LEGISLATIVE PACKET

MEDICAL BOARD MEETING

October 26, 2012
San Diego, CA

MEDICAL BOARD OF CALIFORNIA
TRACKER – LEGISLATIVE BILL FILE
October 10, 2012

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
AB 589	Perea	Medical School Scholarships	Chaptered, #339	Support	08/21/12
AB 1533	Mitchell	UCLA IMG Pilot Program	Chaptered, #109	Sponsor	3/21/12
AB 1548	Carter	Cosmetic Surgery: Employment of Physicians	Chaptered, #140	Support	3/22/12
AB 1621	Halderman	Physicians & Surgeons: Prostate Cancer	Chaptered, #76	Support	
AB 1896	Chesbro	Tribal Health Programs: Health Care Practitioners	Chaptered, #119	No Position	3/27/12
AB 2561	Hernandez	Certified Surgical Tech.	Vetoed	Neutral	8/6/12
AB 2570	Hill	Licensees: Settlement Agreements	Chaptered, #561	Support	8/6/12
SB 122	Price	International Medical Schools	Chaptered, #789	Support Alt. Language	8/20/12
SB 616	DeSaulnier	CURES	Dead	Support	8/27/12
SB 924	Price, Walters & Steinberg	PTs: Direct Access: Professional Corporations	Dead	Oppose Unless Amended	8/24/12
SB 1095	Rubio	Pharmacy: Clinics	Chaptered, #454	Support	8/6/12
SB 1236	Price	Healing Arts Boards	Chaptered, #332	Support	8/24/12
SB 1237	Price	Professions & Vocations: Regulatory Boards (VEP Sunset Extension)	Dead – Language amended into 1236		8/6/12
SB 1274	Wolk	Healing Arts: Hospitals: Employment	Chaptered, #793	Support	4/26/12
SB 1416	Rubio	Medical Residency Training Program Grants	Dead	Support	8/6/12
SB 1483	Steinberg	Physician Health Program	Dead	Neutral if Amended	8/20/12
SB 1575	B&P Comm.	Omnibus – B&P Health	Chaptered, #799	Sponsor	8/6/12

Pink – Sponsored Bill, Blue – Dead, Green – Chaptered, Orange - Vetoed

SPONSORED BILLS

AB 1533

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1533
Author:	Mitchell
Chapter:	#109
Bill Date:	March 21, 2012, amended
Subject:	UCLA IMG Pilot Program
Sponsor:	Medical Board of California and University of California
Position:	Sponsor/Support

DESCRIPTION OF CURRENT LEGISLATION:

AB 1533 authorizes a pilot for the University of California at Los Angeles (UCLA) international medical graduate (IMG) program. The pilot allows program participants to engage in supervised patient care activities (i.e., similar to participation at the level of a UC medical student on a health care team) for a typical assignment lasting 16 weeks (but not to exceed 24 weeks), as part of an approved and supervised clinical clerkship/rotation at UCLA health care facilities, or with other approved UCLA affiliates. All such training will occur with supervision provided by licensed physicians.

This bill also requests the UC to prepare a report for the Board and Legislature after on or before January 1, 2018, which would include the number of participants in the pilot program; the number of participants issued a license by the Board; the number of participants who practice in designated medically underserved areas; and the potential for retention or expansion of the pilot program. This bill would sunset the pilot program on January 1, 2019.

ANALYSIS:

In 2006, the UCLA Department of Family Medicine developed an innovative program to prepare bilingual (English-Spanish speaking), bi-cultural IMGs to enter accredited family medicine programs in California and to pursue licensure and board-certification as family physicians. This program functions as a pre-residency training program. The program recruits proficient bilingual IMGs from international medical schools with curricula that meet the educational requirements set forth by the Medical Board of California (the Board) for purposes of physician licensure. To be eligible for the UCLA IMG program, participants must have U.S. citizenship or Permanent Resident or Refugee Status. UCLA IMG graduates commit to 24-36 months of post-residency employment in a California health care facility located in a designated medically underserved area. As of June 2011, the UCLA IMG program has placed a total of 42 graduates in 15 urban and rural family medicine residencies in California. An additional 10-12 graduates are expected to enter accredited family medicine training programs in July 2012.

Since its inception, the UCLA IMG program has had an extraordinary record of success in preparing participants for entry to residency training in California. As part of the program, all participants complete a Clinical Observership program. Typically, this assignment lasts 16 weeks (but not to exceed 24 weeks). In no instance do UCLA IMGs hold themselves out to be licensed in California for purposes of patient care or any other program activities. Because these trainees are neither "medical students" enrolled in the School of Medicine (since they have already graduated from medical school in their country), nor "medical residents" enrolled in residency training, these individuals are not currently authorized by state law to engage in "hands on" clinical training as part of their course of study. The result is that UCLA IMGs are required to function as "observers," even when supervised by licensed physicians who are teaching in accredited California training programs.

AB 1533 would authorize a pilot for the UCLA IMG program. The pilot would allow program participants to engage in supervised patient care activities for a typical assignment lasting 16 weeks (but not to exceed 24 weeks), as part of an approved and supervised clinical clerkship/rotation at UCLA health care facilities, or with other approved UCLA affiliates (e.g., participating California family medicine programs). All such training will occur with supervision provided by licensed physicians.

This bill would also request the UC to prepare a report for the Board and Legislature after on or before January 1, 2018, which would include the number of participants in the pilot program; the number of participants issued a license by the Board; the number of participants who practice in designated medically underserved areas; and the potential for retention or expansion of the pilot program. This bill would sunset the pilot program on January 1, 2019.

The March 21st amendments were taken at the request of the Assembly Republican Caucus. The amendments would require the report prepared by the UC to be submitted on or before January 1, 2018, and would also require the report to include data on the number of participants who practice in designated medically underserved areas. The Board and the UC have no concerns with these amendments.

The Board and the UC believe this pilot program will benefit the UCLA IMG program, its participants, and California family medicine programs seeking to increase the recruitment of bilingual physicians to their programs. Although the UCLA IMG program could continue to operate with no change, residency programs throughout the state continue to express their interest and support for a mechanism through which these trainees could participate in clinical training activities as they work and prepare to enter a residency program. This pilot would improve the preparation and readiness of program participants. Because UCLA IMG graduates commit to 24-36 months of post-residency employment in a California health care facility located in a designated medically underserved area, the continued success of the UCLA program offers longer term benefits for underserved communities throughout the state. The value of this pilot takes on added importance as provisions of health care reform take effect in

2014, and as California prepares to provide health services to substantial numbers of new Spanish-speaking patients

FISCAL: No cost to the Board. The UCLA IMG program is funded by private sources. Funding sponsors include Kaiser Permanente Community Benefit, UniHealth Foundation, The California Endowment, Molina Family Foundation, New America Alliance, Kaplan educational programs and, private individuals.

SUPPORT: MBC (Co-Sponsor)
University of California (Co-Sponsor)
California Academy of Family Physicians
California Medical Association
California State Rural Health Association
Los Angeles County Board of Supervisors

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Maintain communication with UC on the status and success of the pilot portion of the UCLA IMG program
- Schedule update presentations, as appropriate, at Board Meetings

Assembly Bill No. 1533

CHAPTER 109

An act to add and repeal Section 2066.5 of the Business and Professions Code, relating to medicine.

[Approved by Governor July 13, 2012. Filed with Secretary of State July 13, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1533, Mitchell. Medicine: trainees: international medical graduates.

The Medical Practice Act provides for licensing and regulation of physicians and surgeons by the Medical Board of California and imposes various requirements in that regard. Existing law requires an applicant for a license as a physician and surgeon to successfully complete a specified medical curriculum, a clinical instruction program, and a training program. Existing law provides that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as part of a clinical service program, subject to certain conditions.

This bill, until January 1, 2019, would authorize a clinical instruction pilot program for certain bilingual international medical graduates at the David Geffen School of Medicine of the University of California at Los Angeles (UCLA) as part of an existing preresidency training program, at the option of UCLA. The bill would provide that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate participating in the pilot program from engaging in the practice of medicine when required as part of the pilot program. The bill would set forth the requirements for international medical graduates to participate in the pilot program. The bill would require UCLA to provide the board with the names of the participants and other information. The bill would authorize the board to consider participation in the clinical instruction pilot program as remediation for medical education deficiencies in a participant's subsequent application for licensure as a physician and surgeon. The bill would request UCLA to report to the board and the Legislature on or before January 1, 2018. The bill would make related legislative findings and declarations.

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

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

(a) California needs more Spanish-speaking health professionals. Although Hispanics represent nearly 39 percent of California's population, only 5.2 percent of the state's physician workforce is Hispanic. According

to the 2010 federal census, an estimated 35 percent of California's almost 15 million Hispanics reside in medically underserved areas, compared to 20 percent of the total population.

(b) California needs more primary care doctors. Each year, there are approximately 19,500 graduates of medical schools in the United States who compete in the National Residency Match Program (NRMP) or "Match" process for one of the 25,000 first-year graduate medical education (GME) positions (residency training positions). The United States has more GME positions than United States medical school graduates. As a result, an estimated 5,500 International Medical Graduates (IMGs), or 20 percent of the total, enter United States residency training each year. According to the NRMP data for 2011, 94.4 percent of family medicine residency positions were filled. Because not all positions were filled, this indicates that there is capacity within existing programs to accept more IMG residents in family medicine, provided that these individuals are eligible and well prepared.

