically limited review by the appropriate policy committees of the Legislature.

Existing law authorizes the board, at any time, to inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced and requires that those premises be registered with the board. Existing law requires the board to establish a regular inspection program that will provide for random, unannounced inspections.

This bill would require the board to make every effort to inspect at least 20% of veterinary premises on an annual basis and would exclude from inspection those premises that are not registered with the board.

Existing law requires the board to establish an advisory committee, the Veterinary Medicine Multidisciplinary Advisory Committee, to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of specified provisions and to assist the board in its examination, licensure, and registration programs. Existing law requires the committee to consist of 7 members, with 4 licensed veterinarians, 2 registered veterinary technicians, and one public member.

This bill would expand the number of members on the committee to 9 by including one veterinarian member of the board, to be appointed by the board president, and the registered veterinary technician of the board, both of whom would serve concurrently with their terms of office on the board. The bill would additionally require that the committee serve only in an advisory capacity to the board, as specified. The bill would make other technical and conforming changes.

Existing law authorizes a registered veterinary technician or a veterinary assistant to administer a drug under the direct or indirect supervision of a licensed veterinarian when administered pursuant to the order, control, and full professional responsibility of a licensed veterinarian. Existing law limits access to controlled substances by veterinary assistants to persons who have undergone a background check and who, to the best of the licensee manager's knowledge, do not have any drug- or alcohol-related felony convictions. A violation of these provisions is a crime. Existing law repeals these provisions on January 1, 2015.

This bill would instead require, until the later of January 1, 2015, or the effective date of a specified legislative determination, a licensee manager to conduct a background check on a veterinary assistant prior to authorizing him or her to obtain or administer a controlled substance by the order of a supervising veterinarian and to prohibit the veterinary assistant from obtaining or administering controlled substances if the veterinary assistant has a drug- or alcohol-related felony conviction. Because a violation of these provisions would be a crime, this bill imposes a state-mandated local program.

This bill would require that, upon the later of January 1, 2015, or the effective date of a specified legislative determination, a veterinary assistant be designated by a licensed veterinarian and hold a valid veterinary assistant controlled substances permit from the board in order to obtain or administer controlled substances. The bill would, as part of the application for a permit, require an applicant to furnish a set of fingerprints to the Department of Justice for the purposes of conducting both a state and federal criminal history record check. The bill would require an applicant for a veterinary assistant controlled substances permit to apply for a renewal of his or her permit on or before the last day of the applicant's birthday month and to update his or her mailing or employer address with the board. The bill would

authorize the board to collect a filing fee, not to exceed $100, from applicants for a veterinary assistant controlled substances permit. Because that fee would be deposited in the Veterinary Medical Board Contingent Fund, which is a continuously appropriated fund, the bill would make an appropriation.

(7) This bill would incorporate additional changes to Section 11529 of the Government Code proposed by SB 670 that would become operative if this bill and SB 670 are enacted and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

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

SECTION 1. Section 159.5 of the Business and Professions Code is amended to read:

159.5. (a) (1) There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division.

(2) Except as provided in Section 160, investigators who have the authority of peace officers, as specified in subdivision (a) of Section 160 and in subdivision (a) of Section 830.3 of the Penal Code, shall be in the division and shall be appointed by the director.

(b) (1) There is in the Division of Investigation the Health Quality Investigation Unit. The primary responsibility of the unit is to investigate violations of law or regulation within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Osteopathic Medical Board of California, the Physician Assistant Board, or any entities under the jurisdiction of the Medical Board of California.

(2) The Medical Board of California shall not be charged an hourly rate for the performance of investigations by the unit.

(3) This subdivision shall become operative on July 1, 2014.

SEC. 2. Section 160 of the Business and Professions Code is amended to read:

160. (a) The chief and all investigators of the Division of Investigation of the department and all investigators of the Medical Board of California and the Dental Board of California have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting

within the scope of employment with respect to all acts and matters set forth in this section.

(b) The Division of Investigation of the department, the Medical Board of California, and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

(c) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 160 is added to the Business and Professions Code, to read:

160. (a) The chief and all investigators of the Division of Investigation of the department and all investigators of the Dental Board of California have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

(b) The Division of Investigation of the department and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

(c) This section shall become operative on July 1, 2014.

SEC. 4. Section 160.5 of the Business and Professions Code is amended to read:

160.5. (a) All civil service employees currently employed by the Board of Dental Examiners of the Department of Consumer Affairs, whose functions are transferred as a result of the act adding this section shall retain their positions, status, and rights pursuant to Section 19050.9 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The transfer of employees as a result of the act adding this section shall occur no later than July 1, 1999.

(b) (1) All civil service employees currently employed by the Medical Board of California of the Department of Consumer Affairs, whose functions are transferred as a result of the act adding this subdivision shall retain their positions, status, and rights pursuant to Section 19050.9 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The transfer of employees as a result of the act adding this subdivision shall occur no later than July 1, 2014.

(2) The transfer of employees pursuant to this subdivision shall include all peace officer and medical consultant positions and all staff support positions for those peace officer and medical consultant positions.

SEC. 5. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 15 members, 7 of whom shall be public members.

(b) The Governor shall appoint 13 members to the board, subject to confirmation by the Senate, 5 of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 6. Section 2006 of the Business and Professions Code is amended to read:

2006. (a) Any reference in this chapter to an investigation by the board shall be deemed to refer to a joint investigation conducted by employees of the Department of Justice and the board under the vertical enforcement and prosecution model, as specified in Section 12529.6 of the Government Code.

(b) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 2006 is added to the Business and Professions Code, to read:

2006. (a) Any reference in this chapter to an investigation by the board shall be deemed to refer to a joint investigation conducted by employees of the Department of Justice and the Health Quality Investigation Unit under the vertical enforcement and prosecution model, as specified in Section 12529.6 of the Government Code.

(b) This section shall become operative on July 1, 2014.

SEC. 8. Section 2020 of the Business and Professions Code is amended to read:

2020. (a) The board, by and with the approval of the director, may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry this chapter into effect. The board may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

(b) The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 9. Section 2021 of the Business and Professions Code is amended to read:

2021. (a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish any information as it may deem necessary to enable it to compile the directory.

(b) Each licensee shall report to the board each and every change of address within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the applicant shall also provide the board with a street address. If another address is the licensee's address of record, he or she may request that the second address not be disclosed to the public.

(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new names.

(d) Each applicant and licensee who has an electronic mail address shall report to the board that electronic mail address no later than July 1, 2014. The electronic mail address shall be considered confidential and not subject to public disclosure.

(e) The board shall annually send an electronic notice to each applicant and licensee that requests confirmation from the applicant or licensee that his or her electronic mail address is current.

SEC. 10. Section 2135.7 of the Business and Professions Code is amended to read:

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

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

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

(ii) For an applicant who acquired any part of his or her professional instruction from a foreign medical school that was disapproved by the board at the time he or she attended the school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has held that license and continuously practiced for a minimum of 12 years prior to the date of application.

(B) For the purposes of clauses (i) and (ii) of subparagraph (A), the board may combine the period of time that the applicant has held an unlimited and unrestricted license in other states, federal territories, or Canadian

provinces and continuously practiced therein, but each applicant under this section shall have a minimum of two years continuous licensure and practice in a single state, federal territory, or Canadian province. For purposes of this paragraph, continuous licensure and practice includes any postgraduate training after 24 months in a postgraduate training program that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or postgraduate training completed in Canada that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC).

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

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

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

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

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

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

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

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

SEC. 11. Section 2177 of the Business and Professions Code is amended to read:

2177. (a) A passing score is required for an entire examination or for each part of an examination, as established by resolution of the board.

(b) Applicants may elect to take the written examinations conducted or accepted by the board in separate parts.

(c) (1) An applicant shall have obtained a passing score on all parts of Step 3 of the United States Medical Licensing Examination within not more than four attempts in order to be eligible for a physician's and surgeon's certificate.

(2) Notwithstanding paragraph (1), an applicant who obtains a passing score on all parts of Step 3 of the United States Medical Licensing Examination in more than four attempts and who meets the requirements of Section 2135.5 shall be eligible to be considered for issuance of a physician's and surgeon's certificate.

SEC. 12. Section 2216.3 is added to the Business and Professions Code, to read:

2216.3. (a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall report an adverse event to the board no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For the purposes of this section, "adverse event" has the same meaning as in subdivision (b) of Section 1279.1 of the Health and Safety Code.

SEC. 13. Section 2216.4 is added to the Business and Professions Code, to read:

2216.4. If an accredited outpatient setting fails to report an adverse event pursuant to Section 2216.3, the board may assess the accredited outpatient setting a civil penalty in an amount not to exceed one hundred dollars ($100) for each day that the adverse event is not reported following the initial five-day period or 24-hour period, as applicable. If the accredited outpatient setting disputes a determination by the board regarding an alleged failure to report an adverse event, the accredited outpatient setting may, within 10 days of notification of the board's determination, request a hearing, which shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Penalties shall be paid when appeals pursuant to those provisions have been exhausted.

SEC. 14. Section 2220.08 of the Business and Professions Code is amended to read:

2220.08. (a) Except for reports received by the board pursuant to Section 801.01 or 805 that may be treated as complaints by the board and new complaints relating to a physician and surgeon who is the subject of a pending accusation or investigation or who is on probation, any complaint determined to involve quality of care, before referral to a field office for further investigation, shall meet the following criteria:

(1) It shall be reviewed by one or more medical experts with the pertinent education, training, and expertise to evaluate the specific standard of care issues raised by the complaint to determine if further field investigation is required.

(2) It shall include the review of the following, which shall be requested by the board:

(A) Relevant patient records.

(B) The statement or explanation of the care and treatment provided by the physician and surgeon.

(C) Any additional expert testimony or literature provided by the physician and surgeon.

(D) Any additional facts or information requested by the medical expert reviewers that may assist them in determining whether the care rendered constitutes a departure from the standard of care.

(b) If the board does not receive the information requested pursuant to paragraph (2) of subdivision (a) within 10 working days of requesting that information, the complaint may be reviewed by the medical experts and referred to a field office for investigation without the information.

(c) Nothing in this section shall impede the board's ability to seek and obtain an interim suspension order or other emergency relief.

SEC. 15. Section 2225.5 of the Business and Professions Code is amended to read:

2225.5. (a) (1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's certified medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. For health care facilities that have electronic health records, failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars

($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, up to ten thousand dollars ($10,000), unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board.

(g) For purposes of this section, a "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 16. Section 2403 is added to the Business and Professions Code, to read:

2403. The provisions of Section 2400 do not apply to physicians and surgeons or doctors of podiatric medicine enrolled in approved residency postgraduate training programs or fellowship programs.

SEC. 17. Section 2514 of the Business and Professions Code is amended to read:

2514. (a) Nothing in this chapter shall be construed to prevent a bona fide student from engaging in the practice of midwifery in this state, as part of his or her course of study, if both of the following conditions are met:

(1) The student is under the supervision of a licensed midwife or certified nurse-midwife, who holds a clear and unrestricted license in this state, who is present on the premises at all times client services are provided, and who is practicing pursuant to Section 2507 or 2746.5, or a physician and surgeon.

(2) The client is informed of the student's status.

(b) For the purposes of this section, a "bona fide student" means an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year postsecondary midwifery education program approved by the board.

SEC. 18. Section 2569 of the Business and Professions Code is amended to read:

2569. Notwithstanding any other law, the powers and duties of the board, as set forth in this chapter, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 19. Section 4800 of the Business and Professions Code is amended to read:

4800. (a) There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of the following members:

(1) Four licensed veterinarians.

(2) One registered veterinary technician.

(3) Three public members.

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to those issues identified by the appropriate policy committees of the Legislature and shall not involve the preparation or submission of a sunset review document or evaluative questionnaire.

SEC. 20. Section 4804.5 of the Business and Professions Code is amended to read:

4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 21. Section 4809.5 of the Business and Professions Code is amended to read:

4809.5. The board may at any time inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced. The board's inspection authority does not extend to premises that are not registered with the board. Nothing in this section shall be construed to affect the board's ability to investigate alleged unlicensed activity or to inspect a premises for which registration has lapsed or is delinquent.

SEC. 22. Section 4809.7 of the Business and Professions Code is amended to read:

4809.7. The board shall establish a regular inspection program that will provide for random, unannounced inspections. The board shall make every effort to inspect at least 20 percent of veterinary premises on an annual basis.