(c) IMGs legally residing in the United States can be part of the solution for California's shortage of Hispanic physicians. Between 400 to 1,000 unlicensed Hispanic IMG physicians legally reside and work in southern California. Because they do not have a California medical license, they cannot practice medicine in California. Many work in a variety of roles such as ultrasound technicians, health educators, or interpreters, and a few have retrained as nurses.

(d) There is an existing California training resource that is underutilized. Since 2006, the David Geffen School of Medicine at the University of California at Los Angeles (UCLA) has operated an innovative and highly successful program to prepare English-Spanish bilingual, bicultural individuals who have graduated from an accredited medical school outside the United States to enter accredited family medicine programs in California. The UCLA program functions as a preresidency training program. However, because these IMG trainees are neither "medical students" enrolled in the school of medicine (because they have already graduated from medical school in their country), nor "medical residents" enrolled in residency training, these individuals are not currently recognized by state law as trainees who are authorized to engage in "hands-on" clinical training, at even the level of a medical student, as part of their course of study. The UCLA IMG program accepts a small number of exceptionally promising bilingual unlicensed Hispanic IMGs who legally reside in California to participate in a program lasting from 4 to 21 months, with total time for completion determined by UCLA based upon assessment of qualifications of each program participant. To be eligible for licensure in California, graduates of both foreign medical schools as well as United States medical schools must successfully pass Steps 1 and 2 of the United States Medical Licensing Exam (USMLE). Upon receiving a passing score on these exams, medical school graduates are then eligible to compete for a residency position in one of California's 30-plus family medicine training programs. Once the three-year family medicine residency training program is completed, these

licensed family physicians commit to practice in an underserved community in California for up to three years.

SEC. 2. Section 2066.5 is added to the Business and Professions Code, to read:

2066.5. (a) The pilot program authorized by this section shall be known and may be cited as the University of California at Los Angeles David Geffen School of Medicine's International Medical Graduate Pilot Program.

(b) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine when required as part of the pilot program authorized by this section.

(c) There is currently a preresidency training program at the University of California, Los Angeles David Geffen School of Medicine, Department of Family Medicine, hereafter referred to as UCLA, for selected international medical graduates (IMGs). Participation in the pilot program authorized by this section shall be at the option of UCLA. This section authorizes those IMGs, through the new pilot program authorized by this section, to receive, through the existing program, hands-on clinical instruction in the courses specified in subdivision (c) of Section 2089.5. The pilot program, as administered by UCLA, shall include all of the following elements:

(1) Each pilot program participant shall have done all of the following:

(A) Graduated from a medical school recognized by the Medical Board of California at the time of selection.

(B) Taken and passed the United States Medical Licensing Examination Steps 1 and 2 (Clinical Knowledge and Clinical Science).

(C) Submitted an application and materials to the Educational Commission for Foreign Medical Graduates.

(2) A pilot program participant shall receive all clinical instruction at health care facilities operated by the University of California, Los Angeles, or other approved UCLA-designated teaching sites, which shall be hospitals or clinics with either a signed formal affiliation agreement with UCLA or a signed letter of agreement.

(3) Participation of a trainee in clinical instruction offered by the pilot program shall not generally exceed 16 weeks. However, at the discretion of UCLA, an additional eight weeks of clinical instruction may be granted. In no event shall a participant receive more than 24 weeks of clinical instruction under the pilot program.

(4) The clinical instruction shall be supervised by licensed physicians on faculty at UCLA or faculty affiliated with UCLA as specified in an approved affiliation agreement between UCLA and the affiliated entity.

(5) The clinical instruction shall be provided pursuant to written affiliation agreements for clinical instruction of trainees established by UCLA.

(6) The supervising faculty shall evaluate each participant on a regular basis and shall document the completion of each aspect of the clinical instruction portion of the program for each participant.

(d) UCLA shall provide the board with the names of the participants in the pilot program on an annual basis, or more frequently if necessary to maintain accuracy. Upon a reasonable request of the board, UCLA shall

provide additional information such as the courses successfully completed by program participants, the dates of instruction, and other relevant information.

(e) Nothing in this section shall be construed to alter the requirements for licensure set forth in Sections 2089 and 2089.5. The board may consider participation in the clinical instruction portion of the pilot program as remediation for medical education deficiencies identified in a participant's application for licensure or authorization for postgraduate training should such a deficiency apply to that applicant.

(f) On or before January 1, 2018, UCLA is requested to prepare a report for the board and the Legislature. Topics to be addressed in the report shall include the number of participants in the pilot program, the number of participants in the pilot program who were issued physician's and surgeon's certificates by the board, the number of participants who practice in designated medically underserved areas, and the potential for retention or expansion of the pilot program.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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SB 1575

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1575
Author:	Committee on Business, Professions, and Economic Development
Chapter:	#799
Bill Date:	August 6, 2012, amended
Subject:	Omnibus
Sponsor:	Committee, Medical Board, and other health boards
Position:	Support MBC Provisions

DESCRIPTION OF CURRENT LEGISLATION:

This bill is the vehicle by which omnibus legislation has been carried by the Senate Business, Professions and Economic Development Committee. This analysis will only include the relevant sections of the bill in the Business and Professions Code (BPC) that are sponsored by and impact the Medical Board of California (Board). The omnibus language allows the Board to send renewal notices via e-mail; clarifies that the Board has enforcement jurisdiction over all licensees, including licensees with a non-practice license status; establishes a retired license status for licensed midwives; and makes other technical changes.

ANALYSIS:

BPC Sections 2021 & 2424 Renewal Notices – Ability to Send via E-Mail

These provisions allow the Board to send renewal notices via e-mail and require the Board to annually send an electronic notice to all licensees that have opted to receive correspondence via e-mail to confirm that the e-mail address on file with the Board is current.

The Board will be moving to a new information technology (IT) system, BreEZe, which will allow physicians and surgeons to receive notifications via email. Currently, physician and surgeons can pay their renewal fees online; however, they receive their renewal notice via US postal service. The new IT system will allow individuals the opportunity to choose the best method (i.e. electronically or via US Postal Service) of receiving information from the Board. The instructions will be specific that if they identify the electronic method, this will be the only notification tool used. In reviewing the Board's laws, it has been determined that Business and Professions (B&P) Code section 2424(a) will impede this process as currently written. The statue requires the Board to send a delinquent notice via US postal service and it must be sent certified mail. In order to save mailing costs, mailing time, printing costs, etc., this bill would allow the Board to send renewal notices via e-mail if requested by the physician and also include a process to ensure that the e-mail address on record is current.

BPC Section 2220 – Non Practice License Status, Authority to Impose Discipline

This provision clarifies that the Board has enforcement jurisdiction over all licensees, "including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders."

The Medical Board recently lost a court of appeal case related to taking disciplinary action against a licensee that held a retired license. The respondent's attorney alleged the Board lacked jurisdiction to impose discipline because, as the holder of a retired license status, the respondent was not permitted to engage in the practice of medicine. Board staff and legal counsel believe that Board does have jurisdiction to impose discipline on any license it issues because that licensee can opt to change their license status by meeting limited requirements. If the Board lacks jurisdiction to impose discipline, it may create a retired status loophole that would insulate any licensee from discipline by transferring his or her license to a retired or inactive status. However, the court ruled that the holder of a retired status license is not a licensee under the Board's jurisdiction and that the Board's disciplinary authority is relevant to the holder of a retired license, "only if and when the retired licensee seeks to return to the practice of medicine and files and application" with the Board for restoration of his or her license. This bill would make it clear that the Board does in fact have jurisdiction over all licensees.

BPC Section 2518 - Licensed Midwives – Retired Licensed Status

This provision establishes a retired license status for licensed midwives (LMs), similar to the retired license status for physicians.

A retired license status for licensed midwives appears to have been left out of the Licensed Midwifery Practice Act due to an oversight. For most practitioners, there is a status that allows for retirement where fees are not required, but the licensee can still use the initials of a licensee after his or her name. This bill establishes the retired license status for LMs.

Additional Technical Changes:

- **Section 2064 -** In 2005, the Medical Board requested a change in the omnibus bill to change Section 2064 from "...in an approved medical school or clinical training program...", to "...in an approved medical school ~~or~~ and training program". This amendment was asked for in error and the board should have not asked for this change.

- **Section 2184** –clarifies that clinical training should be included as a way an applicant may have spent time in a postgraduate training program, in order to qualify an applicant to have the period of validity for USMLE test scores extended.

- **Section 2516** –changes the term "infant" to "neonate" in subdivision (a)(3)(L) related to reporting requirements. According to the Midwifery Advisory Council, "neonate" is a more appropriate term to use for this reporting requirement than "infant", as it describes a newborn in the first 4 weeks of life.

The August 6th amendments include the exemption language regarding licensees employed by tribal health programs that was in AB 1896 (Chesbro), which was also signed into law. This language was added in order to avoid chaptering out issues.

FISCAL: None to the Board

SUPPORT: Board of Behavioral Sciences
Medical Board of California

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Staff
- Once BreEZe is implemented, provide physicians the option to receive renewal notices via e-mail
- Once BreEZe is implemented, ensure that physicians who have opted in to receive communication from the Board via e-mail are contacted on an annual basis to confirm their e-mail address is current
- Notify the Midwifery Advisory Council and Licensed Midwives of the new retired license status
- Notify the Attorney General's Office of the clarification in statute regarding the Board's clear enforcement jurisdiction over all licensees
- Update the Web site, as necessary

Senate Bill No. 1575

CHAPTER 799

An act to amend Sections 1640, 1715.5, 1934, 1950.5, 2021, 2064, 2184, 2220, 2424, 2516, 2518, 2570.13, 2904.5, 3057.5, 3742, 3750, 3750.5, 4209, 4980.04, 4980.34, 4980.397, 4980.398, 4980.399, 4980.40, 4980.43, 4980.44, 4980.48, 4980.50, 4980.78, 4980.80, 4984.01, 4984.4, 4984.7, 4984.72, 4989.16, 4989.42, 4992.05, 4992.07, 4992.09, 4992.1, 4996.1, 4996.3, 4996.4, 4996.6, 4996.28, 4999.22, 4999.32, 4999.45, 4999.46, 4999.50, 4999.52, 4999.53, 4999.55, 4999.57, 4999.58, 4999.59, 4999.62, 4999.63, 4999.64, 4999.76, 4999.90, 4999.100, 4999.106, and 4999.120 of, to add Sections 719, 1902.2, 1958.1, and 4300.1 to, and to repeal Section 1909.5 of, the Business and Professions Code, relating to professions and vocations.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1575, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

(1) Under existing federal law, licensed health professionals employed by a tribal health program are required to be exempt, if licensed in any state, from the licensing requirements of the state in which the tribal health program performs specified services. A tribal health program is defined as an Indian tribe or tribal organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Indian Health Service.

Existing law provides for the licensure and regulation of health care practitioners by various healing arts boards within the Department of Consumer Affairs.

This bill would codify that federal requirement by specifying that a person who is licensed as a health care practitioner in any other state and is employed by a tribal health program is exempt from this state's licensing requirements with respect to acts authorized under the person's license where the tribal health program performs specified services.

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Dental Board of California within the Department of Consumer Affairs. Existing law establishes the Dental Hygiene Committee of California under the jurisdiction of the board

and provides for the licensure and regulation of the practice of dental hygienists by the committee.

This bill would require dental hygienists, upon initial licensure and renewal, to report their employment status to the committee and would require that information to be posted on the committee's Internet Web site.

Existing law provides that a dental hygienist may have his or her license suspended or revoked by the board for committing acts of unprofessional conduct, as defined.

This bill would include within the definition of unprofessional conduct the aiding or abetting of the unlicensed or unlawful practice of dental hygiene.

Existing law authorizes the committee to deny an application for licensure or to revoke or suspend a license for specified reasons.

This bill would require the committee to deny a license or renewal of a license to any person who is required by law to register as a sex offender.

Existing law authorizes the Dental Board of California to issue a special permit to persons meeting certain requirements, including furnishing satisfactory evidence of having graduated from a dental college.

This bill would allow that requirement to also be met through completion of an accredited advanced education program.

The bill would delete obsolete references.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician and surgeon. Existing law provides for the licensure and regulation of the practice of podiatric medicine by the California Board of Podiatric Medicine within the Medical Board of California.

Existing law requires the Medical Board of California and the California Board of Podiatric Medicine to provide written notification by certified mail to any physician and surgeon or podiatrist who does not renew his or her license within 60 days of expiration.

This bill would require the Medical Board of California and the California Board of Podiatric Medicine to provide that written notification either by certified mail or by electronic mail if requested by the licensee. The bill would require the Medical Board of California to annually send an electronic notice to all licensees and applicants requesting confirmation that his or her electronic mail address is current.

Existing law authorizes the Medical Board of California to take action against all persons guilty of violating the Medical Practice Act. Existing law requires the Medical Board of California to enforce and administer various disciplinary provisions as to physician and surgeon certificate holders.

This bill would specify that those certificate holders include those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders.

(4) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of the practice of licensed midwifery by the Medical Board of California. A violation of the act is a crime. Under existing law, these licenses are subject to biennial renewal that includes the payment of a specified fee and the completion of specified continuing education.

This bill would exempt a licensee from those renewal requirements if the licensee has applied to the board and has been issued a retired status license. The bill would prohibit the holder of a retired status license from engaging in the practice of midwifery. Because a violation of that prohibition would constitute a crime, the bill would impose a state-mandated local program.

(5) Existing law, the Occupational Therapy Practice Act, requires the California Board of Occupational Therapy to ensure proper supervision of occupational therapy assistants and aides. An aide is required to be supervised by an occupational therapist.

This bill would also provide for an aide to be supervised by an occupational therapy assistant.

(6) Existing law, the Psychology Licensing Law, provides for the licensure and regulation of psychologists by the Board of Psychology. Existing law provides that a licensed psychologist is a health care practitioner for purposes of specified telehealth provisions that concern the delivery of health care via information and communication technologies.

This bill would instead provide that a licensed psychologist is a health care provider subject to those telehealth provisions.

(7) Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory care by the Respiratory Care Board of California.

Under existing law, during the period of any clinical training, a student respiratory care practitioner is required to be under the direct supervision, as defined, of a person holding a valid and current license.

This bill would require such a student to be under the direct supervision of a person with a valid, current, and unrestricted license.

Existing law authorizes the board to order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license for specified causes including a pattern of substandard care.

This bill would expand that provision to also include negligence in the licensee's practice as a respiratory care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager or health facility owner, or as a party responsible for the care of another.

Existing law authorizes the board to deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has obtained, possessed, used, or administered to himself or herself, or furnished or administered to another, any controlled substances or dangerous drug, except as directed by a specified health care provider.

This bill would also make illegally possessing any associated paraphernalia a ground for the denial, suspension, placing on probation, or revocation of a license.

(8) Existing law, the Pharmacy Law, provides for the California State Board of Pharmacy within the Department of Consumer Affairs, to license and regulate the practice of pharmacy.

Existing law authorizes the board to suspend or revoke a license if the holder has been convicted of certain crimes or has engaged in unprofessional conduct, as specified.

This bill would modify the practice requirements applicable to intern pharmacists. The bill would also provide that the board continues to have jurisdiction in a disciplinary action against a licensee, even if the license is expired, canceled, forfeited, suspended, revoked, placed on retired status, or voluntarily surrendered.

(9) Under existing law, the Board of Behavioral Sciences is responsible for the licensure and regulation of marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors.

Under existing law, a license that is not renewed within 3 years after its expiration may not be renewed. However, the former licensee is authorized to apply for and obtain a new license if certain requirements are met, including, but not limited to, passing one or more current licensing examinations, as specified and submitting certain fees.

This bill would additionally require a former licensee to comply with the fingerprint requirements established by board regulation or as directed by the board. The bill would make other technical and clarifying changes.

Existing law makes various changes to the licensing and associated examination requirements for marriage and family therapists, clinical social workers, and professional clinical counselors, effective January 1, 2013.

This bill would delay the implementation of these and other related changes until January 1, 2014.

(10) Existing law, the Marriage and Family Therapist Act, with respect to applicants for licensure or registration by reciprocity or for those applicants who obtained education or experience outside of California that apply on and after January 1, 2014, existing law provides that education is substantially equivalent if certain requirements are met, including the completion of a course in California law and professional ethics.

This bill would require that course to be 18 hours in length.

For persons who apply for licensure between January 1, 2010, and December 31, 2013, existing law authorizes the board to issue a license to a person who holds a valid license from another state if certain requirements are met, including the completion of specified coursework or training. Existing law provides that an applicant who completed a specified course in law and professional ethics is required to complete an 18-hour course in California law and professional ethics.

This bill would instead specify that an 18-hour course in California law and professional ethics is only required if the above specified course in law and professional ethics does not meet certain requirements. The bill would make other technical changes to those provisions.

The bill would rename the act as the Licensed Marriage and Family Therapist Act.

(11) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of the practice of professional clinical counseling by the Board of Behavioral Sciences.

Under existing law, to qualify for registration, an intern applicant is required to meet certain qualifications. With respect to applicants for registration who began graduate study before August 1, 2012, and complete study on or before December 31, 2018, an applicant is required to complete a minimum of 18 contact hours of instruction in California law and professional ethics prior to registration as an intern.

This bill would describe the content of that instruction for professional clinical counselors.

Existing law authorizes the board to refuse to issue any registration or license, or to suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct that includes, but is not limited to, the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of specified substances, or any combination thereof.

This bill would delete the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of specified substances, or any combination thereof, from the list of what constitutes professional conduct. The bill would make it unprofessional conduct to willfully violate specified provisions governing patient access to health care records.

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.

This bill would incorporate additional changes to certain provisions proposed by AB 1733, SB 1183, and SB 1527 if one or more of those bills is also enacted and this bill is chaptered last.

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

SECTION 1. Section 719 is added to the Business and Professions Code, to read:

719. (a) A person who possesses a current, valid license as a health care practitioner in any other state and is employed by a tribal health program, as defined in Section 1603 of Title 25 of the United States Code, shall be exempt from any licensing requirement described in this division with respect to acts authorized under the person's license where the tribal health program performs the services described in the contract or compact of the

tribal health program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. Sec. 450 et seq.).

(b) For purposes of this section, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under the law of any other state.

SEC. 2. Section 1640 of the Business and Professions Code is amended to read:

1640. Any person meeting all the following eligibility requirements may apply for a special permit:

(a) Furnishing satisfactory evidence of having a pending contract with a California dental college approved by the board as a full-time professor, an associate professor, or an assistant professor.

(b) Furnishing satisfactory evidence of having graduated from a dental college approved by the board, or of having completed an advanced education program accredited by either the Commission on Dental Accreditation of the American Dental Association or a national accrediting body approved by the board.

(c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty board or, in lieu thereof, establishing his or her qualifications to take a specialty board examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental college approved by the board.

(d) Furnishing satisfactory evidence of successfully completing an examination in California law and ethics developed and administered by the board.