SEC. 23. Section 4809.8 of the Business and Professions Code is amended to read:

4809.8. (a) The board shall establish an advisory committee to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of this chapter and to assist the board in its examination, licensure, and registration programs. The committee shall serve only in an advisory capacity to the board and the objectives, duties, and actions of the committee shall not be a substitute for or conflict with any of the powers, duties, and responsibilities of the board. The committee shall be known as the Veterinary Medicine Multidisciplinary Advisory Committee. The multidisciplinary committee shall consist of nine members. The following members of the multidisciplinary committee shall be appointed by the board from lists of nominees solicited by the board: four licensed veterinarians, two registered veterinary technicians, and one public member. The committee shall also include one veterinarian member of the board, to be appointed by the board president, and the registered veterinary technician member of the board. Members of the multidisciplinary committee shall represent a sufficient

cross section of the interests in veterinary medicine in order to address the issues before it, as determined by the board, including veterinarians, registered veterinary technicians, and members of the public.

(b) Multidisciplinary committee members appointed by the board shall serve for a term of three years and appointments shall be staggered accordingly. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms. Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur. Board members of the multidisciplinary committee shall serve concurrently with their terms of office on the board.

(c) The multidisciplinary committee shall be subject to the requirements of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Multidisciplinary committee members shall receive a per diem as provided in Section 103 and shall be compensated for their actual travel expenses in accordance with the rules and regulations adopted by the Department of Human Resources.

(e) The board may remove a member of the multidisciplinary committee appointed by the board for continued neglect of a duty required by this chapter, for incompetency, or for unprofessional conduct.

(f) It is the intent of the Legislature that the multidisciplinary committee, in implementing this section, give appropriate consideration to issues pertaining to the practice of registered veterinarian technicians.

SEC. 24. Section 4836.1 of the Business and Professions Code is amended to read:

4836.1. (a) Notwithstanding any other provision of law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) Prior to authorizing a veterinary assistant to obtain or administer a controlled substance by the order of a supervising veterinarian, the licensee manager in a veterinary practice shall conduct a background check on that veterinary assistant. A veterinary assistant who has a drug- or alcohol-related felony conviction, as indicated in the background check, shall be prohibited from obtaining or administering controlled substances.

(c) Notwithstanding subdivision (b), if the Veterinary Medical Board, in consultation with the Board of Pharmacy, identifies a dangerous drug, as defined in Section 4022, as a drug that has an established pattern of being diverted, the Veterinary Medical Board may restrict access to that drug by veterinary assistants.

(d) For purposes of this section, the following definitions apply:

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(e) This section shall become inoperative on the later of January 1, 2015, or the date Section 4836.2 becomes operative, and, as of January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that date, deletes or extends the dates on which it becomes inoperative is repealed.

SEC. 25. Section 4836.1 is added to the Business and Professions Code, to read:

4836.1. (a) Notwithstanding any other law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) A veterinary assistant may obtain or administer a controlled substance pursuant to the order, control, and full professional responsibility of a licensed veterinarian, only if he or she meets both of the following conditions:

(1) Is designated by a licensed veterinarian to obtain or administer controlled substances.

(2) Holds a valid veterinary assistant controlled substance permit issued pursuant to Section 4836.2.

(c) Notwithstanding subdivision (b), if the Veterinary Medical Board, in consultation with the Board of Pharmacy, identifies a dangerous drug, as defined in Section 4022, as a drug that has an established pattern of being diverted, the Veterinary Medical Board may restrict access to that drug by veterinary assistants.

(d) For purposes of this section, the following definitions apply:

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(e) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 26. Section 4836.2 is added to the Business and Professions Code, to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars ($100).

(c) The board may deny, suspend, or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may revoke or suspend a veterinary assistant controlled substance permit for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) The board shall revoke a veterinary assistant controlled substance permit upon notification that the veterinary assistant to whom the license is issued has been convicted of a state or federal felony controlled substance violation.

(f) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information, as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

(g) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (f).

(h) This section shall become operative upon the later of January 1, 2015, or the effective date of the statute in which the Legislature makes a determination that the board has sufficient staffing to implement this section.

SEC. 27. Section 4836.3 is added to the Business and Professions Code, to read:

4836.3. (a) Each person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 shall biennially apply for renewal of his or her permit on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the board.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

(d) The fee for filing an application for a renewal of a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed fifty dollars ($50).

(e) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 28. Section 4836.4 is added to the Business and Professions Code, to read:

4836.4. (a) Every person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 who changes his or her mailing or employer address shall notify the board of his or her new mailing or employer address within 30 days of the change. The board shall not renew the permit of any person who fails to comply with this section unless the person pays the penalty fee prescribed in Section 4842.5. An applicant for the renewal of a permit shall specify in his or her application whether he or she has changed his or her mailing or employer address and the board may accept that statement as evidence of the fact.

(b) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 29. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order where, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 29.5. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and

Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within

15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 30. Section 12529 of the Government Code, as amended by Section 112 of Chapter 332 of the Statutes of 2012, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Physical Therapy Board of California, or any committee under the jurisdiction of the Medical Board of California.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the boards.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Physical Therapy Board of California, and the committees under the jurisdiction of the Medical Board of California, with the intent that the expenses be proportionally shared as to services rendered.

SEC. 31. Section 12529 of the Government Code, as amended by Section 113 of Chapter 332 of the Statutes of 2012, is repealed.

SEC. 32. Section 12529.5 of the Government Code, as amended by Section 114 of Chapter 332 of the Statutes of 2012, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or the Physical Therapy Board of California shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to work on location at the intake unit of the boards described in subdivision (a) to assist in evaluating and screening complaints and to assist in developing uniform standards and procedures for processing complaints.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards in designing and providing initial and in-service training programs for staff of the boards, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the boards shall be made by the executive officer of the boards as appropriate in consultation with the senior assistant.

SEC. 33. Section 12529.5 of the Government Code, as amended by Section 115 of Chapter 332 of the Statutes of 2012, is repealed.

SEC. 34. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do all of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(3) Establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent knowledge base.

SEC. 35. Section 12529.7 of the Government Code is amended to read:

12529.7. By March 1, 2015, the Medical Board of California, in consultation with the Department of Justice and the Department of Consumer Affairs, shall report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model created under Section 12529.6.

SEC. 36. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The board shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a

written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(D) In addition to the requirements imposed in subparagraph (C), the outpatient setting shall submit for approval by an accreditation agency at the time of accreditation a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

(E) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations shall have all of the sites inspected.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an

ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

SEC. 37. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of

these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Business Oversight. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the

Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

(w) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 830.3 is added to the Penal Code, to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law,

investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Business Oversight. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the

department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

(w) This section shall become operative July 1, 2014.

SEC. 39. Section 29.5 of this bill incorporates amendments to Section 11529 of the Government Code proposed by both this bill and Senate Bill 670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 11529 of the Government Code, and (3) this bill is enacted after Senate Bill 670, in which case Section 29 of this bill shall not become operative.

SEC. 40. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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SB 305

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 305
Author:	Lieu
Chapter:	516
Bill Date:	September 6, 2013, Amended
Subject:	Healing Arts: Boards
Sponsor:	Author
Position:	Support provisions related to records of arrests and convictions for applicants and licensees

DESCRIPTION OF CURRENT LEGISLATION:

Among other provisions, this bill allows all boards under the Department of Consumer Affairs (DCA) that require licensees to submit fingerprints, including the Medical Board of California (Board), to request from a local or state agency, certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. This bill specifies that a local or state agency may provide these records and that a board may receive these records.

ANALYSIS:

Currently, the Board does receive records of arrests and convictions. However, records regarding probation and records from other state and local agencies would be beneficial for the Board to receive and use in applicant and licensee investigations. This bill clarifies that a local or state agency may provide the records and that a board may receive the records.

Clarifying in statute that state and local agencies can provide boards under DCA with certified arrest, conviction, and probation records, and other documentation needed to complete an applicant or licensee investigation would be beneficial to the Board's Enforcement Program. There are sometimes questions on what documents can be shared from agency to agency, and this bill clarifies that information can be shared with specified boards, in order to help with a board's investigation. This will further the Board's mission of consumer protection; the Board has taken a support position on this particular provision in the bill. Recent amendments do not impact the Board's support position or the reasons for taking that position.

FISCAL: None

SUPPORT: Association of Regulatory Boards of Optometry; California Naturopathic Doctors Association; California Optometric Association; California State Board of Optometry; Medical Board of California; National Board of Examiners in Optometry; Naturopathic Medicine

Committee; Osteopathic Physicians and Surgeons of California; SEIU; and Western University of Health Sciences

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board enforcement staff

Senate Bill No. 305

CHAPTER 516

An act to amend Sections 1000, 2450, 2450.3, 2530.2, 2531, 2531.06, 2531.75, 2532.6, 2533, 2570.19, 3010.5, 3014.6, 3046, 3056, 3057, 3110, 3685, 3686, 3710, 3716, and 3765 of, and to add Sections 144.5 and 3090.5 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor October 3, 2013. Filed with Secretary of State October 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 305, Lieu. Healing arts: boards.

(1) Existing law requires specified regulatory boards within the Department of Consumer Affairs to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.

This bill would additionally authorize those boards to request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation and would authorize a local or state agency to provide those records to the board upon request.

(2) The Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law specifies that the law governing chiropractors is found in the act.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if these provisions were scheduled to be repealed on January 1, 2018. This bill would also make nonsubstantive changes to conform with the Governor's Reorganization Plan No. 2.

(3) Existing law, the Osteopathic Act, provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.

(4) Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive

officer. Existing law repeals these provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

The Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act also authorizes the board to refuse to issue, or issue subject to terms and conditions, a license on specified grounds, including, among others, securing a license by fraud or deceit.

This bill would additionally authorize the board to refuse to issue, or issue subject to terms and conditions, a license for a violation of a term or condition of a probationary order of a license or a term or condition of a conditional license issued by the board, as provided. The bill would also delete an obsolete provision and make other technical changes.

(5) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists, as defined, by the California Board of Occupational Therapy. Existing law repeals those provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

(6) Existing law, the Naturopathic Doctors Act, until January 1, 2014, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law also specifies that the repeal of the committee subjects it to review by the appropriate policy committees of the Legislature.

This bill would extend the operation of these provisions until January 1, 2018, and make conforming changes.

(7) Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. The Respiratory Care Act provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Each of those acts authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the boards to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the boards to review by the appropriate policy committees of the Legislature.

(8) The Optometry Practice Act prescribes license eligibility requirements, including, but not limited to, not having been convicted of a crime, as specified. The act defines unprofessional conduct to include, committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist. Under the act, the board may take action against a licensee who is charged with unprofessional conduct, and may deny an application

for a license if the applicant has committed an act of unprofessional conduct. Under existing law, 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 any healing arts licensee, subject to a specified exception for a physician and surgeon.

This bill would add to the license eligibility requirements under the act that the applicant is not currently required to register as a sex offender, as specified. The bill would make conviction of a crime that currently requires a licensee to register as a sex offender unprofessional conduct and would expressly specify that commission of an act of sexual abuse or misconduct, as specified, constitutes unprofessional conduct, subject to an exception for an optometrist treating his or her spouse or person in an equivalent domestic relationship. The bill would also state that those acts of unprofessional conduct shall be considered crimes substantially related to the qualifications, functions, or duties of a licensee. The bill would also expressly specify that the board may revoke a license if the licensee has been found, in an administrative proceeding, as specified, to have been convicted of sexual misconduct or convicted of a crime that currently requires the licensee to register as a sex offender.

(9) The Respiratory Care Act also prohibits a person from engaging in the practice of respiratory care unless he or she is a licensed respiratory care practitioner. However, the act does not prohibit specified acts, including, among others, the performance of respiratory care services in case of an emergency or self-care by a patient.

This bill would additionally authorize the performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

This bill would make legislative findings and declarations as to the necessity of a special statute for the persons described above.

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

SECTION 1. Section 144.5 is added to the Business and Professions Code, to read:

144.5. Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

SEC. 2. Section 1000 of the Business and Professions Code is amended to read:

1000. (a) The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of

Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

(c) Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 3. Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 4. Section 2450.3 of the Business and Professions Code is amended to read:

2450.3. There is within the jurisdiction of the Osteopathic Medical Board of California a Naturopathic Medicine Committee authorized under the Naturopathic Doctors Act (Chapter 8.2 (commencing with Section 3610)). This section shall become inoperative on January 1, 2018, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the Naturopathic Medicine Committee subject to review by the appropriate policy committees of the Legislature.

SEC. 5. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiber optic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiber optic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiber optic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind,

and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) A "dispensing audiologist" is a person who is authorized to sell hearing aids pursuant to his or her audiology license.

(m) "Audiology aide" means any person meeting the minimum requirements established by the board. An audiology aid may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

(n) "Medical board" means the Medical Board of California.

(o) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(p) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision

shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 6. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 7. Section 2531.06 of the Business and Professions Code is amended to read:

2531.06. (a) The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers as provided under Article 8 (commencing with Section 2538.10).

(b) In the performance of the duties and the exercise of the powers vested in the board under this chapter, the board may consult with hearing aid dispenser industry representatives.

(c) For the performance of the duties and the exercise of the powers vested in the board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Hearing Aid Dispensers Bureau.

(d) All regulations in Division 13.3 (commencing with Section 1399.100) of Title 16 of the California Code of Regulations are continued in existence under the administration of the board until repealed by regulation.

SEC. 8. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the

powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 9. Section 2532.6 of the Business and Professions Code is amended to read:

2532.6. (a) The Legislature recognizes that the education and experience requirements of this chapter constitute only minimal requirements to assure the public of professional competence. The Legislature encourages all professionals licensed and registered by the board under this chapter to regularly engage in continuing professional development and learning that is related and relevant to the professions of speech-language pathology and audiology.

(b) The board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the board that he or she has completed in the preceding two years not less than the minimum number of continuing professional development hours established by the board pursuant to subdivision (c) for the professional practice authorized by his or her license or registration.

(c) (1) The board shall prescribe the forms utilized for and the number of hours of required continuing professional development for persons licensed or registered under this chapter.

(2) The board shall have the right to audit the records of any applicant to verify the completion of the continuing professional development requirements.

(3) Applicants shall maintain records of completion of required continuing professional development coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(d) The board shall establish exceptions from the continuing professional development requirements of this section for good cause as defined by the board.

(e) (1) The continuing professional development services shall be obtained from accredited institutions of higher learning, organizations approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, the California Medical Association's Institute for Medical Quality Continuing Medical Education Program, or other entities or organizations approved as continuing professional development providers by the board, in its discretion.

(2) No hours shall be credited for any course enrolled in by a licensee that has not first been approved and certified by the board, if the board has sufficient funding and staff resources to implement the approval and certification process.

(3) The continuing professional development services offered by these entities may, but are not required to, utilize pretesting and posttesting or

other evaluation techniques to measure and demonstrate improved professional learning and competency.

(4) An accredited institution of higher learning, an organization approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, and the California Medical Association's Institute for Medical Quality Continuing Education Program shall be exempt from any application or registration fees that the board may charge for continuing education providers.

(5) Unless a course offered by entities listed in paragraph (4) meets the requirements established by the board, the course may not be credited towards the continuing professional development requirements for license renewal.

(6) The licensee shall be responsible for obtaining the required course completion documents for courses offered by entities specified in paragraph (1).

(f) The board, by regulation, shall fund the administration of this section through professional development services provider and licensing fees to be deposited in the Speech-Language Pathology and Audiology Board Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section.

(g) The continuing professional development requirements adopted by the board shall comply with any guidelines for mandatory continuing education established by the Department of Consumer Affairs.

SEC. 10. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself of any controlled substance.

(2) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely.

(3) More than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section.

(4) Any combination of paragraph (1), (2), or (3).

The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.

(e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence, gross negligence, or repeated negligent acts.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

(h) Use by a hearing aid dispenser of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, except as authorized by law.

(i) The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Any cause that would be grounds for denial of an application for a license.

(k) Violation of Section 1689.6 or 1793.02 of the Civil Code.

(*l*) Violation of a term or condition of a probationary order of a license issued by the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(m) Violation of a term or condition of a conditional license issued by the board pursuant to this section.

SEC. 11. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services

to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 12. Section 3010.5 of the Business and Professions Code is amended to read:

3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 13. Section 3014.6 of the Business and Professions Code is amended to read:

3014.6. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 14. Section 3046 of the Business and Professions Code is amended to read:

3046. In order to obtain a license to practice optometry in California, an applicant shall have graduated from an accredited school of optometry, passed the required examinations for licensure, not have met any of the grounds for denial established in Section 480, and not be currently required to register as a sex offender pursuant to Section 290 of the Penal Code. The proceedings under this section shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Section 3056 of the Business and Professions Code is amended to read:

3056. (a) The board may issue a license to practice optometry to a person who meets all of the following qualifications:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Is currently licensed in another state.

(3) Is currently a full-time faculty member of an accredited California school or college of optometry and has served in that capacity for a period of at least five continuous years.

(4) Has attained, at an accredited California school or college of optometry, the academic rank of professor, associate professor, or clinical professor, except that the status of adjunct or affiliated faculty member shall not be deemed sufficient.

(5) Has successfully passed the board's jurisprudence examination.

(6) Is in good standing, with no past or pending malpractice awards or judicial or administrative actions.

(7) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(8) Has met the requirements of Section 3041.3 regarding the use of therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(9) Has never had his or her license to practice optometry revoked or suspended.

(10) (A) Is not subject to denial based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(11) Pays an application fee in an amount equal to the application fee prescribed by the board pursuant to Section 3152.

(12) Files an application on a form prescribed by the board.

(b) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(c) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 16. Section 3057 of the Business and Professions Code is amended to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Submits proof that he or she has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section.

(5) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a

violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has furnished a signed release allowing the disclosure of information from the Healthcare Integrity and Protection Data Bank and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(7) Has never had his or her license to practice optometry revoked or suspended.

(8) (A) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(9) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(10) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(11) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(12) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(13) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(14) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical exam or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board is authorized to do both of the following:

(1) Approve an application where the person's time in active practice is less than that specified in paragraph (4) of subdivision (a), if a sufficient period in active practice can be verified by the board and all other requirements of subdivision (a) are satisfied by the person.

(2) Reduce or waive the fees required by paragraph (13) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 17. Section 3090.5 is added to the Business and Professions Code, to read:

3090.5. The board may revoke a license issued to a licensee upon a decision, made in a proceeding as provided in Section 3092, that contains a finding of fact of either of the following:

(a) The licensee has engaged in an act of sexual abuse, misconduct, or relations with a patient, as described in paragraph (2) of subdivision (m) of Section 3110.

(b) The licensee has been convicted of a crime described in paragraph (3) of subdivision (m) of Section 3110.

SEC. 18. Section 3110 of the Business and Professions Code is amended to read:

3110. The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

(f) Any action or conduct that would have warranted the denial of a license.

(g) The use of advertising relating to optometry that violates Section 651 or 17500.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license by another state or territory of the United States, by any other governmental agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(i) Procuring his or her license by fraud, misrepresentation, or mistake.

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

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(*l*) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof.

(m) (1) Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of and conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that licensee provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that currently requires the person to register as a sex offender pursuant to Section 290 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

(n) Repeated acts of excessive prescribing, furnishing or administering of controlled substances or dangerous drugs specified in Section 4022, or repeated acts of excessive treatment.

(o) Repeated acts of excessive use of diagnostic or therapeutic procedures, or repeated acts of excessive use of diagnostic or treatment facilities.

(p) The prescribing, furnishing, or administering of controlled substances or drugs specified in Section 4022, or treatment without a good faith prior examination of the patient and optometric reason.

(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(r) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.

(s) The practice of optometry without a valid, unrevoked, unexpired license.

(t) The employing, directly or indirectly, of any suspended or unlicensed optometrist to perform any work for which an optometry license is required.

(u) Permitting another person to use the licensee's optometry license for any purpose.

(v) Altering with fraudulent intent a license issued by the board, or using a fraudulently altered license, permit certification or any registration issued by the board.

(w) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood borne infectious diseases from optometrist to patient, from patient to patient, or from patient to optometrist. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood borne pathogens in health care settings. As necessary, the board may consult with the Medical Board of California, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

(x) Failure or refusal to comply with a request for the clinical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, unless the licensee is unable to provide the documents within this time period for good cause.

(y) Failure to refer a patient to an appropriate physician in either of the following circumstances:

(1) Where an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that physician.

(2) As required by subdivision (c) of Section 3041.

SEC. 19. Section 3685 of the Business and Professions Code is amended to read:

3685. Notwithstanding any other law, the repeal of this chapter renders the committee subject to review by the appropriate policy committees of the Legislature.

SEC. 20. Section 3686 of the Business and Professions Code is amended to read:

3686. This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 21. Section 3710 of the Business and Professions Code is amended to read:

3710. (a) The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 22. Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 23. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their specialty.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department

of Public Health of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

(i) The performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

SEC. 24. The Legislature finds and declares that a special law, as set forth in Section 18 of this act, is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

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SB 352

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 352
Author:	Pavley
Chapter:	286
Bill Date:	June 19, 2013, Amended
Subject:	Medical Assistants: Supervision
Sponsor:	California Academy of Physician Assistants (CAPA) & California Association of Physician Groups
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill allows physician assistants (PAs), nurse practitioners (NPs), and certified nurse-midwives (CNMs) to supervise medical assistants (MAs)

This bill was amended to specify that if a PA, NP, or CNM authorizes a MA to perform any clinical laboratory test or examination that the MA is not authorized to perform, it would constitute unprofessional conduct.

ANALYSIS:

MAs are unlicensed personnel trained to perform basic administrative, clerical, and technical support services in a medical office or clinical setting. These services include, but are not limited to, taking blood pressure, charting height and weight, administering medication, performing skin tests, and withdrawing blood by venipuncture. The Bureau of Labor and Statistics (2011) reports nearly 82,000 MAs are employed in California.

Currently, a physician must be present in the practice site to supervise an MA in most settings. PAs, NPs, and CNMs can currently supervise MAs in licensed community and free clinics. If a physician is not present, MAs are limited to performing administrative and clerical duties and cannot perform or assist with simple technical supportive services if the physician is not on the premises, except in community and free clinics. This means that in many settings, MAs cannot perform many of the tasks that they are qualified for and are needed to perform. This bill would allow PAs, NPs, and CNMs to supervise MAs in all settings.

According to the sponsors, physicians have been delegating the task of supervising MAs when the physician is not in the office for over a decade in community clinics and the Physician Assistant Board and the Department of Consumer Affairs have not reported any patient safety issues or disciplinary action related to PA supervision of MAs. The sponsors believe that this bill will eliminate legal restrictions and barriers to efficient coordinated care.

The sponsors believe this change is necessary if California hopes to accommodate the dramatic increase in patients expected to result from health care reform.

With the health care reform being implemented in 2014, this bill may help to accommodate the expected increase in patients, as well as help to ensure that MAs are being supervised while a physician is not physically present in the office. Given that PAs, NPs, and CNMs are currently allowed to supervise MAs in some settings now, and that this authority would have to be delegated by the physician, it makes sense for this to be allowed in all settings.

The Board had a support if amended position on this bill and requested amendments to specify that if a PA, NP, or CNM were to allow the MA to perform tasks that are not in the approved scope of responsibility, that the PA, NP, or CNM would be held responsible and subject to discipline by their licensing board. This bill was amended to specify that if a PA, NP, or CNM authorizes a MA to perform any clinical laboratory test or examination that the MA is not authorized to perform, it would constitute unprofessional conduct. This amendment addresses the Board's concern; as such, the Board is supportive of this bill.

FISCAL: None

SUPPORT: CAPA (co-sponsor); California Association of Physician Groups (co-sponsor); Bay Area Council; California Academy of Family Physicians; California Association for Nurse Practitioners; California Optometric Association; Kaiser Permanente; Medical Board of California; U.S. HealthWorks Medical Group; and United Nurses Associations of California/Union of Health Care Professionals

OPPOSITION: Board of Registered Nursing
California Nurses Association
National Nurses United

IMPLEMENTATION:

- Newsletter Article
- Update information on medical assistant Web site page
- Notify/Train Board Staff

Senate Bill No. 352

CHAPTER 286

An act to amend Section 2069 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 9, 2013. Filed with Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 352, Pavley. Medical assistants: supervision.

Existing law authorizes a medical assistant to perform specified services relating to the administration of medication and performance of skin tests and simple routine medical tasks and procedures upon specific authorization from and under the supervision of a licensed physician and surgeon or podiatrist, or in a specified clinic upon specific authorization of a physician assistant, nurse practitioner, or nurse-midwife. Existing law requires the Board of Registered Nursing to issue a certificate to practice nurse-midwifery to a qualifying applicant who is licensed pursuant to the Nursing Practice Act.

This bill would delete the requirement that the services performed by the medical assistant be in a specified clinic when under the specific authorization of a physician assistant, nurse practitioner, or certified nurse-midwife. The bill would prohibit a nurse practitioner, certified nurse-midwife, or physician assistant from authorizing a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized, as specified, a violation of which would constitute unprofessional conduct. The bill would also delete several obsolete references and make other clarifying, conforming, technical, and nonsubstantive changes.