(e) Paying a fee for applications as provided by this chapter.

SEC. 3. Section 1715.5 of the Business and Professions Code is amended to read:

1715.5. (a) A licensee shall, upon his or her initial licensure and any subsequent application for renewal, report the completion of any advanced educational program accredited by the Committee on Dental Accreditation in a dental specialty recognized by the American Dental Association.

(b) The licensee shall also report, upon his or her initial licensure and any subsequent application for renewal, the practice or employment status of the licensee, designated as one of the following:

(1) Full-time practice or employment in a dental practice of 32 hours per week or more in California. This reporting requirement shall also apply to a dental auxiliary licensee.

(2) Full-time practice or employment in a dental practice outside of California.

(3) Part-time practice or employment in a dental practice for less than 32 hours per week in California.

(4) Dental administrative employment that does not include direct patient care, as may further be defined by the board.

(5) Retired.

(6) Other practice or employment status, as may be further defined by the board.

result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

SEC. 8. Section 1958.1 is added to the Business and Professions Code, to read:

1958.1. (a) Notwithstanding any other law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, all of the following shall apply:

(1) The committee shall deny an application by the individual for licensure pursuant to this article.

(2) If the individual is licensed under this article, the committee shall promptly revoke the license of the individual. The committee shall not stay the revocation nor place the license on probation.

(3) The committee shall not reinstate or reissue the individual's licensure under this article. The committee shall not issue a stay of license denial and place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the committee from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2013. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

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) The board shall annually send an electronic notice to each applicant and licensee who has chosen to receive correspondence via electronic mail that requests confirmation from the applicant or licensee that his or her electronic mail address is current. An applicant or licensee that does not confirm his or her electronic mail address shall receive correspondence at a mailing address provided pursuant to subdivision (b).

SEC. 10. Section 2064 of the Business and Professions Code is amended to read:

2064. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, or to prevent students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

SEC. 11. Section 2184 of the Business and Professions Code is amended to read:

2184. (a) Each applicant shall obtain on the written examination a passing score, established by the board pursuant to Section 2177.

(b) (1) Passing scores on each step of the United States Medical Licensing Examination shall be valid for a period of 10 years from the month of the examination for purposes of qualification for licensure in California.

(2) The period of validity provided for in paragraph (1) may be extended by the board for any of the following:

(A) For good cause.

(B) For time spent in a postgraduate training program, including, but not limited to, residency training, clinical training, fellowship training, remedial or refresher training, or other training that is intended to maintain or improve medical skills.

(C) For an applicant who is a physician and surgeon in another state or a Canadian province who is currently and actively practicing medicine in that state or province.

(3) Upon expiration of the 10-year period plus any extension granted by the board under paragraph (2), the applicant shall pass the Special Purpose Examination of the Federation of State Medical Boards or a clinical competency written examination determined by the board to be equivalent.

SEC. 12. Section 2220 of the Business and Professions Code is amended to read:

2220. Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status

certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

SEC. 13. Section 2424 of the Business and Professions Code is amended to read:

2424. (a) The board or the California Board of Podiatric Medicine, as the case may be, shall notify in writing either by certified mail, return receipt requested, or by electronic mail if requested by the licensee, any physician and surgeon or any podiatrist who does not renew his or her license within 60 days from its date of expiration.

(b) Notwithstanding Section 163.5, any such licensee who does not renew his or her expired license within 90 days of its date of expiration shall pay all the following fees:

(1) The renewal fee in effect at the time of renewal.

(2) A penalty fee equal to 50 percent of the renewal fee.

(3) The delinquency fee required by Section 2435 or 2499.5, as the case may be.

(c) Notwithstanding any other provision of law, the renewal of any expired physician's and surgeon's or podiatrist's license within six months from its date of expiration shall be retroactive to the date of expiration of that license. The division or board, for good cause, may waive the 50 percent penalty fee and may extend retroactivity up to two years from the expiration date of any such license.

SEC. 14. 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, with

the first report due in March 2008, 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 total number of clients served with collaborative care available through, or given by, a licensed physician and surgeon.

(C) The total number of clients served under the supervision of a licensed physician and surgeon.

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

(E) 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.

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

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

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

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

(J) 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.

(K) 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.

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

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

SEC. 15. Section 2518 of the Business and Professions Code is amended to read:

2518. (a) Licenses issued pursuant to this article shall be renewable every two years upon payment of the fee prescribed by Section 2520 and submission of documentation that the licenseholder has completed 36 hours of continuing education in areas that fall within the scope of the practice of midwifery, as specified by the board.

(b) Each license not renewed shall expire, but may be reinstated within five years from the expiration upon payment of the prescribed fee and upon submission of proof of the applicant's qualifications as the board may require.

(c) A licensee is exempt from the payment of the renewal fee required by Section 2520 and the requirement for continuing education if the licensee has applied to the board for, and been issued, a retired status license. The holder of a retired status license may not engage in the practice of midwifery.

SEC. 16. Section 2570.13 of the Business and Professions Code is amended to read:

2570.13. (a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.

(b) An occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.

(c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist or occupational therapy assistant.

SEC. 17. Section 2904.5 of the Business and Professions Code is amended to read:

2012

LEGISLATION

AB 589

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 589
Author:	Perea
Chapter:	#339
Bill Date:	August 21, 2012, amended
Subject:	Medical School Scholarships
Sponsor:	California Medical Association
Position:	Support

STATUS OF BILL:

This bill is currently in the Senate Appropriations Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would create the Steven M. Thompson Medical School Scholarship Program (STMSSP) within the Health Professions Education Foundation (HPEF). The STMSSP would be funded by private moneys donated, and would only be implemented if HPEF determines that sufficient funds are available.

ANALYSIS:

The Steven M. Thompson Loan Repayment Program (STLRP) was created in 2002 via legislation which was co-sponsored by the Medical Board of California (the 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 HPEF. Since 1990, HPEF has administered statewide scholarship and loan repayment programs for a wide range of health professions students and recent graduates and is funded through grants and contributions from public and private agencies, hospitals, health plans, foundations, 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 589 would create the STMSSP within the HPEF. STMSSP participants must commit in writing to three years of full-time professional practice in direct patient care in an eligible setting. The maximum amount per total scholarship is $105,000 per recipient, to be distributed over the course of medical school.

The committee charged with selecting scholarship recipients must use guidelines that provide priority consideration to applicants who 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:

- Speak a Medi-Cal threshold language.
- Come from an economically disadvantaged background.
- Have experience working in medically underserved areas or with medically underserved populations.

The selection committee must give preference to applicants who have committed to practicing in a primary specialty and who will serve in a practice setting in a super-medically underserved area. The selection committee must also include a factor ensuring geographic distribution of placements.

The STMSSP would have originally been funded by funds transferred from the Managed Care Administrative Fines and Penalties Fund that are in excess of the first $1,000,000, including accrued interest, as the first $1,000,000 funds the STLRP (this bill would not reduce the funding to the current STLRP).

The May 27, 2011, amendments remove all references to the STMSSP being funded by the Managed Care Administrative Fines and Penalties Fund. As amended, the STMSSP would be funded by federal or private funds and the bill shall only be implemented if HPEF determines that there are sufficient funds available in order to implement STMSSP.

The July 12, 2011, amendments specify that funds supporting the STLRP shall not be used to support the STMSSP.

> This amendment was suggested by Senate Health Committee. The Senate Health Committee analysis suggested this amendment to clarify that the STLRP and the STMSSP funds are separate and the STLRP funds should not be used to fund the STMSSP.

The August 17, 2011, amendments specify that STMSSP program participants must agree in writing to the program requirements prior to completing an accredited medical or osteopathic school, and require the school to be based in the United States. The amendments also mandate that the costs of administering the STMSSP program shall not exceed ten percent of the total appropriation of the program. The amendments also make other technical and clarifying changes.

The August 21, 2012 amendments specify that the selection committee guidelines are to be developed by the Office of Statewide Health Planning and Development (OSHPD), only upon receipt of donations sufficient to cover the costs of developing the guidelines. The amendments also specify that the STMSSP account shall consist only of private moneys for deposit into the fund and any interest that accrues on those moneys. The amendments expressly prohibit general fund moneys from being used to implement the STMSSP.

These amendments specify program requirements, in order to help ensure that this bill can be easily implemented. These amendments also ensure that the administrative program costs stay within the program's budget prohibit general fund moneys from being used.

According to the author's office, this bill will address shortages of physician services that exist in over 200 regions in California identified as medically underserved areas. The purpose of this bill is to make medical school more financially accessible for students who are willing to pursue careers in primary care. According to the author's office, this bill will help to address the geographical disparity of physician supply in California, as well as the increasing cost of medical education, which is a barrier to entry for students from economically disadvantaged backgrounds. The author's office believes this bill will provide underserved communities with greater access to medical care. This bill is consistent with the mission of the Medical Board of promoting access to care.

SUPPORT: California Medical Association (Sponsor)
Association of California Healthcare Districts
California Primary Care Association
Children's Hospital Central California
City of Kernan
Community Clinic Association of Los Angeles County
Medical Board of California

OPPOSITION: None on file

FISCAL: None

IMPLEMENTATION:

- Newsletter Article

Assembly Bill No. 589

CHAPTER 339

An act to add Article 6 (commencing with Section 128560) to Chapter 5 of Part 3 of Division 107 of the Health and Safety Code, relating to health professions.

[Approved by Governor September 17, 2012. Filed with Secretary of State September 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 589, Perea. Medical school scholarships.

Existing law establishes the Medically Underserved Account for Physicians within the Health Professions Education Fund that is managed by the Health Professions Education Foundation and the Office of Statewide Health Planning and Development. Under existing law, the primary purpose of the account is to fund the Steven M. Thompson Physician Corps Loan Repayment Program, which provides for the repayment of prescribed educational loans, not to exceed $105,000 per individual, obtained by a physician and surgeon who practices in a medically underserved area of the state.

This bill would establish within the Health Professions Education Foundation the Steven M. Thompson Medical School Scholarship Program (STMSSP), managed by the foundation and the Office of Statewide Health Planning and Development to promote the education of medical doctors and doctors of osteopathy, as specified. This bill would provide up to $105,000 per recipient in scholarships to selected participants who agree in writing prior to completing an accredited medical or osteopathic school based in the United States to serve in an eligible setting.

This bill would establish the Steven M. Thompson Medical School Scholarship Account within the Health Professions Education Fund, which would consist of private moneys donated to the STMSSP. This bill would provide that no General Fund moneys shall be used to implement these provisions and that the STMSSP be implemented only to the extent that the account contains sufficient funds as determined by the foundation.

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

SECTION 1. Article 6 (commencing with Section 128560) is added to Chapter 5 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 6. Steven M. Thompson Medical School Scholarship Program

128560. (a) There is hereby established within the Health Professions Education Foundation, the Steven M. Thompson Medical School Scholarship Program.

(b) It is the intent of this article that the foundation and the office provide the ongoing program management for the program.

128565. For purposes of this article, the following definitions shall apply:

(a) "Account" means the Steven M. Thompson Medical School Scholarship Account established within the Health Professions Education Fund pursuant to this article.

(b) "Foundation" means the Health Professions Education Foundation.

(c) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000 LEP individuals eligible for Medi-Cal residing in a county, 1,000 LEP individuals eligible for Medi-Cal residing in a single ZIP Code, or 1,500 LEP individuals eligible for Medi-Cal residing in two contiguous ZIP Codes.

(d) "Medically underserved area" means an area defined as a health professional shortage area in Part 5 (commencing with Sec. 5.1) of Subchapter A of Chapter 1 of Title 42 of 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 pursuant to Section 128225.

(e) "Medically underserved population" means the persons served by the Medi-Cal program, the Healthy Families Program, and uninsured populations.

(f) "Office" means the Office of Statewide Health Planning and Development (OSHPD).

(g) "Practice setting" means either of the following:

(1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, each of which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2) A medical practice located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

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

(i) "Program" means the Steven M. Thompson Medical School Scholarship Program.

(j) "Selection committee" means the advisory committee of not more than seven members established pursuant to subdivision (b) of Section 128551.

(k) "Super-medically underserved area" means an area defined as medically underserved pursuant to subdivision (d) that also meets a heightened criteria of physician shortage as determined by the foundation.

128570. (a) Persons participating in the program shall be persons who agree in writing prior to completing an accredited medical or osteopathic school based in the United States to serve in an eligible practice setting, pursuant to subdivision (g) of Section 128565, for at least three years. The program shall be used only for the purpose of promoting the education of medical doctors and doctors of osteopathy and related administrative costs.

(b) A program participant shall commit to three years of full-time professional practice once the participant has achieved full licensure pursuant to Article 4 (commencing with Section 2080) of Chapter 5 or Section 2099.5 of the Business and Professions Code and after completing an accredited residency program. The obligated professional service shall be in direct patient care in an eligible practice setting pursuant to subdivision (g) of Section 128565.

(1) Leaves of absence either during medical school or service obligation shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence, the maximum permissible leaves of absences, and the process for reinstatement. Awarding of scholarship funds shall be deferred until the participant is back to full-time status.

(2) Full-time status shall be defined by the selection committee. The selection committee may establish exemptions from this requirement on a case-by-case basis.

(c) The maximum allowable amount per total scholarship shall be one hundred five thousand dollars ($105,000). These moneys shall be distributed over the course of a standard medical school curriculum. The distribution of funds shall increase over the course of medical school, increasing to ensure that at least 45 percent of the total scholarship award is distributed upon matriculation in the final year of school.

(d) In the event the program participant does not complete medical school and the minimum three years of professional service pursuant to the contractual agreement between the foundation and the participant, the office shall recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

128575. (a) The selection committee shall use guidelines developed by the office that meet all of the following criteria to select scholarship recipients:

(1) Provide priority consideration to applicants who 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 experience working in medically underserved areas or with medically underserved populations.

(2) Give preference to applicants who have committed to practicing in a primary specialty.

(3) Give preference to applicants who will serve in a practice setting in a super-medically underserved area.

(4) Include a factor ensuring geographic distribution of placements.

(b) The selection committee may award up to 20 percent of the available scholarships to program applicants who will practice specialties outside of a primary specialty.

(c) The foundation, in consultation with the selection committee, shall develop a process for outreach to potentially eligible applicants.

(d) The office shall develop the guidelines described in subdivision (a) only upon receipt of donations sufficient to cover the costs of developing the guidelines.

128580. (a) The Steven M. Thompson Medical School Scholarship Account is hereby established within the Health Professions Education Fund. The account shall consist of private moneys donated to the program for deposit into the fund and any interest that accrues on those moneys.

(b) Funds in the account shall be used to fund scholarships pursuant to agreements made with recipients and as follows:

(1) Scholarships shall not exceed one hundred five thousand dollars ($105,000) per recipient.

(2) Scholarships shall not exceed the amount of the educational expenses incurred by the recipient.

(c) Funds placed in the account for purposes of this article shall, upon appropriation by the Legislature, be used for the purposes of this article. Funds supporting the Steven M. Thompson Physician Corps Loan Repayment Program established pursuant to Article 5 (commencing with Section 128550) shall not be used for the purposes of this article.

(d) The account shall be used to pay for the cost of administering the program and for any other purpose authorized by this article. The cost of administering the program, including promoting the education of medical doctors and doctors of osteopathy in an accredited school who agree to service in an eligible setting and related administrative costs, shall not exceed 10 percent of the total appropriation for the program.

(e) The office and the foundation shall manage the account established by this section prudently in accordance with other provisions of law.

(f) This article shall be implemented only to the extent that the account contains sufficient funds as determined by the foundation.

128585. No General Fund moneys shall be used to implement this article.

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AB 1548

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1548
Author:	Carter
Chapter:	#140
Bill Date:	March 22, 2012, amended
Subject:	Cosmetic Surgery: Employment of Physicians
Sponsor:	American Society for Dermatologic Surgery and California Society of Dermatology and Dermatologic Surgery
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill prohibits outpatient cosmetic surgery centers from violating the prohibition of the corporate practice of medicine. This bill defines "outpatient elective cosmetic medical procedures or treatments." This bill enhances the penalties of violating the corporate practice of medicine prohibition.

ANALYSIS:

The intent of this bill is to elevate the penalties of violating the corporate practice of medicine prohibition in order to prevent further offenses and to convince consumers with business models that violate this law to reconsider and revise their business practices.

This bill enhances the penalty for corporations violating the prohibition of the corporate practice of medicine to a public offense punishable by imprisonment for up to five years and/or by a fine not exceeding $50,000. Current law states that this violation is punishable as a misdemeanor, a $1,200 fine, and imprisonment for up to 180 days.

This bill defines "outpatient elective cosmetic medical procedures or treatments" as medical procedures or treatments that are performed to alter or reshape normal structures of the body solely in order to improve appearance.

The March 21st amendments specify that nothing in this bill shall be construed to alter or apply to arrangements currently authorized by law, including but not limited to, any entity operating a medical facility authorized to provide medical services under Section 1206 of the Health and Safety Code; these amendments do not impact the Board's analysis or the Board's Support position.

The purpose of this bill is to elevate the penalties of violating the corporate practice of medicine prohibition in order to prevent further offenses, which will help to ensure consumer protection. The Board has previously supported similar legislation, such as AB 2566 (Carter) in 2010 that contained language that mirrors the language in this bill, and AB 252 (Carter) in 2009 that authorized the revocation of a physician's license for knowingly practicing with an organization that is in violation of the corporate practice of medicine. Both bills were vetoed for being "duplicative of existing law." In 2008 AB 2398 (Nakanishi) contained very similar provisions to AB 252 and was held in the Senate.

FISCAL: None to the Board

SUPPORT: American Society for Dermatologic Surgery (Co-Sponsor)
CA Society of Dermatology and Dermatologic Surgery (Co-Sponsor)
American Academy of Dermatology Association
American Academy of Facial Plastic and Reconstructive Surgery
American Academy of Otolaryngology Head and Neck Surgery
American Medical Association
American Society of Ophthalmic Plastic & Reconstructive Surgery
California Medical Association
Medical Board of California
Physicians Coalition for Injectable Safety

OPPOSITION: None on File

IMPLEMENTATION:

- Newsletter Article
- Notify the Board's Enforcement and Attorney General's Office staff
- Update Web site as necessary

Assembly Bill No. 1548

CHAPTER 140

An act to add Section 2417.5 to the Business and Professions Code, relating to the practice of medicine.

[Approved by Governor July 17, 2012. Filed with Secretary of State July 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, Carter. Practice of medicine: cosmetic surgery: employment of physicians and surgeons.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make, or cause to be made, any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill, with respect to a business organization that provides outpatient elective cosmetic medical procedures or treatments, that is owned and operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists, and that contracts with or employs these licensees to facilitate the offer or provision of procedures or treatments that may only be provided by these licensees, would make that business organization guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. The bill would prohibit construing its provisions to alter or apply to any arrangements currently authorized by law. Because the bill would expand a public offense, it would impose a state-mandated local program.