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

SECTION 1. Section 2069 of the Business and Professions Code is amended to read:

2069. (a) (1) Notwithstanding any other law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all these tasks and services upon the specific authorization of a physician assistant, a nurse practitioner, or a certified nurse-midwife.

(2) The supervising physician and surgeon may, at his or her discretion, in consultation with the nurse practitioner, certified nurse-midwife, or physician assistant, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, certified nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the supervising physician and surgeon is not onsite, if either of the following apply:

(A) The nurse practitioner or certified nurse-midwife is functioning pursuant to standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or protocol, including instructions for specific authorizations, shall be developed and approved by the supervising physician and surgeon and the nurse practitioner or certified nurse-midwife.

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502, including instructions for specific authorizations, and is approved to do so by the supervising physician and surgeon.

(b) As used in this section and Sections 2070 and 2071, the following definitions apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the board. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

(A) A licensed physician and surgeon.
(B) A licensed podiatrist.
(C) A physician assistant, nurse practitioner, or certified nurse-midwife as provided in subdivision (a).

(4) "Technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a).

(c) Nothing in this section shall be construed as authorizing any of the following:

(1) The licensure of medical assistants.

(2) The administration of local anesthetic agents by a medical assistant.

(3) The board to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(4) A medical assistant to perform any clinical laboratory test or examination for which he or she is not authorized by Chapter 3 (commencing with Section 1200).

(5) A nurse practitioner, certified nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory, as those terms are defined in paragraph (8) of subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

(d) A nurse practitioner, certified nurse-midwife, or physician assistant shall not authorize a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized by Chapter 3 (commencing with Section 1200). A violation of this subdivision constitutes unprofessional conduct.

(e) Notwithstanding any other law, a medical assistant shall not be employed for inpatient care in a licensed general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

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SB 493

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 493
Author:	Hernandez
Chapter:	469
Bill Date:	September 6, 2013, Amended
Subject:	Pharmacy Practice
Sponsor:	Author
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill allows pharmacists to furnish medication, order and interpret tests, furnish self-administered hormonal contraceptives, furnish prescription medications not requiring a diagnosis recommended by the Centers for Disease Control and Prevention for individuals traveling outside the United States, independently initiate and administer vaccines, and furnish prescription nicotine replacement products and smoking cessation services. This bill requires the Board of Pharmacy (BOP) and the Medical Board of California (Board) to develop standardized procedures or protocols for the furnishing of self-administered hormonal contraceptives and nicotine replacement products. This bill also establishes an Advanced Practice Pharmacist (APP) recognition. This bill also contains language regarding prescription labeling requirements.

ANALYSIS:

This bill expands the scope of a pharmacist by allowing a pharmacist to do the following:

- Provide consultation, training and education to patients about drug therapy, disease management, and disease prevention.
- Participate in multidisciplinary review of patient progress, including access to medical records.
- Furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by the BOP and the Board.
- Furnish prescription nicotine replacement products in accordance with standardized procedures and protocols developed and approved by the BOP and the Board and provide smoking cessation services. The pharmacist must maintain records of drugs and devices furnished for three years, notify the patient's primary care provider, be certified in smoking cessation therapy, and complete one hour of continuing education focused on smoking cessation therapy biennially.
- Furnish prescription medications not requiring a diagnosis that are recommended by the federal Centers for Disease Control and Prevention for individuals traveling outside of

the United States.

- Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies – A pharmacist must ensure that the ordering of those tests is done in coordination with the patient's primary care provider or diagnosing prescriber.
- Independently initiate and administer vaccines listed on the routine immunization schedules recommended by the federal Advisory Committee on Immunization Practices - A pharmacist must complete an immunization training program, be certified in basic life support, and comply with all state and federal recordkeeping reporting requirements, in order to initiate and administer an immunization.

This bill would require a pharmacist to notify the patient's primary care provider of any drugs or devices furnished to the patient, or enter the appropriate information in a patient record system shared with the primary care provider. If the patient does not have a primary care provider, the pharmacist must provide the patient with a written record and advise the patient to consult a physician of the patient's choice.

This bill would require the BOP and the Board to develop standardized procedures or protocols for self-administered hormonal contraceptives and nicotine replacement products. This bill would authorize both the BOP and the Board to ensure compliance with procedures or protocols, with respect to the appropriate licensees.

This bill would establish an APP, which means a pharmacist who has been recognized as an APP by the BOP. An APP may perform patient assessments; order and interpret drug therapy-related tests; and refer patients to other health care providers. This bill would have allowed an APP to initiate, adjust, or discontinue drug therapy. This provision has been amended and now only allows this under existing law, pursuant to a specific written order or authorization made by the individual patient's treating prescriber. This bill would also allow an APP to participate in the evaluation and management of diseases and health conditions in collaboration with other health care providers.

This bill would require a pharmacist who seeks recognition as an APP to meet the following requirements:

- Hold an active license to practice pharmacy that is in good standing.
- Either earn certification in a relevant area of practice specified in the bill from an organization recognized by the Accreditation Council for Pharmacy Education or another entity recognized by the BOP; or complete a one-year postgraduate residency where at least 50 percent of the experience includes the provision of direct patient care services with interdisciplinary teams; or have actively managed patients for at least one year under a collaborative practice agreement or protocol with a physician, APP, pharmacist practicing collaborative drug therapy management, or a health system.
- File an application with BOP for recognition as an APP and pay the applicable fee to BOP.
- Complete 10 hours of continuing education each renewal cycle in one or more areas of practice relevant to the pharmacist's clinical practice.

This bill also includes language to avoid chaptering out issues with SB 205 (Corbett), related to prescription drug labeling requirements.

This bill would expand the scope of a pharmacist and create a new APP recognition category. Currently, pharmacists do provide education to patients regarding drug therapy, and allowing this to be expanded would help in the implementation of the Affordable Care Act. Allowing pharmacists to furnish self-administered hormonal contraceptives in accordance with standardized procedures developed by BOP, the Board, and stakeholders, and allowing pharmacists to furnish nicotine replacement products and provide smoking cessation services, is in line with their scope. Allowing pharmacists to initiate and administer routine vaccines seems appropriate. This bill will help to further the Board's mission of promoting access to care and the Board has a support position on this bill.

FISCAL: Minimal and absorbable workload to help develop standardized procedures or protocols for furnishing of self-administered hormonal contraceptives and nicotine replacement products.

SUPPORT: Adventist Health; American Society of Health-System Pharmacists; Bay Area Council; Blue Shield of California; California Association for Nurse Practitioners; California Association of Physician Groups; California Chronic Care Coalition; California Hospital Association; California Korean American Pharmacists Association; California Northstate University, College of Pharmacy; California Optometric Association; California Pharmacists Association; California Primary Care Association; California Retailers Association; California Society of Health-System Pharmacists; California State Board of Pharmacy; Californians for Patient Care; Cedars-Sinai Medical Center; Dignity Health; Indian Pharmacists Association of California; Kaiser Permanente; Medical Board of California; National Asian American Coalition; Pharmacy Choice and Access Now; Private Essential Access Community Hospitals; Safeway; St. Elizabeth Community Hospital; St. Francis Memorial Hospital; St. Joseph's Behavioral Health Center; Tuoro University-California School of Pharmacy; Union of Health Care Professionals; United Nurses Association of California/Union of Health Care Professionals; University of California; and Western University of Health Sciences

OPPOSITION: Blind Children's Center; California Academy of Eye Physicians and Surgeons; California Right to Life Committee, Inc; California Society of Plastic Surgeons; Canvasback Missions, Inc.; Diabetes Coalition of

California; Let's Face It Together; Lighthouse for Christ Mission and Eye Center; The Dream Machine Foundation; Time for Change Foundation; and Ventura County American Chinese Medical Dental Association

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Work with BOP and interested parties to develop standardized procedures or protocols for furnishing of self-administered hormonal contraceptives and nicotine replacement products

Senate Bill No. 493

CHAPTER 469

An act to amend Sections 733, 4040, 4050, 4051, 4052, 4052.3, 4060, 4076, 4111, and 4174 of, and to add Sections 4016.5, 4052.6, 4052.8, 4052.9, 4210, and 4233 to, the Business and Professions Code, relating to pharmacy.

[Approved by Governor October 1, 2013. Filed with Secretary of State October 1, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 493, Hernandez. Pharmacy practice.

The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy in the Department of Consumer Affairs. The law specifies the functions pharmacists are authorized to perform, including to administer, orally or topically, drugs and biologicals pursuant to a prescriber's order, and to administer immunizations pursuant to a protocol with a prescriber. Pharmacists may also furnish emergency contraception drug therapy pursuant to standardized procedures if they have completed a training program. A violation of the Pharmacy Law is a crime.

This bill, instead, would authorize a pharmacist to administer drugs and biological products that have been ordered by a prescriber. The bill would authorize pharmacists to perform other functions, including, among other things, to furnish self-administered hormonal contraceptives, nicotine replacement products, and prescription medications not requiring a diagnosis that are recommended for international travelers, as specified. Additionally, the bill would authorize pharmacists to order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies, and to independently initiate and administer routine vaccinations, as specified. This bill also would establish board recognition for an advanced practice pharmacist, as defined, would specify the criteria for that recognition, and would specify additional functions that may be performed by an advanced practice pharmacist, including, among other things, performing patient assessments, and certain other functions, as specified. The bill would authorize the board, by regulation, to set the fee for the issuance and renewal of advanced practice pharmacist recognition at the reasonable cost of regulating advanced practice pharmacists pursuant to these provisions, not to exceed $300.

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

The bill would make other conforming and technical changes.

This bill would incorporate additional changes in Section 4076 of the Business and Professions Code proposed by SB 205, that would become

operative only if SB 205 and this bill are both chaptered and become effective on or before January 1, 2014, and this bill is chaptered last.

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.

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

SECTION 1. Section 733 of the Business and Professions Code is amended to read:

733. (a) A licentiate shall not obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

(1) Based solely on the licentiate's professional training and judgment, dispensing pursuant to the order or the prescription is contrary to law, or the licentiate determines that the prescribed drug or device would cause a harmful drug interaction or would otherwise adversely affect the patient's medical condition.

(2) The prescription drug or device is not in stock. If an order, other than an order described in Section 4019, or prescription cannot be dispensed because the drug or device is not in stock, the licentiate shall take one of the following actions:

(A) Immediately notify the patient and arrange for the drug or device to be delivered to the site or directly to the patient in a timely manner.

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough to the site from which the prescription or order is transferred, to ensure the patient has timely access to the drug or device.

(C) Return the prescription to the patient and refer the patient. The licentiate shall make a reasonable effort to refer the patient to a pharmacy that stocks the prescription drug or device that is near enough to the referring site to ensure that the patient has timely access to the drug or device.

(3) The licentiate refuses on ethical, moral, or religious grounds to dispense a drug or device pursuant to an order or prescription. A licentiate may decline to dispense a prescription drug or device on this basis only if the licentiate has previously notified his or her employer, in writing, of the drug or class of drugs to which he or she objects, and the licentiate's employer can, without creating undue hardship, provide a reasonable accommodation of the licentiate's objection. The licentiate's employer shall

establish protocols that ensure that the patient has timely access to the prescribed drug or device despite the licentiate's refusal to dispense the prescription or order. For purposes of this section, "reasonable accommodation" and "undue hardship" shall have the same meaning as applied to those terms pursuant to subdivision (*l*) of Section 12940 of the Government Code.

(c) For the purposes of this section, "prescription drug or device" has the same meaning as the definition in Section 4022.

(d) This section applies to emergency contraception drug therapy and self-administered hormonal contraceptives described in Section 4052.3.

(e) This section imposes no duty on a licentiate to dispense a drug or device pursuant to a prescription or order without payment for the drug or device, including payment directly by the patient or through a third-party payer accepted by the licentiate or payment of any required copayment by the patient.

(f) The notice to consumers required by Section 4122 shall include a statement that describes patients' rights relative to the requirements of this section.

SEC. 2. Section 4016.5 is added to the Business and Professions Code, to read:

4016.5. "Advanced practice pharmacist" means a licensed pharmacist who has been recognized as an advanced practice pharmacist by the board, pursuant to Section 4210. A board-recognized advanced practice pharmacist is entitled to practice advanced practice pharmacy, as described in Section 4052.6, within or outside of a licensed pharmacy as authorized by this chapter.

SEC. 3. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition or purpose for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right that a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

SEC. 4. Section 4050 of the Business and Professions Code is amended to read:

4050. (a) In recognition of and consistent with the decisions of the appellate courts of this state, the Legislature hereby declares the practice of pharmacy to be a profession.