This bill would state that its provisions are declaratory of existing law.

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 the Medical Practice Act prohibits corporations and other artificial legal entities from exercising professional rights, privileges, or powers, as described in Article 18 (commencing with Section 2400) of Chapter 5 of Division 2 of the Business and Professions Code, and that the prohibited conduct described in Section 2417.5 of the Business and Professions Code, as added by this act, is declaratory of existing law.

SEC. 2. Section 2417.5 is added to the Business and Professions Code, to read:

2417.5. (a) A business organization that offers to provide, or provides, outpatient elective cosmetic medical procedures or treatments, that is owned or operated in violation of Section 2400, and that contracts with, or otherwise employs, a physician and surgeon to facilitate its offers to provide, or the provision of, outpatient elective cosmetic medical procedures or treatments that may be provided only by the holder of a valid physician's and surgeon's certificate is guilty of violating paragraph (6) of subdivision (a) of Section 550 of the Penal Code.

(b) For purposes of this section, "outpatient elective cosmetic medical procedures or treatments" means medical procedures or treatments that are performed to alter or reshape normal structures of the body solely in order to improve appearance.

(c) Nothing in this section shall be construed to alter or apply to arrangements currently authorized by law, including, but not limited to, any entity operating a medical facility or other business authorized to provide medical services under Section 1206 of the Health and Safety Code.

SEC. 3. 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 1621

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1621
Author:	Halderman
Chapter:	#76
Bill Date:	February 8, 2012, introduced
Subject:	Physicians and Surgeons: Prostate Cancer
Sponsor:	Author
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill exempts physicians working on trauma cases from current law that requires physicians to provide specified information on prostate diagnostic procedures to patients who undergo an examination of the prostate gland.

ANALYSIS:

Existing law (Business and Professions Code Section 2248), the Grant H. Kenyon Prostate Cancer Detection Act, requires physicians that examine a patient's prostate gland during a physical examination to provide information to the patient about the availability of appropriate diagnostic procedures if any of the following conditions are present: the patient is over 50 years of age; the patient manifests clinical symptomatology; the patient is at an increased risk of prostate cancer; or the provision of the information is medically necessary, in the opinion of the physician. Physicians often meet this requirement by providing patients with the 59-page booklet published by the National Cancer Institute and available on the Medical Board's Web site. Existing law specifies that a violation of this provision constitutes unprofessional conduct.

Existing law also defines "trauma case" as any injured person who has been evaluated by prehospital personnel according to policies and procedures established by the local EMS agency and who has been found to require transportation to a trauma facility.

The author's office believes that providing the required prostate diagnostic procedure information is not appropriate in all settings. Physicians in trauma settings may need to perform prostate exams on patients who are unconscious or in critical condition to evaluate pelvic fracture and internal bleeding after major trauma. This bill adds an exemption to existing law to allow for trauma situations.

Emergency room doctors also contend that current law can be impractical in trauma situations, especially since the patients are often unconscious and can be transferred to another unit or facility before regaining consciousness. In addition, providing trauma patients with information on prostate cancer could be misleading and lead the patient to think he is at risk for prostate cancer, when the examination was performed for a different reason.

The Board took a support position on this bill because the exemption to existing law proposed by this bill for trauma cases is a reasonable exemption. Especially due to the fact that the patients are unconscious in many cases and a "trauma case" that would be eligible for this exemption is already defined in existing law.

FISCAL: None

SUPPORT: Northern CA Chapter of the American College of Surgeons (Sponsor)
California Chapter of the American College of Emergency Physicians
California Hospital Association
Medical Board of California

OPPOSITION: None on File

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Update Web site

Assembly Bill No. 1621

CHAPTER 76

An act to amend Section 2248 of the Business and Professions Code, relating to medicine.

[Approved by Governor July 10, 2012. Filed with Secretary of State July 10, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1621, Halderman. Physicians and surgeons: prostate cancer.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires a physician and surgeon examining a patient's prostate gland during a physical examination to provide the patient with specified information if certain conditions are present.

This bill would exempt from this requirement a physician and surgeon working on a trauma case, defined as any injured person who has been evaluated by prehospital personnel according to policies and procedures established by the local EMS agency and who has been found to require transportation to a trauma facility.

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

SECTION 1. Section 2248 of the Business and Professions Code is amended to read:

2248. This section shall be known as, and may be cited as, the Grant H. Kenyon Prostate Cancer Detection Act.

(a) If a physician and surgeon, during a physical examination, examines a patient's prostate gland, the physician and surgeon shall provide information to the patient about the availability of appropriate diagnostic procedures, including, but not limited to, the prostate antigen (PSA) test, if any of the following conditions are present:

(1) The patient is over 50 years of age.

(2) The patient manifests clinical symptomatology.

(3) The patient is at an increased risk of prostate cancer.

(4) The provision of the information to the patient is medically necessary, in the opinion of the physician and surgeon.

(b) Violation of subdivision (a) constitutes unprofessional conduct and is not subject to Section 2314.

(c) This section shall not apply to a physician and surgeon working on a trauma case as defined in Section 1798.160 of the Health and Safety Code.

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AB 1896

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1896
Author:	Chesbro
Chapter:	#119
Bill Date:	March 27, 2012, amended
Subject:	Tribal Health Programs: Health Care Practitioners
Sponsor:	California Rural Indian Health Board (CRIHB)
Position:	None

DESCRIPTION OF CURRENT LEGISLATION:

AB 1896 aligns state law with the federal Patient Protection and Affordable Care Act (PPACA) and would exempt all health care practitioners employed by a tribal health program from California licensure, if they are licensed in another state.

BACKGROUND (Provided by CRIHB):

Federal Law

In the early 1970s, Congress passed the Indian Self Determination and Education Assistance Act that allowed Indian tribes and tribal organizations to acquire increased control over the management of federal programs that impact their resources and governments. These agreements are referred to as "638 compacts and contracts." Contracts and compacts are very similar. Self-Determination contracts are authorized under the 1975 Indian Self Determination and Education Assistance Act. Self-Governance compacts are made possible by 1994 amendments to the 1975 Indian Self Determination and Education Assistance Act.

Federal law, Public Law 111-148, enacted in 2010, provides the following: "Licensed health professionals employed by a tribal health program shall be exempt, if licensed in any state, from the licensing requirements of the state in which the tribal health program performs the services described in the contract or compact of the tribal health program under the Indian Self-Determination and Education Assistance Act (ISDEAA) (25 U.S.C. 450 et seq.)"

The Federal Government and Tribes have a unique legal relationship

The "trust relationship" between the U.S. and Tribes has long been recognized in the Constitution, statutes, regulations, case law, Presidential executive orders and agency policies, and the general course of dealings between Tribes and the Federal government. In its role, the U.S. provides a variety of services, including health care, to American Indians (AIs).

An Indian Tribe is a self-governing entity and is acknowledged as such by the U.S. In the case Cherokee Nation v. Georgia, Justice Marshall described tribes as "domestic dependent nations." This and other judicial descriptions recognize 1) the nationhood of Tribes and 2) the Federal government's trust role.

Delivery of Indian Health Care

The Indian Health Care Improvement Act (IHCIA), along with the Snyder Act of 1921, forms the statutory basis for the delivery of federally-funded health care and the direct delivery of care to AIs. Since its passage in 1976, the IHCIA has provided the programmatic and legal framework for carrying out the federal government's trust responsibility for Indian Health.

To accomplish this goal, the Federal Government created Indian Health Service (IHS), an agency within the Department of Health and Human Services (HHS), whose sole mission is to deliver health care to AIs. The IHS provides comprehensive health care services—using a public health model—to 1.9 million AIs residing in tribal communities located in 35 States.

Indian Health Service

Throughout the U.S., the IHS directly operates 31 hospitals, 52 health centers, 2 school health centers, and 31 health stations. In addition, Tribes and Tribal organizations, through contracts and compacts under the Indian Self-Determination and Education Assistance Act, operate almost 50% of the IHS system and provide health care in 15 hospitals, 256 health centers, 9 school health centers, and 282 health stations (including 166 Alaska Native village clinics). The IHS or Tribes/Tribal organizations also operate 11 regional youth substance abuse treatment centers and 2,241 units of staff quarters.

Authority of Tribal Health Programs to Hire Providers

Historically, Tribal Health Programs have experienced shortages in doctors, nurses and other providers. The Indian Health Service reports the vacancy rates range from 10% to 25% depending on the type of provider and this is primarily due to the remoteness of the Tribal Health clinics. California's 31 Tribal Health Programs operate 57 ambulatory clinics and have difficulty hiring and retaining providers to work in the facilities. These necessary safety net clinics serve over 130,000 American Indian patients and non-Indian Medi-Cal patients on an annual basis.

States and the New Federal Tribal Health Program Provider Provision

Maine, Arizona, Nebraska and are some of the first states to deal with the new Federal provision.

Maine
On July 15, 2010, Anthony Marple, MaineCare Services Director issued a letter regarding the

provision. In the letter Director Marple states, "We have recently had inquiries about Maine physician licensing requirements from Indian Health Service Providers who come to practice in Maine... This letter is to confirm that IHS providers do not have to be licensed in the State of Maine so long as they are licensed in some other state or territory (including Puerto Rico)."

Arizona
Arizona is complying with the provision. Arizona's Department of Health Services and Health Care Cost Containment System have complied with the law through procedural rules.