(b) Pharmacy practice is a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use, drug-related therapy, and communication for clinical and consultative purposes. Pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities.

(c) The Legislature further declares that pharmacists are health care providers who have the authority to provide health care services.

SEC. 5. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense a

dangerous drug or dangerous device, or to dispense or compound a prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter.

(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a prescription, pursuant to Section 4052.1, 4052.2, 4052.3, or 4052.6, and otherwise provide clinical advice, services, information, or patient consultation, as set forth in this chapter, if all of the following conditions are met:

(1) The clinical advice, services, information, or patient consultation is provided to a health care professional or to a patient.

(2) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.

(3) Access to the information described in paragraph (2) is secure from unauthorized access and use.

SEC. 6. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded drug product to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer drugs and biological products that have been ordered by a prescriber.

(4) Perform procedures or functions in a licensed health care facility as authorized by Section 4052.1.

(5) Perform procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, as authorized by Section 4052.2.

(6) Perform procedures or functions as authorized by Section 4052.6.

(7) Manufacture, measure, fit to the patient, or sell and repair dangerous devices, or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(8) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

(9) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

(10) Furnish the medications described in subparagraph (A) in accordance with subparagraph (B):

(A) (1) Emergency contraception drug therapy and self-administered hormonal contraceptives, as authorized by Section 4052.3.

(2) Nicotine replacement products, as authorized by Section 4052.9.

(3) Prescription medications not requiring a diagnosis that are recommended by the federal Centers for Disease Control and Prevention for individuals traveling outside of the United States.

(B) The pharmacist shall notify the patient's primary care provider of any drugs or devices furnished to the patient, or enter the appropriate information in a patient record system shared with the primary care provider, as permitted by that primary care provider. If the patient does not have a primary care provider, the pharmacist shall provide the patient with a written record of the drugs or devices furnished and advise the patient to consult a physician of the patient's choice.

(11) Administer immunizations pursuant to a protocol with a prescriber.

(12) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies. A pharmacist who orders and interprets tests pursuant to this paragraph shall ensure that the ordering of those tests is done in coordination with the patient's primary care provider or diagnosing prescriber, as appropriate, including promptly transmitting written notification to the patient's diagnosing prescriber or entering the appropriate information in a patient record system shared with the prescriber, when available and as permitted by that prescriber.

(b) A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

(c) This section does not affect the applicable requirements of law relating to either of the following:

(1) Maintaining the confidentiality of medical records.

(2) The licensing of a health care facility.

SEC. 7. Section 4052.3 of the Business and Professions Code is amended to read:

4052.3. (a) (1) Notwithstanding any other law, a pharmacist may furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities. The standardized procedure or protocol shall require that the patient use a self-screening tool that will identify patient risk factors for use of self-administered hormonal contraceptives, based on the current United States Medical Eligibility Criteria (USMEC) for Contraceptive Use developed by the federal Centers for Disease Control and Prevention, and that the pharmacist refer the patient to the patient's primary care provider or, if the patient does not have a primary care provider, to nearby clinics, upon furnishing a self-administered hormonal contraceptive pursuant to this subdivision, or if it is determined that use of a self-administered hormonal contraceptive is not recommended.

(2) The board and the Medical Board of California are both authorized to ensure compliance with this subdivision, and each board is specifically charged with the enforcement of this subdivision with respect to its respective

licensees. This subdivision does not expand the authority of a pharmacist to prescribe any prescription medication.

(b) (1) Notwithstanding any other law, a pharmacist may furnish emergency contraception drug therapy in accordance with either of the following:

(A) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(B) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities. The board and the Medical Board of California are both authorized to ensure compliance with this clause, and each board is specifically charged with the enforcement of this provision with respect to its respective licensees. This subdivision does not expand the authority of a pharmacist to prescribe any prescription medication.

(2) Prior to performing a procedure authorized under this subdivision, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(3) A pharmacist, pharmacist's employer, or pharmacist's agent shall not directly charge a patient a separate consultation fee for emergency contraception drug therapy services initiated pursuant to this subdivision, but may charge an administrative fee not to exceed ten dollars ($10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this paragraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. This paragraph shall become inoperative for dedicated emergency contraception drugs if these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(4) A pharmacist shall not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this subdivision.

(c) For each emergency contraception drug therapy or self-administered hormonal contraception initiated pursuant to this section, the pharmacist shall provide the recipient of the drug with a standardized factsheet that

includes, but is not limited to, the indications and contraindications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Public Health, the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. This section does not preclude the use of existing publications developed by nationally recognized medical organizations.

SEC. 8. Section 4052.6 is added to the Business and Professions Code, to read:

4052.6. (a) A pharmacist recognized by the board as an advanced practice pharmacist may do all of the following:

(1) Perform patient assessments.

(2) Order and interpret drug therapy-related tests.

(3) Refer patients to other health care providers.

(4) Participate in the evaluation and management of diseases and health conditions in collaboration with other health care providers.

(5) Initiate, adjust, or discontinue drug therapy in the manner specified in paragraph (4) of subdivision (a) of Section 4052.2.

(b) A pharmacist who adjusts or discontinues drug therapy shall promptly transmit written notification to the patient's diagnosing prescriber or enter the appropriate information in a patient record system shared with the prescriber, as permitted by that prescriber. A pharmacist who initiates drug therapy shall promptly transmit written notification to, or enter the appropriate information into, a patient record system shared with the patient's primary care provider or diagnosing provider, as permitted by that provider.

(c) This section shall not interfere with a physician's order to dispense a prescription drug as written, or other order of similar meaning.

(d) Prior to initiating or adjusting a controlled substance therapy pursuant to this section, a pharmacist shall personally register with the federal Drug Enforcement Administration.

(e) A pharmacist who orders and interprets tests pursuant to paragraph (2) of subdivision (a) shall ensure that the ordering of those tests is done in coordination with the patient's primary care provider or diagnosing prescriber, as appropriate, including promptly transmitting written notification to the patient's diagnosing prescriber or entering the appropriate information in a patient record system shared with the prescriber, when available and as permitted by that prescriber.

SEC. 9. Section 4052.8 is added to the Business and Professions Code, to read:

4052.8. (a) In addition to the authority provided in paragraph (11) of subdivision (a) of Section 4052, a pharmacist may independently initiate and administer vaccines listed on the routine immunization schedules recommended by the federal Advisory Committee on Immunization Practices (ACIP), in compliance with individual ACIP vaccine recommendations, and published by the federal Centers for Disease Control and Prevention (CDC) for persons three years of age and older.

(b) In order to initiate and administer an immunization described in subdivision (a), a pharmacist shall do all of the following:

(1) Complete an immunization training program endorsed by the CDC or the Accreditation Council for Pharmacy Education that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and shall maintain that training.

(2) Be certified in basic life support.

(3) Comply with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient's primary care provider and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.

(c) A pharmacist administering immunizations pursuant to this section, or paragraph (11) of subdivision (a) of Section 4052, may also initiate and administer epinephrine or diphenhydramine by injection for the treatment of a severe allergic reaction.

SEC. 10. Section 4052.9 is added to the Business and Professions Code, to read:

4052.9. (a) A pharmacist may furnish nicotine replacement products approved by the federal Food and Drug Administration for use by prescription only in accordance with standardized procedures and protocols developed and approved by both the board and the Medical Board of California in consultation with other appropriate entities and provide smoking cessation services if all of the following conditions are met:

(1) The pharmacist maintains records of all prescription drugs and devices furnished for a period of at least three years for purposes of notifying other health care providers and monitoring the patient.

(2) The pharmacist notifies the patient's primary care provider of any drugs or devices furnished to the patient, or enters the appropriate information in a patient record system shared with the primary care provider, as permitted by that primary care provider. If the patient does not have a primary care provider, the pharmacist provides the patient with a written record of the drugs or devices furnished and advises the patient to consult a physician of the patient's choice.

(3) The pharmacist is certified in smoking cessation therapy by an organization recognized by the board.

(4) The pharmacist completes one hour of continuing education focused on smoking cessation therapy biennially.

(b) The board and the Medical Board of California are both authorized to ensure compliance with this section, and each board is specifically charged with the enforcement of this section with respect to their respective licensees. Nothing in this section shall be construed to expand the authority of a pharmacist to prescribe any other prescription medication.

SEC. 11. Section 4060 of the Business and Professions Code is amended to read:

4060. A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

SEC. 12. Section 4076 of the Business and Professions Code is amended to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5

(commencing with Section 2840)), who is acting within his or her scope of practice.

SEC. 12.5. Section 4076 of the Business and Professions Code is amended to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a health facility, as defined in Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

(e) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 12.7. Section 4076 is added to the Business and Professions Code, to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor

who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) The information required by paragraphs (1), (2), (3), (7), and (10) of subdivision (a) shall be printed in at least a 12-point typeface.

(c) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in

a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(d) If a pharmacist dispenses a dangerous drug or device in a health facility, as defined in Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(e) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

(f) This section shall become operative on January 1, 2016.

SEC. 13. Section 4111 of the Business and Professions Code is amended to read:

4111. (a) Except as otherwise provided in subdivision (b), (d), or (e), the board shall not issue or renew a license to conduct a pharmacy to any of the following:

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4040, in the State of California.

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought.

(3) Any corporation that is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2).

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy to the owner of the hospital in which it is located.

(c) The board may require any information the board deems is reasonably necessary for the enforcement of this section.

(d) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a person licensed on or before August 1, 1981, under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and qualified on or before August

1, 1981, under subsection (d) of Section 1310 of Title XIII of the federal Public Health Service Act, as amended, whose ownership includes persons defined pursuant to paragraphs (1) and (2) of subdivision (a).

(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

SEC. 14. Section 4174 of the Business and Professions Code is amended to read:

4174. Notwithstanding any other law, a pharmacist may dispense drugs or devices upon the drug order of a nurse practitioner functioning pursuant to Section 2836.1 or a certified nurse-midwife functioning pursuant to Section 2746.51, a drug order of a physician assistant functioning pursuant to Section 3502.1 or a naturopathic doctor functioning pursuant to Section 3640.5, or the order of a pharmacist acting under Section 4052.1, 4052.2, 4052.3, or 4052.6.

SEC. 15. Section 4210 is added to the Business and Professions Code, to read:

4210. (a) A person who seeks recognition as an advanced practice pharmacist shall meet all of the following requirements:

(1) Hold an active license to practice pharmacy issued pursuant to this chapter that is in good standing.

(2) Satisfy any two of the following criteria:

(A) Earn certification in a relevant area of practice, including, but not limited to, ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutrition support pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric pharmacy, from an organization recognized by the Accreditation Council for Pharmacy Education or another entity recognized by the board.

(B) Complete a postgraduate residency through an accredited postgraduate institution where at least 50 percent of the experience includes the provision of direct patient care services with interdisciplinary teams.

(C) Have provided clinical services to patients for at least one year under a collaborative practice agreement or protocol with a physician, advanced practice pharmacist, pharmacist practicing collaborative drug therapy management, or health system.

(3) File an application with the board for recognition as an advanced practice pharmacist.

(4) Pay the applicable fee to the board.

(b) An advanced practice pharmacist recognition issued pursuant to this section shall be valid for two years, coterminous with the certificate holder's license to practice pharmacy.

(c) The board shall adopt regulations establishing the means of documenting completion of the requirements in this section.

(d) The board shall, by regulation, set the fee for the issuance and renewal of advanced practice pharmacist recognition at the reasonable cost of

regulating advanced practice pharmacists pursuant to this chapter. The fee shall not exceed three hundred dollars ($300).

SEC. 16. Section 4233 is added to the Business and Professions Code, to read:

4233. A pharmacist who is recognized as an advanced practice pharmacist shall complete 10 hours of continuing education each renewal cycle in addition to the requirements of Section 4231. The subject matter shall be in one or more areas of practice relevant to the pharmacist's clinical practice.

SEC. 17. Sections 12.5 and 12.7 of this bill incorporate amendments to Section 4076 of the Business and Professions Code proposed by both this bill and Senate Bill 205. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 4076 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 205, in which case Section 12 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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SB 670

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 670
Author:	Steinberg
Chapter:	399
Bill Date:	September 11, 2013, Amended
Subject:	Physicians and surgeons: investigations
Sponsor:	Author
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill authorizes the Medical Board of California (Board) to inspect the medical records of a patient who is deceased without the consent of the patient's next of kin or a court order in any case that involves the death of a patient. This bill also revises the definition of unprofessional conduct, for a licensee who is under investigation, if the licensee repeatedly fails to attend and participate in an interview of the Board.

This bill would have allowed the Board to impose limitations on the authority of a physician to prescribe, furnish, administer, or dispense controlled substances during a pending investigation if there is "probable cause" that the physician prescribed, furnished, administered, or dispensed controlled substances in violation of the Medical Practice Act; however, this provision was amended out of the bill.

ANALYSIS:

Currently, if the Board is investigating a physician whose patient has died, the Board must receive written authorization by the patient's next of kin in order to obtain the patient's medical records. The Board needs the medical records in order to determine if a physician has deviated from the standard of care. If the Board cannot obtain written authorization to release the medical records, it has obtain a subpoena and it must be proven that there is a compelling state need in order to obtain those records through a subpoena.

This bill allows the Board to obtain medical records without a written release by the patient's next of kin or a court order in any case that involves the death of a patient in order to determine the extent to which the death was the result of the physician's conduct in violation of the Medical Practice Act. The Board must include a declaration in the written request to the physician requesting the patient's records that the Board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts. If the Board does contact the deceased patient's beneficiary or personal representative and consent to the Board is refused for obtaining records, then the Board must obtain the records

through a court order. This bill specifies that compliance with this section is consistent with the public interest and benefit activities of the federal HIPAA. These provisions will allow the Board to move forward with its investigation in a more expedient manner, and help to ensure consumer protection.

In the Board's 2012 Sunset Review Report, information was included related to existing law regarding unprofessional conduct and physician interviews. Existing law provides that it only constitutes unprofessional conduct if a physician repeatedly fails to appear at the interview that has been scheduled by "mutual agreement" of the physician and the Board. Although the existing statute was well intended, it has been ineffective in reducing the time it takes to complete an interview with a licensee and in fact may have resulted in physicians failing to agree to any interview with the Board. The report recommended that no more than thirty days should elapse between the time the interview is requested and completed.

This bill revises the definition of unprofessional conduct, for a licensee who is under investigation, if the licensee repeatedly fails to attend and participate in an interview of the Board. Removing the "mutual agreement" language may help to resolve the issue of physicians failing to agree to any interview with the Board, and may help to reduce enforcement timelines.

Currently, in order for the Board to stop a physician from practicing while the physician is under investigation, the Board must request an Interim Suspension Order (ISO), which must be granted by an Administrative Law Judge (ALJ). An ISO is considered extraordinary relief and the Board must prove that a physician's continued practice presents an immediate danger to public health, safety, or welfare. In addition, there is a 15-day time restraint in law to file an accusation after being granted an ISO, and a 30-day time restraint between the accusation being filed and a hearing being set, which means an investigation must be nearly complete in order to petition for an ISO. The Board can currently only restrict a physician from prescribing if the physician is under probation and limits on prescribing are part of the terms and conditions of that probation that has been adopted or stipulated to by the Board.

This bill would have allowed the Board to impose limitations on the authority of a physician to prescribe, furnish, administer, or dispense controlled substances during a pending investigation if there is probable cause to believe that the physician has prescribed, furnished, administered, or dispensed controlled substances in violation of the Medical Practice Act; however, this provision was removed from the bill at the end of the legislative session in order to address concerns raised by the opposition.

The author introduced this bill due to the Los Angeles Times investigation that uncovered significant issues with physicians, overprescribing and patient deaths. This bill will help to speed up investigations in cases where patients have died as a result of prescription drug overdose. This bill will also make improvements to the Board's enforcement process, which will result in timelier investigations. The Board has taken a support position on this bill, as the due process concern is no longer valid.

FISCAL: Minimal and absorbable

SUPPORT: Center for Public Interest Law
California Academy of Family Physicians
Medical Board of California
Osteopathic Physicians and Surgeons of California
California Medical Association

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify attorneys who represent physicians
- Notify/Train Board Staff
- Revise existing processes and procedures regarding obtaining records for deceased patients
- Develop declaration to include with the written request for a deceased patient's records
- Revise existing processes and procedures for scheduling physician interviews – mutual agreement is no longer required

Senate Bill No. 670

CHAPTER 399

An act to amend Sections 2225 and 2234 of the Business and Professions Code, and to amend Section 11529 of the Government Code, relating to healing arts.

[Approved by Governor September 27, 2013. Filed with Secretary of State September 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 670, Steinberg. Physicians and surgeons: drug prescribing privileges: investigation.

(1) Existing law authorizes investigators and representatives of the Medical Board of California, among others, to inquire into any alleged violation of the Medical Practice Act or any other federal or state law, regulation, or rule relevant to the practice of medicine or podiatric medicine, and to inspect documents relevant to those investigations, including the inspection and copying of any document relevant to an investigation where patient consent is given.

Existing law requires specified persons, including the administrator of a peer review body, to file a report with the board within 15 days after the effective date of any specified action taken against a licensee for a medical disciplinary cause or reason. Existing law also requires a coroner to make a report to the board, among other specified entities, when he or she receives information that indicates that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence.

This bill would authorize 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.

(2) Existing law requires the board to take action against any licensee who is charged with unprofessional conduct. Unprofessional conduct is defined for this purpose to include, among other things, the repeated failure by a licensee who is the subject of a board investigation, in the absence of good cause, to attend and participate in an interview scheduled by the mutual agreement of the licensee and the board.

This bill would revise that definition of unprofessional conduct to include the repeated failure by a licensee who is the subject of a board investigation, in the absence of good cause, to attend and participate in an interview by the board.

(3) Existing law, the Administrative Procedure Act, authorizes the administrative law judge of the Medical Quality Hearing Panel to issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other licensee restrictions.

This bill would further authorize the administrative law judge to issue an interim order limiting the authority to prescribe, furnish, administer, or dispense controlled substances.

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

SECTION 1. Section 2225 of the Business and Professions Code is amended to read:

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

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

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

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

(c) (1) Notwithstanding subdivision (b) or any other law, in any investigation that involves the death of a patient, the board may 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 for the purpose of determining the extent to which the death was the result of the physician and surgeon's conduct in 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. Nothing in this subdivision shall be construed to allow the board to inspect and copy the medical records of a deceased patient without a court order when the beneficiary or personal representative of the deceased patient has been located and contacted but has refused to consent to the board inspecting and copying the medical records of the deceased patient.

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

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

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

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

SEC. 2. Section 2234 of the Business and Professions Code is amended to read:

2234. The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

SEC. 3. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which

notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 15 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

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SB 809

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 809
Author:	DeSaulnier and Steinberg
Chapter:	400
Bill Date:	September 3, 2013, Amended
Subject:	Controlled Substances: Reporting
Sponsor:	California Attorney General Kamala Harris
Position:	Support if Amended

DESCRIPTION OF CURRENT LEGISLATION:

This bill makes findings and declarations regarding the Controlled Substance Utilization Review and Evaluation System (CURES) and establishes the Fund that would be administered by the Department of Justice (DOJ), and would consist of funds collected from boards that license prescribers and dispensers, for purposes of funding and upgrading the CURES system.

This bill requires DOJ, the Department of Consumer Affairs (DCA) and the regulatory boards to identify and implement a streamlined application and approval process to provide access to CURES, and to make efforts to incorporate the CURES application at the time of license application or renewal. DOJ, DCA and the regulatory boards must also identify necessary procedures to enable prescribers and dispensers to delegate their authority to order CURES reports, and develop a procedure to enable health care practitioners, who do not have a federal Drug Enforcement Administration (DEA) number, to opt out of applying for access to CURES.

This bill requires the Medical Board of California (Board) to periodically develop and disseminate information and educational materials related to assessing a patient's risk of abusing or diverting controlled substance and information on CURES to each licensed physician and general acute care hospital (GACH).

This bill requires prescribers and dispensers, before January 1, 2016, or upon receipt of a federal DEA number, to submit an application to DOJ to obtain approval to access information online regarding the controlled substance history of a patient from CURES.

ANALYSIS:

The CURES Program is currently housed in 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, including the Board, to access patient controlled substance history information through a secure Web site.

According to DOJ, there is currently no permanent funding to support the CURES/PDMP program. The California Budget Act of 2011 eliminated all General Fund support of CURES/PDMP, which included funding for system support, staff support and related operating expenses. To perform the minimum critical functions and to avoid shutting down the program, DOJ opted to assign five staff to perform temporary dual job assignments on a part-time basis. Although some tasks are being performed, the program is faced with a constant backlog (e.g., four-week backlog on processing new user applications, six-week response time on emails, twelve week backlog on voicemails, etc.).

The only funding currently available to DOJ for CURES is through renewable contracts with five separate regulatory boards (including the Board) and one grant. While DOJ has been able to successfully renew contracts with the boards and receive grant funding this year, these sources of funding are not permanent and may not be available in future years and cannot be used to fund staff positions. In addition, these funding sources are insufficient to operate and maintain the PDMP system, make necessary enhancements or fully fund a PDMP modernization effort.

This bill makes findings and declarations related to the importance of CURES. This bill establishes the CURES Fund that would be funded, beginning April 1, 2014, by an annual $6 flat fee for licensees of the following boards that are authorized to prescribe or dispense Schedule II, III, or IV controlled substances: Medical Board of California; Dental Board of California; Board of Pharmacy; Veterinary Medical Board; Board of Registered Nursing; Physician Assistant Board; Osteopathic Medical Board of California; State Board of Optometry; California Board of Podiatric Medicine; and the Naturopathic Medicine Committee. This bill makes the money in the CURES Fund available for allocation to DOJ, upon appropriation by the Legislature, for the purposes of funding the CURES Program. This bill specifies that the fee increase shall be due at time of renewal and shall not exceed the reasonable costs associated with maintaining CURES.

In addition, it is important to note that this language is consistent with the language included in the Budget Bill (AB 73, Blumenfield), which will require all boards to provide funding to help maintain and upgrade the CURES system. For the Board, this will be $1.638 million. The Budget Bill states the legislative intent that the CURES system be jointly developed by DOJ and DCA and addresses the needs of the boards funding CURES and DOJ. The Budget Bill requires, before the funds are appropriated for CURES, for the Feasibility Study Report to be approved and mutually agreed upon by DOJ and DCA, and that an interagency agreement be developed between DOJ and DCA on behalf of each board or committee funding the system that

includes the roles and responsibilities of each department as to the joint development, implementation, and utilization of CURES.

This language is very important as it will ensure that the new CURES system will be developed with the regulatory boards' needs in mind and will ensure that input from all boards must be considered and accounted for in development of the new CURES system.

This bill allows DOJ to seek private funds from qualified manufacturers, insurers, and health care service plans for the purpose of supporting CURES. This bill requires DOJ to annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

This bill requires DOJ to establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, storage, disclosure, and security of the information within CURES. This bill also allows DOJ to invite stakeholders to assist, advise and make recommendations on the establishment of rules and regulations necessary to ensure proper administration and enforcement of the CURES database. This bill requires DOJ to consult with prescribers, regulatory boards, and other stakeholders to identify desirable capabilities and upgrades to the CURES system.

This bill requires the Board to periodically develop and disseminate information and educational materials related to assessing a patient's risk of abusing or diverting controlled substances and information on CURES to each licensed physician and GACH. The Board must consult with the Department of Health Care Services (DHCS) and DOJ in developing the materials.

This bill requires DOJ, DCA and the regulatory boards to identify and implement a streamlined application and approval process to provide access to CURES and to make efforts to incorporate the CURES application at the time of license application or renewal. DOJ, DCA and the regulatory boards must also identify necessary procedures to enable prescribers and dispensers to delegate their authority to order CURES reports, and develop a procedure to enable health care practitioners who do not have a federal DEA number to opt out of applying for access to CURES.

This bill requires prescribers and dispensers, before January 1, 2016, or upon receipt of a federal DEA number, to submit an application to DOJ to obtain approval to access information online regarding the controlled substance history of a patient from CURES.

The Board believes CURES is a very important enforcement tool and an effective aid for physicians to use to prevent "doctor shopping". The Board continues to support CURES being fully funded and upgraded, as it is imperative that California have an effective reporting system that is at optimum operating capacity. This bill has been amended to address the Board's previous implementation concerns. Although the Board also believes that the cost for funding and maintaining cures should be a shared contribution by prescribers, dispensers, pharmaceutical manufacturers, insurers, and the

public, having CURES funded and upgraded is of utmost importance in order to ensure consumer protection and to help aid physicians, as well as all regulatory boards.

FISCAL: This bill would result in an annual $6 flat fee increase for physicians, which equates to a $12 increase for renewals. There would be a minimal and absorbable fiscal impact associated with periodically developing and disseminating information and educational materials to all licensed physicians and GACHs.