Nebraska
Nebraska initially chose not to comply with the provision. In response, the Ponca Tribe filed a lawsuit against Nebraska officials that alleged they were ignoring the provision. In August of 2011, the tribe withdrew the lawsuit after state health officials and the Attorney General's Office reported they had reviewed the matter and decided the tribe's doctor, Rosa M. Huguet and the Fred LeRoy Health and Wellness Center in Omaha fell under federal jurisdiction.

ANALYSIS:

This bill aligns California law with the federal law and would provide that an individual, who is licensed as a health care practitioner in any other state and is employed by a tribal health program, is exempt from any licensing requirement in California law governing the healing arts, including physician licensing requirements. This bill defines health care practitioner as any person who engages in acts that are the subject of licensure or regulation under the law of any other state. Federal law defines "tribal health program" as an Indian tribe or tribal organization that operates any health program, service, function, activity, or facility funded in whole or part, by the Indian Health Services (IHS) through, or in contract or compact with the IHS under the ISDEAA.

According to the sponsors, tribal clinics can see patients that are not associated with a tribe, and1/3 of the patients seen in tribal health clinics are non-Indian Medi-Cal patients. Currently, in order to receive Medi-Cal payments, the provider must be licensed in California. The purpose of AB 1896 is to align California law with the federal PPACA and to allow the tribal health programs to receive Medi-Cal payments for services provided by practitioners, even if they are not licensed in California, as allowed by federal law.

Board staff has met with CRIHB several times and has discussed the importance of protecting consumers and ensuring that all patients, including patients not associated with an Indian Tribe, have complaint resolution options available. According to the sponsors, the following are options available for all patients receiving services in tribal health programs:

- IHS, which among other avenues, offers a web-based patient safety adverse event reporting system called WebCident.

- Tribal Health Program Governing Boards have compliance services, established

by the Boards of Directors of Tribal Health Programs. Compliance services include an anonymous hotline for complaints operated by the United Indian Health Service, an option to file a complaint, which may be investigated and if applicable, disciplinary or corrective action can be taken.

- The Federal Tort Claims Act, which allows parties claiming to have been injured by negligent actions of employees of the U.S. to file claims against the federal government. This encompasses negligent acts of Tribal contractors carrying out contracts, grants, or cooperative agreements.

- Licensing Boards in other states that issued the practitioner license.

FISCAL: None

SUPPORT: CRIHB (Sponsor)

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Board Staff
- Update Web site as necessary

Assembly Bill No. 1896

CHAPTER 119

An act to amend the heading of Article 10 (commencing with Section 710) of Chapter 1 of Division 2 of, and to add Section 719 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor July 13, 2012. Filed with Secretary of State July 13, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, Chesbro. Tribal health programs: health care practitioners.

Under existing federal law, licensed health professionals employed by a tribal health program are required to be exempt, if licensed in any state, from the licensing requirements of the state in which the tribal health program performs specified services. A tribal health program is defined as an Indian tribe or tribal organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Indian Health Service.

Existing law provides for the licensure and regulation of health care practitioners by various healing arts boards within the Department of Consumer Affairs.

This bill would codify that federal requirement by specifying that a person who is licensed as a health care practitioner in any other state and is employed by a tribal health program is exempt from this state's licensing requirements with respect to acts authorized under the person's license where the tribal health program performs specified services.

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

SECTION 1. The heading of Article 10 (commencing with Section 710) of Chapter 1 of Division 2 of the Business and Professions Code is amended to read:

Article 10. Federal Personnel and Tribal Health Programs

SEC. 2. Section 719 is added to the Business and Professions Code, to read:

719. (a) A person who is licensed as a health care practitioner in any other state and is employed by a tribal health program, as defined in Section 1603 of Title 25 of the United States Code, shall be exempt from any licensing requirement described in this division with respect to acts authorized under the person's license where the tribal health program

performs the services described in the contract or compact of the tribal health program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. Sec. 450 et seq.).

(b) For purposes of this section, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under the law of any other state.

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AB 2561

BILL NUMBER: AB 2561
VETOEDDATE: 09/23/2012

To the Members of the California State Assembly:

I am returning Assembly Bill 2561 without my signature.

I respect the time and effort that surgical technologists have put into developing their skills and obtaining voluntary certification. Such actions speak well of their professional commitment and desire to advance their careers.

I don't agree, however, that we need to establish "title protection" for certified surgical technologists in law. For those who have taken the time to become certified, let the marketplace reward their higher skills and education. Recognition by the state is not needed.

Sincerely,

Edmund G. Brown Jr.

Assembly Bill No. 2561

Passed the Assembly August 27, 2012

Chief Clerk of the Assembly

Passed the Senate August 22, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 25 (commencing with Section 2525.20) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, Roger Hernández. Certified surgical technologists.

Existing law provides for the licensure and regulation of healing arts licensees by boards within the Department of Consumer Affairs, including the licensure and regulation of physicians and surgeons by the Medical Board of California.

This bill would make it unlawful for a person to use the title "certified surgical technologist" unless the person meets certain educational requirements and holds a certification by a specified entity.

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

SECTION 1. The Legislature finds and declares the following:

(a) Surgical technologists are coresponsible for the environmental disinfection, safety, and efficiency of the operating room, and their knowledge and experience with aseptic surgical technique qualifies them for a role of importance in the surgical suite.

(b) The surgical technology profession has grown to meet the continuing demand for well-educated, highly skilled, and versatile individuals to work with physicians and surgeons and other skilled professionals to deliver the highest possible level of patient care.

(c) As surgical site infections have been found to be the second most common hospital-acquired infections in the United States, a key purpose of this article is to encourage the education, training, and utilization of surgical technologists in California, given their role in surgical settings in order to take specific steps to prevent surgical site infections.

SEC. 2. Article 25 (commencing with Section 2525.20) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Certified Surgical Technologists

2525.20. This article shall be known and cited as the Certified Surgical Technologist Act.

2525.22. As used in this article, the following definitions shall apply:

(a) "Certified surgical technologist" means a person who practices surgical technology, and who has successfully completed a nationally accredited educational program for surgical technologists and holds and maintains certification as a surgical technologist by any of the entities described in Section 2525.24.

(b) "Surgical technology" means intraoperative surgical patient care as follows:

(1) At the direction of, or subject to supervision by, a physician and surgeon, or registered nurse, preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely.

(2) At the direction of, or subject to supervision by, a physician and surgeon, or registered nurse, preparing the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique.

(3) Anticipating the needs of the surgical team based on knowledge of human anatomy and pathophysiology and how they relate to the surgical patient and the patient's surgical procedure.

(4) As directed in an operating room setting, performing the following tasks at the sterile field:

(A) Passing supplies, equipment, or instruments.

(B) Sponging or suctioning an operative site.

(C) Preparing and cutting suture material.

(D) Transferring and pouring irrigation fluids.

(E) Transferring but not administering drugs within the sterile field.

(F) Handling specimens.

(G) Holding retractors and other instruments.

(H) Applying electrocautery to clamps on bleeders.

(I) Connecting drains to suction apparatus.

(J) Applying dressings to closed wounds.

(K) Assisting in counting sponges, needles, supplies, and instruments with the registered nurse circulator.

(L) Cleaning and preparing instruments for sterilization on completion of the surgery.

(M) Assisting the surgical team with cleaning of the operating room on completion of the surgery.

2525.24. (a) It shall be unlawful for a person to use the title "certified surgical technologist" in this state unless the person satisfies the following requirements:

(1) The person has successfully completed a nationally accredited educational program for surgical technologists or a training program for surgical technology provided by the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Public Health Service.

(2) The person holds and maintains certification as a surgical technologist by the National Board of Surgical Technology and Surgical Assisting or its successor, or another nationally accredited surgical technologist credentialing organization.

(b) A violation of this section shall not be subject to Section 2314.

2525.30. This article does not repeal, modify, or amend any existing law relating to the supervision of surgical technologists, nor shall it be construed to do so.

2525.31. This article does not prohibit or limit any health care practitioner from performing a task or function within his or her scope of practice, nor shall it be construed as such. For purposes of this section, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

2525.32. This article does not apply to any of the following:

(a) A registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) or a vocational nurse licensed pursuant to Chapter 6.5 (commencing with Section 2840).

(b) An individual employed by a health care facility whose primary functions include the cleaning or sterilization of supplies, instruments, equipment, or operating rooms.

Approved _____, 2012

_____

Governor

AB 2570

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 2570
Author:	Hill
Chapter:	#561
Bill Date:	August 6, 2012, amended
Subject:	Licensees: Settlement Agreements
Sponsor:	Author
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill prohibits individuals that are licensed by a board, bureau, or program under or within the Department of Consumer Affairs (DCA) from including a "gag clause" provision in a civil settlement agreement, or one that prohibits the other party in the dispute from contacting, filing a complaint with, or cooperating with, the appropriate licensing board, or requiring the other party to withdraw a previously filed complaint. A violation of this provision would subject the licensee to disciplinary action. Physicians and surgeons are exempted from this bill, as existing law in the Medical Practice Act already prohibits a physician from including a "gag clause" in a civil settlement.

ANALYSIS:

Current law in the Medical Practice Act (Section 2220.7) already prohibits a physician from including a "gag clause" in a civil settlement and subjects physicians to disciplinary action if they violate this provision of law. This bill expands this prohibition to all boards, bureaus, and programs within the Department of Consumer Affairs. The language in this bill is similar to the language included in AB 446 (Negrete McLeod, 2005), which the Medical Board of California (Board) supported and AB 2260 (Negrete McLeod, Chapter 645, Statutes of 2006), which the Board sponsored, that among other things, prohibited a physician from including a "gag clause" provision in a civil settlement agreement.