SUPPORT: California Attorney General Kamala Harris (Sponsor); ALPHA Fund; American Cancer Society Cancer Action Network; American Medical Association; Association of California Healthcare Districts; Association of California Insurance Companies; Association of California Life and Health Insurance Companies; Association of Northern California Oncologists; Behind the Orange Curtain, the Documentary; American College of Emergency Physicians, California Chapter; California Academy of Physician Assistants; California Association for Nurse Practitioners; California Association of Joint Powers Authority; California Association of Oral and Maxillofacial Surgeons; California Coalition on Workers' Compensation; California Department of Insurance; California Hospital Association; California Joint Powers Insurance Authority; California Labor Federation; California Medical Association; California Narcotic Officers Association; California Pharmacists Association; California Primary Care Association; California Police Chiefs Association; California Professional Association of Specialty Contractors; California Retailers Association; California Self-Insurers Association; California Society of Health-System Pharmacists; California Special Districts Association; California State Association of Counties; California State Board of Pharmacy; California State Sheriff's Association; Center for Public Interest Law; City and County of San Francisco; CompPharma; County Alcohol and Drug Program Administrators Association of California; County of San Diego; CSAC Excess Insurance Authority; Deputy Sheriffs' Association of San Diego County; Employers Group; Gallagher Bassett Services, Inc.; Golden Oak Cooperative Corporation; Grimmway Farms; Healthcare Distribution Management Association; Health Officers Association of California; Independent Insurance Agents and Brokers of California; Los Angeles County District Attorney's Office; Kaiser Permanente; Medical Board of California (if amended); Medical Oncology Association of Southern California, Inc; Metro Risk Management; Michael Sullivan and Associates; National Association of Chain Drug Stores; National Coalition Against Prescription Drug Abuse; Nordstrom; Safeway; Schools Insurance Authority; Schools Insurance Group; Sedgwick Claims Management Services; Shaw, Jacobsmeyer, Crain, and Claffey;

South Orange County Coalition; Troy and Alana Pack Foundation; Western Occupational and Environmental Medical Association; University of California; and Western Propane Gas Association

OPPOSITION: None

IMPLEMENTATION:

- Newsletter Article
- Post information on the Board's Web site regarding the fee increase and email physicians
- Notify/Train Board Staff
- Revise the renewal application form to reflect the new fee and revise the renewal letter to reflect the new fee
- Make necessary changes to the computer system to reflect the fee increase
- Work with DCA, DOJ and other regulatory boards on a streamlined application process for CURES and provide recommendations on how this application could be integrated as part of the license and renewal process
- Work with DCA, DOJ and other regulatory boards to develop a procedure to enable health care practitioners to delegate their authority to order CURES reports, and to develop an opt-out procedure for those practitioners who do not have a DEA number
- Provide input to DOJ and DCA on desirable capabilities of the new CURES system for the Board's enforcement program
- Work with DOJ and DHCS to identify educational materials related to assessing a patient's risk of abusing or diverting controlled substances and information on CURES; these educational materials must be disseminated to each licensed physician and GACH

Senate Bill No. 809

CHAPTER 400

An act to add Sections 208, 209, and 2196.8 to the Business and Professions Code, and to amend Sections 11164.1, 11165, and 11165.1 of, and to add Section 11165.5 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 27, 2013. Filed with Secretary of State September 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 809, DeSaulnier. Controlled substances: reporting.

(1) 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, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would, beginning April 1, 2014, require an annual fee of $6 to be assessed on specified licensees, including licensees authorized to prescribe, order, administer, furnish, or dispense controlled substances, and require the regulating agency of each of those licensees to bill and collect that fee at the time of license renewal. The bill would authorize the Department of Consumer Affairs to reduce, by regulation, that fee to the reasonable cost of operating and maintaining CURES for the purpose of regulating those licensees, if the reasonable regulatory cost is less than $6 per licensee. The bill would require the proceeds of the fee to be deposited into the CURES Fund for the support of CURES, as specified. The bill would also permit specified insurers, health care service plans, qualified manufacturers, and other donors to voluntarily contribute to the CURES Fund, as described.

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient's risk of abusing or diverting controlled substances and information relating to CURES.

(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

This bill would require, by January 1, 2016, or upon receipt of a federal Drug Enforcement Administration registration, whichever occurs later, health care practitioners authorized to prescribe, order, administer, furnish, or dispense controlled substances, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under their care. The bill would require the Department of Justice, in conjunction with the Department of Consumer Affairs and certain licensing boards, to, among other things, develop a streamlined application and approval process to provide access to the CURES database for licensed health care practitioners and pharmacists. The bill would make other related and conforming changes.

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

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

(a) The Controlled Substance Utilization Review and Evaluation System (CURES) is a valuable preventive, investigative, and educational tool for health care providers, regulatory agencies, educational researchers, and law enforcement. Recent budget cuts to the Attorney General's Division of Law Enforcement have resulted in insufficient funding to support CURES and its Prescription Drug Monitoring Program (PDMP). The CURES PDMP is necessary to ensure health care professionals have the necessary data to make informed treatment decisions and to allow law enforcement to investigate diversion of prescription drugs. Without a dedicated funding source, the CURES PDMP is not sustainable.

(b) Each year CURES responds to more than 800,000 requests from practitioners and pharmacists regarding all of the following:

(1) Helping identify and deter drug abuse and diversion of prescription drugs through accurate and rapid tracking of Schedule II, Schedule III, and Schedule IV controlled substances.

(2) Helping practitioners make prescribing decisions.

(3) Helping reduce misuse, abuse, and trafficking of those drugs.

(c) Schedule II, Schedule III, and Schedule IV controlled substances have had deleterious effects on private and public interests, including the misuse, abuse, and trafficking in dangerous prescription medications resulting in injury and death. It is the intent of the Legislature to work with stakeholders to fully fund the operation of CURES which seeks to mitigate those deleterious effects and serve as a tool for ensuring safe patient care, and which has proven to be a cost-effective tool to help reduce the misuse, abuse, and trafficking of those drugs.

(d) The following goals are critical to increase the effectiveness and functionality of CURES:

(1) Upgrading the CURES PDMP so that it is capable of accepting real-time updates and is accessible in real-time, 24 hours a day, seven days a week.

(2) Upgrading the CURES PDMP in California so that it is capable of operating in conjunction with all national prescription drug monitoring programs.

(3) Providing subscribers to prescription drug monitoring programs access to information relating to controlled substances dispensed in California, including those dispensed through the United States Department of Veterans Affairs, the Indian Health Service, the Department of Defense, and any other entity with authority to dispense controlled substances in California.

(4) Upgrading the CURES PDMP so that it is capable of accepting the reporting of electronic prescription data, thereby enabling more reliable, complete, and timely prescription monitoring.

SEC. 2. Section 208 is added to the Business and Professions Code, to read:

208. (a) Beginning April 1, 2014, a CURES fee of six dollars ($6) shall be assessed annually on each of the licensees specified in subdivision (b) to pay the reasonable costs associated with operating and maintaining CURES for the purpose of regulating those licensees. The fee assessed pursuant to this subdivision shall be billed and collected by the regulating agency of each licensee at the time of the licensee's license renewal. If the reasonable regulatory cost of operating and maintaining CURES is less than six dollars ($6) per licensee, the Department of Consumer Affairs may, by regulation, reduce the fee established by this section to the reasonable regulatory cost.

(b) (1) Licensees authorized pursuant to Section 11150 of the Health and Safety Code to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances or pharmacists licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2.

(2) Wholesalers and nonresident wholesalers of dangerous drugs licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2.

(3) Nongovernmental clinics licensed pursuant to Article 13 (commencing with Section 4180) and Article 14 (commencing with Section 4190) of Chapter 9 of Division 2.

(4) Nongovernmental pharmacies licensed pursuant to Article 7 (commencing with Section 4110) of Chapter 9 of Division 2.

(c) The funds collected pursuant to subdivision (a) shall be deposited in the CURES Fund, which is hereby created within the State Treasury. Moneys in the CURES Fund shall, upon appropriation by the Legislature, be available to the Department of Consumer Affairs to reimburse the Department of Justice for costs to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

(d) The Department of Consumer Affairs shall contract with the Department of Justice on behalf of the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Board of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board, the State Board of Optometry, and the California Board of Podiatric Medicine to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

SEC. 3. Section 209 is added to the Business and Professions Code, to read:

209. The Department of Justice, in conjunction with the Department of Consumer Affairs and the boards and committees identified in subdivision (d) of Section 208, shall do all of the following:

(a) Identify and implement a streamlined application and approval process to provide access to the CURES Prescription Drug Monitoring Program (PDMP) database for licensed health care practitioners eligible to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances and for pharmacists. Every reasonable effort shall be made to implement a streamlined application and approval process that a licensed health care practitioner or pharmacist can complete at the time that he or she is applying for licensure or renewing his or her license.

(b) Identify necessary procedures to enable licensed health care practitioners and pharmacists with access to the CURES PDMP to delegate their authority to order reports from the CURES PDMP.

(c) Develop a procedure to enable health care practitioners who do not have a federal Drug Enforcement Administration (DEA) number to opt out of applying for access to the CURES PDMP.

SEC. 4. Section 2196.8 is added to the Business and Professions Code, to read:

2196.8. The board shall periodically develop and disseminate information and educational material regarding assessing a patient's risk of abusing or diverting controlled substances and information relating to the Controlled Substance Utilization Review and Evaluation System (CURES), described in Section 11165 of the Health and Safety Code, to each licensed physician and surgeon and to each general acute care hospital in this state. The board shall consult with the State Department of Public Health, the boards and committees specified in subdivision (d) of Section 208, and the Department

of Justice in developing the materials to be distributed pursuant to this section.

SEC. 5. Section 11164.1 of the Health and Safety Code is amended to read:

11164.1. (a) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy, if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.

(2) All prescriptions for Schedule II, Schedule III, and Schedule IV controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.

(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

SEC. 6. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The Department of Justice may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

(c) (1) The operation of CURES shall comply with all applicable federal and state privacy and security laws and regulations.

(2) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that

may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party. The Department of Justice shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES, consistent with this subdivision.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section

208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The Department of Justice may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.

SEC. 7. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before January 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, before January 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

(B) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

(i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal DEA registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber accessing information for any other reason than caring for his or her patients.

(C) Any authorized subscriber shall notify the Department of Justice within 30 days of any changes to the subscriber account.

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 or a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the

process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

SEC. 8. Section 11165.5 is added to the Health and Safety Code, to read:

11165.5. (a) The Department of Justice may seek voluntarily contributed private funds from insurers, health care service plans, qualified manufacturers, and other donors for the purpose of supporting CURES. Insurers, health care service plans, qualified manufacturers, and other donors may contribute by submitting their payment to the Controller for deposit into the CURES Fund established pursuant to subdivision (c) of Section 208 of the Business and Professions Code. The department shall make information about the amount and the source of all private funds it receives for support of CURES available to the public. Contributions to the CURES Fund pursuant to this subdivision shall be nondeductible for state tax purposes.

(b) For purposes of this section, the following definitions apply:

(1) "Controlled substance" means a drug, substance, or immediate precursor listed in any schedule in Section 11055, 11056, or 11057 of the Health and Safety Code.

(2) "Health care service plan" means an entity licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(3) "Insurer" means an admitted insurer writing health insurance, as defined in Section 106 of the Insurance Code, and an admitted insurer writing workers' compensation insurance, as defined in Section 109 of the Insurance Code.

(4) "Qualified manufacturer" means a manufacturer of a controlled substance, but does not mean a wholesaler or nonresident wholesaler of

dangerous drugs, regulated pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code, a veterinary food-animal drug retailer, regulated pursuant to Article 15 (commencing with Section 4196) of Chapter 9 of Division 2 of the Business and Professions Code, or an individual regulated by the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, or the California Board of Podiatric Medicine.

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SCR 8

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SCR 8
Author:	DeSaulnier
Chapter:	26
Bill Date:	April 18, 2013, Amended
Subject:	Prescription Drug Abuse Awareness Month
Sponsor:	Author
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This concurrent resolution proclaims the month of March, each year, as Prescription Drug Abuse Awareness Month and encourages all citizens to participate in prevention programs and activities and to pledge to "Spread the Word....One Pill Can Kill."

ANALYSIS:

This resolution makes declarations regarding prescription drugs. In 2008, 20,044 deaths were from prescription drug overdoses; in 2009, 1.2 million emergency department visits were related to misuse or abuse of pharmaceuticals; in 2010, 2 million people reported using prescription painkillers non-medically for the first time within the last year; and as many as 70 percent of people who abuse prescription drugs get them from a relative or friend instead of a doctor. This resolution also states that the National Coalition Against Prescription Drug Abuse, in cooperation with local law enforcement agencies and other community organizations, coordinate Prescription Drug Abuse Awareness Month activities. Lastly, this resolution states that community organizations, local government, practitioners, pharmacists, and the general public will demonstrate their commitment to the prevention of prescription medication abuse by participating in activities to highlight local efforts in March.

The epidemic of prescription drug abuse and overdoses is plaguing the nation, as well as California. This resolution will help to increase awareness of the prescription drug abuse problem in California and would encourage participation in prescription medication abuse prevention programs. The Board has taken a support position on this resolution.

FISCAL: None

SUPPORT: National Coalition Against Prescription Drug Abuse
The Board

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Develop/identify outreach materials for dissemination in March 2014

Senate Concurrent Resolution No. 8

RESOLUTION CHAPTER 26

Senate Concurrent Resolution No. 8—Relative to Prescription Drug Abuse Awareness Month.

[Filed with Secretary of State May 8, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 8, DeSaulnier. Prescription Drug Abuse Awareness Month.

This measure would proclaim the month of March, each year, as Prescription Drug Abuse Awareness Month and encourage all citizens to participate in prevention programs and activities and to pledge to "Spread the Word ... One Pill Can Kill."

WHEREAS, In 2008, drug overdoses in the United States caused 36,450 deaths and 20,044 of these were from prescription drug overdoses; and

WHEREAS, Overdose deaths involving opioid pain relievers (OPR) have increased and now exceed deaths involving heroin and cocaine combined; and

WHEREAS, In 2009, 1.2 million emergency department visits were related to misuse or abuse of pharmaceuticals (an increase of 98.4 percent since 2004); and

WHEREAS, Nonmedical use of OPR costs insurance companies up to $72.5 billion annually in health care costs; and

WHEREAS, By 2010, enough prescription painkillers were sold to medicate every American adult with a typical dose of five milligrams of hydrocodone every four hours for one month; and

WHEREAS, In 2010, 2 million people reported using prescription painkillers nonmedically for the first time within the last year—nearly 5,500 a day; and

WHEREAS, As many as 70 percent of people who abuse prescription drugs get them from a relative or friend instead of a doctor; and

WHEREAS, The National Coalition Against Prescription Drug Abuse, in cooperation with law enforcement agencies, community-based organizations, alcohol and other drug service providers, and civic and business leaders, coordinates Prescription Drug Abuse Awareness Month activities to offer our citizens the opportunity to demonstrate their commitment to campaigns and education aimed at raising awareness about the abuse and misuse of prescription drugs, promoting safe storage and disposal of prescription drugs, and using medications only as prescribed; and

WHEREAS, Families, schools, businesses, faith-based communities, law enforcement, medical professionals, county and local governments, health

care practitioners, pharmacists, and the general public throughout the state will demonstrate their commitment to the prevention of prescription medication abuse by participating in activities intended to highlight local efforts during the month of March; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of March, each year, is hereby proclaimed to be Prescription Drug Abuse Awareness Month and that all citizens are encouraged to participate in prevention programs and activities and to pledge to "Spread the Word ... One Pill Can Kill"; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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MBC TRACKER II BILLS
10/16/2013

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 5	Ammiano	Homelessness	2-year	04/30/13
AB 12	Cooley	Standardized Regulatory Impact Analysis	Vetoed	05/24/13
AB 18	Pan	Individual Health Care Coverage	2-year	06/24/13
AB 40	Mansoor	Substance Abuse: Recovery and Treatment Facilities	2-year	05/07/13
AB 58	Wieckowski	Medical Experiments: Human Subjects	Chaptered, #547	04/02/13
AB 213	Logue	Healing Arts: Licensing Requirements: Military	2-year	04/18/13
AB 219	Perea	Health Care Coverage: Cancer Treatment	Chaptered, #661	09/04/13
AB 291	Nestande	California Sunset Review Commission	2-year	
AB 299	Holden	Prescription Drug Benefits	2-year	05/14/13
AB 357	Pan	California Healthy Child Advisory Task Force	2-year	
AB 369	Pan	California Health Benefit Exchange: Report	2-year	
AB 376	Donnelly	Regulations: Notice	2-year	
AB 395	Fox	Alcoholism and Drug Abuse Treatment Facilities	2-year	07/10/13
AB 396	Fox	Prescriptions	2-year	
AB 411	Pan	Medi-Cal: Performance Measures	Vetoed	09/11/13
AB 446	Mitchell	HIV Testing	Chaptered, #589	09/06/13
AB 473	Ammiano	Medical Marijuana: State Regulation and Enforcement	2-year	05/24/13
AB 506	Mitchell	HIV Testing: Infants	Chaptered, #153	07/02/13
AB 555	Salas	Social Security Numbers	Chaptered, #103	04/30/13
AB 576	Perez, V.	Revenue Recovery and Collaborative Enforcement Team	Chaptered, #614	09/06/13
AB 591	Fox	Hospital Emergency Room: Geriatric Physician	2-year	
AB 596	Brown	Health Care Services Grants	2-year	
AB 599	Donnelly	Minors: Vaccinations: Parental Consent	2-year	
AB 620	Buchanan	Heath and Care Facilities: Missing Patients & Participants	Chaptered, #674	09/05/13
AB 623	Lowenthal	Inmates: Psychiatric Medication: Informed Consent	2-year	

MBC TRACKER II BILLS
10/16/2013

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 633	Salas	Emergency Medical Services: Civil Liability	Chaptered, #591	08/26/13
AB 657	Nazarian	Women's Health	2-year	
AB 658	Calderon, I.	Personal Information: Disclosure	Chaptered, #296	06/24/13
AB 670	Atkins	Pharmacy Law: Incentive Payments	2-year	04/30/13
AB 676	Fox	Health Care Coverage: Post discharge Care Needs	2-year	04/10/13
AB 678	Gordon	Health Care Districts: Community Health Needs Assessment	2-year	04/15/13
AB 689	Bonta	Health Facilities: Influenza	2-year	04/08/13
AB 705	Blumenfield	Combat to Care Act	2-year	04/23/13
AB 710	Pan	California Health Benefit Exchange: Multiemployer Plans	2-year	03/11/13
AB 722	Lowenthal	Drivers License: Medical Examinations	Chaptered, #160	05/28/13
AB 771	Jones	Public Health: Wellness Programs	2-year	03/19/13
AB 808	Fong	Acupuncture: License Requirements	2-year	04/09/13
AB 810	Muratsuchi	Law Enforcement: Data Sharing	2-year	03/21/13
AB 827	Hagman	Department of Consumer Affairs	2-year	
AB 859	Gomez	Professions and Vocations: Military Medical Personnel	2-year	
AB 889	Frazier	Health Care Coverage: Prescription Drugs	2-year	05/02/13
AB 894	Mansoor	Consumer Affairs	2-year	
AB 912	Quirk-Silva	Health Care Coverage: Fertility Preservation	Vetoed	09/03/13
AB 926	Bonilla	Reproductive Health and Research	Vetoed	04/23/13
AB 975	Wieckowski & Bonta	Health Facilities: Community Benefits	2-year	05/24/13
AB 980	Pan	Primary Care Clinics: Abortion	Chaptered, #663	09/12/13
AB 1013	Gomez	Consumer Affairs	2-year	
AB 1045	Quirk-Silva	Sterile Compounding and Nonresident Pharmacies	Chaptered, #302	06/19/13
AB 1057	Medina	Professions & Vocations: Licenses: Military Service	Chaptered, #693	06/03/13
AB 1136	Levine	Pharmacists: Drug Disclosures	Chaptered, #304	04/15/13

MBC TRACKER II BILLS
10/16/2013

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 1139	Lowenthal	Prescriptions: Biosimilar Products	2-year	
AB 1153	Eggman	Master Esthetician: License	2-year	09/11/13
AB 1180	Pan	Health Care Coverage: Federally Eligible Defined Individuals	Chaptered, #441	09/03/13
AB 1208	Pan	Medical Homes	Vetoed	09/06/13
AB 1231	Perez, V.	Regional Centers: Telehealth	Vetoed	09/05/13
AB 1263	Perez, J.	Medi-Cal: Communical	Vetoed	07/10/13
AB 1297	Perez, J.	Coroners: Organ Donation	Chaptered, #341	08/19/13
AB 1310	Brown	Medi-Cal: Pediatric Subacute Care	2-year	05/24/13
AB 1372	Bonilla	Health Insurance: Pervasive Developmental Disorder or Autism	2-year	
ABX1 2	Pan	Health Care Coverage	Chaptered, #1	04/01/13
ACA 1	Donnelly	Administrative Regulations: Legislative Approval	Failed Passage	
ACA 5	Grove	Abortion: Parental Notification	Asm. Health	
ACR 1	Medina	UC Riverside School of Medicine	Chaptered, #54	
SB 18	Hernandez	California Health Benefits Review Program	2-year	04/17/13
SB 22	Beall	Health Care Coverage: Mental Health Parity	2-year	07/02/13
SB 28	Hernandez	California Health Benefit Exchange	Chaptered, #442	09/06/13
SB 44	Yee	State Internet Web sties: online voter registration	Chaptered, #277	
SB 126	Steinberg	Health Care Coverage: pervasive developmental disorder/autism	Chaptered, #680	08/08/13
SB 138	Hernandez	Confidentiality of Medical Information	Chaptered, #444	09/03/13
SB 158	Correa	Autism Services: Demonstration Program	Vetoed	05/28/13
SB 176	Galgiani	Administrative Procedures	2-year	08/07/13
SB 189	Monning	Health Care Coverage: Wellness Programs	2-year	05/08/13
SB 198	Lieu	Physical Therapy Board of California	Chaptered, #389	09/06/13
SB 204	Corbett	Prescription Drugs: Labeling	2-year	06/27/13
SB 205	Corbett	Prescription Drugs: Labeling	Vetoed	09/06/13

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BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 218	Yee	Healing Arts	2-year	08/05/13
SB 248	Wyland	Professional Corporations	2-year	
SB 266	Lieu	Health Care Coverage: Out-of-Network Coverage	2-year	04/24/13
SB 270	Padilla	Underground Economy: Enforcement Actions	2-year	
SB 294	Emmerson	Sterile Drug Products	Chaptered, #565	09/03/13
SB 306	Torres	Pharmacy: Dangerous Drugs and Devices	2-year	06/20/13
SB 351	Hernandez	Health Care Coverage: Hospital Billing	2-year	04/23/13
SB 353	Lieu	Health Care Coverage: Language Assistance	Chaptered, #447	09/04/13
SB 357	Correa	Elective Percutaneous Coronary Intervention Pilot Program	Chaptered, #202	06/14/13
SB 381	Yee	Healing Arts: Chiropractic Practice	2-year	
SB 393	Walters	Prescription Drugs: Procurement: False Representation	2-year	
SB 394	Walters	Prescription Drugs	2-year	
SB 460	Pavley	Prenatal Testing Program: Education	Chaptered, #667	09/03/13
SB 494	Monning	Health Care Providers	Chaptered, #684	09/06/13
SB 495	Yee	Postsecondary Education Employees: Physicians	2-year	05/21/13
SB 528	Yee	Dependents: Care and Treatment	Chaptered, #338	09/03/13
SB 532	De Leon	Professions and Vocations: Military Spouses: Temporary Licenses	2-year	
SB 534	Hernandez	Health and Care Facilities	Chaptered, #722	09/04/13
SB 577	Pavley	Autism & Other Developmental Disabilities: Employment	2-year	04/15/13
SB 588	Emmerson	Medical Records: Reproduction Fees	2-year	04/08/13
SB 598	Hill	Biosimilars	Vetoed	08/06/13
SB 631	Beall	Health Care Facilities: Observation	2-year	04/08/13
SB 639	Hernandez	Health Care Coverage	Chaptered, #316	09/06/13
SB 643	Price	Pharmacists: Identity	2-year	
SB 666	Steinberg	Employment: Retaliation	Chaptered, #577	09/04/13

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BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 669	Huff	Emergency Medical Care: Epinephrine Auto Injectors	Chaptered, #725	09/03/13
SB 709	Nielsen	Inmates: Mental Evaluations	2-year	
SB 799	Calderon	Health Care Coverage: Colorectal Cancer: Testing & Screening	2-year	05/08/13
SB 800	Lara	California Health Benefit Exchange: Outreach Services	Chaptered, #448	09/03/13
SBX1 2	Hernandez	Health Care Coverage	Chaptered, #2	04/01/13
SBX1 3	Hernandez	Health Care Coverage: Bridge Plan	Chaptered, #5	06/19/13