The August 6th amendments allow, upon granting a petition filed by a licensee or authorized agent of a licensee, a board, bureau, or program within DCA to adopt a regulation that does the following: identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities, such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited by this bill will not impair the board's, bureau's, or program's duty to protect the public; and exempts agreements to settle such a cause of action from the requirements of this bill. These amendments also specifically exempt physicians and surgeons from the requirements in this bill.

The Board had taken a support position on this bill because it helps to ensure that consumers in California will not be coerced to waive their right to file a complaint as a condition of receiving civil settlement, which will help other boards, bureaus, and programs under and within DCA to ensure that the appropriate administrative actions are taken and consumers are protected, regardless of the status of the civil settlement. However, language was amended into this bill since the Board took a support position, and the language may have affected the reason for the Board's support position.

FISCAL: None

SUPPORT: Board of Behavioral Sciences
California Public Interest Research Group
Center for Public Interest Law
Consumer Federation of California
Consumers for Auto Reliability and Safety
Medical Board of California
Physical Therapy Board of California

OPPOSITION: American Council of Engineering Companies
Board of Pharmacy
California Board of Accountancy

IMPLEMENTATION:

- Newsletter Article

Assembly Bill No. 2570

CHAPTER 561

An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 25, 2012. Filed with Secretary of State September 25, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2570, Hill. Licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct are not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency. Existing law prohibits a physician and surgeon from including specified provisions in an agreement to settle a civil dispute arising from his or her practice. Except as specified, existing law authorizes any interested person to petition a state agency requesting the adoption of a regulation.

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity or person acting as an authorized agent of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program, except as specified. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program. The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil action to pay additional moneys to the benefit of any plaintiff in the civil action.

This bill would authorize a board, bureau, or program within the Department of Consumer Affairs to adopt a regulation exempting agreements to settle certain causes of action from these provisions.

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

SECTION 1. Section 143.5 is added to the Business and Professions Code, to read:

143.5. (a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, "board" shall have the same meaning as defined in Section 22, and "licensee" means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board's, bureau's, or program's duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

SEC. 2. (a) Nothing in Section 143.5 of the Business and Professions Code shall be construed as limiting the discretion of a board, bureau, or program to decline to grant a petition or adopt a regulation.

(b) Nothing in Section 143.5 of the Business and Professions Code shall be construed as prohibiting a licensee from including in an agreement to settle a civil dispute any provision that is otherwise not prohibited.

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SB 122

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

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

DESCRIPTION OF CURRENT LEGISLATION:

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

ANALYSIS:

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

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

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

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

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

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

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

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

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

OPPOSITION: None on file

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

IMPLEMENTATION:

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

Senate Bill No. 122

CHAPTER 789

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

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

LEGISLATIVE COUNSEL'S DIGEST

SB 122, Price. Healing Arts.

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

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

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

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

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

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

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

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

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

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

Appropriation: yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The board shall perform or cause to be performed an analysis of the practice of the registered nurse no less than every five years. Results of the analysis shall be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examination, and assessment of the current practice of nursing.

SEC. 4. Section 2786.2 is added to the Business and Professions Code, to read:

2786.2. A private postsecondary school of nursing approved by the board pursuant to subdivision (b) of Section 2786 shall comply with Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code. The board shall have a memorandum of understanding with the Bureau for Private Postsecondary Education to delineate the powers of the board to review and approve schools of nursing and the powers of the bureau to protect the interest of students attending institutions governed by the California Private Postsecondary Education Act of 2009, Chapter 8 (commencing with Section 94800) of Division 10 of Title 3 of the Education Code.

SEC. 5. Section 2786.5 is added to the Business and Professions Code, to read:

2786.5. (a) An institution of higher education or a private postsecondary school of nursing approved by the board pursuant to subdivision (b) of Section 2786 shall remit to the board for deposit in the Board of Registered Nursing Fund the following fees, in accordance with the following schedule:

(1) The fee for approval of a school of nursing shall be five thousand dollars ($5,000).

(2) The fee for continuing approval of a nursing program established after January 1, 2013, shall be three thousand five hundred dollars ($3,500).

(3) The processing fee for authorization of a substantive change to an approval of a school of nursing shall be five hundred dollars ($500).

(b) If the board determines that the annual cost of providing oversight and review of a school of nursing, as required by this article, is less than the amount of any fees required to be paid by that institution pursuant to this article, the board may decrease the fees applicable to that institution to an amount that is proportional to the board's costs associated with that institution.

SEC. 6. Section 2798 of the Business and Professions Code is amended to read:

2798. (a) It is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

(b) If the board has a reasonable belief, either by complaint or otherwise, that a school is allowing students to apply for its nursing program and that nursing program does not have the approval of the board, the board shall immediately order the school to cease and desist from offering students the ability to enroll in its nursing program. The board shall also notify the Bureau for Private Postsecondary Education and the Attorney General's office that the school is offering students the ability to enroll in a nursing program that does not have the approval of the board.

(c) It shall be unprofessional conduct for any registered nurse to violate or attempt to violate, either directly or indirectly, or to assist or abet the violation of, this section.

(d) This section is not applicable to schools conducted under Section 2789 of this chapter.

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SB 1095

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1095
Author:	Rubio
Chapter:	#454
Bill Date:	August 6, 2012, amended
Subject:	California Outpatient Pharmacy Safety and Improvement Act
Sponsor:	California Ambulatory Surgery Association (CASA)
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill would expand the type of clinics that may be issued a limited license by the Board of Pharmacy to include specified outpatient settings and Medicare certified ambulatory surgical centers. The license issued by the Board of Pharmacy allows these clinics to purchase drugs at wholesale for administration or dispensing to clinic patients for pain and nausea under the direction of a physician.

ANALYSIS:

Currently, one of the requirements for a clinic to be issued a license by the Board of Pharmacy (BOP) is state licensure as a surgical clinic by the California Department of Public Health (CDPH). However, a ruling issued several years ago (*Capen v. Shewry: 155 Cal.App.4th 378*) prohibited CDPH from issuing licenses to any outpatient setting or surgical center with any percentage of physician ownership. This ruling required outpatient settings owned by physicians to instead be accredited; and therefore were not eligible to obtain a license from the BOP to purchase drugs at wholesale for administration or dispensing to clinic patients. According to the author, this is problematic because 90% of outpatient settings have some percentage of physician ownership. Currently, physicians working in accredited outpatient settings are each individually required to acquire and maintain on-hand a myriad of medications to dispense at the point of care, instead of the outpatient setting being able to purchase medication at wholesale and safely store the medication in a centralized location in the outpatient setting.

The June 25th amendments change the wording in existing law and combine subdivision (b) and (d) into a newly amended subdivision (b). The amendments also take out the notwithstanding language in subdivision (b). These amendments were taken at the request of the BOP and are technical in nature.

The August 6th amendments require accrediting agencies to send a list of deficiencies and the corrective actions taken for accredited outpatient settings to the BOP, if that outpatient setting holds a limited license issued by the BOP. In addition to notifying the Medical Board of California, this bill requires accreditation agencies to notify the BOP if an outpatient setting has been issued a reprimand, or if their certification has been revoked, suspended, or placed on probation, if that outpatient setting holds a limited license issued by the BOP.

These amendments enhance communication from accrediting agencies to the BOP, regarding the outpatient settings that are issued a limited license by the BOP.

The Board is supportive of this bill because it will resolve an unintended consequence created by the 2007 court decision that prohibited CDPH from licensing surgical centers with any percentage of physician ownership. This bill would allow accredited and certified outpatient settings to obtain a license from the Pharmacy Board, which will permit accredited outpatient settings to purchase medication at wholesale and safely store the medication in a centralized location in the outpatient setting. **The recent amendments do not change the Board's support position or the reasons for that position.**

FISCAL: None

SUPPORT: CASA (Sponsor)
33 Individual Surgery Centers/Outpatient Settings

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter Article
- Notify/Train Staff
- Update the Board's Web site and add a link to the BOP's Web site

Senate Bill No. 1095

CHAPTER 454

An act to amend Sections 4190 and 4195 of, and to amend the heading of Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of, the Business and Professions Code, and to amend Section 1248.35 of the Health and Safety Code, relating to pharmacy.

[Approved by Governor September 22, 2012. Filed with Secretary of State September 22, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1095, Rubio. Pharmacy: clinics.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy and makes a knowing violation of its provisions a crime. Existing law authorizes a surgical clinic, as defined, that is licensed by the board to purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the surgical clinic. Existing law prohibits a surgical clinic from operating without a license issued by the board. Existing law requires these surgical clinics to comply with various regulatory requirements and to maintain specified records. Existing law authorizes the board to inspect a surgical clinic at any time in order to determine whether a surgical clinic is operating in compliance with certain requirements.

This bill would expand these provisions to additionally authorize an outpatient setting or an ambulatory surgical center, as specified, to purchase drugs at wholesale for administration or dispensing, subject to the requirements applicable to surgical clinics. The bill would delete the requirement that a surgical clinic be licensed by the board in order to operate. The bill would specify that the board is authorized to inspect only an outpatient setting, an ambulatory surgical care center, or a surgical clinic that is licensed by the board.

Existing law requires every outpatient setting which is accredited to be inspected by the accreditation agency, as defined, and authorizes an outpatient setting to be inspected by the Medical Board of California. Existing law requires the accreditation agency to provide the outpatient setting with notice of any deficiencies and requires the outpatient setting to agree with the accreditation agency on a plan of correction. Existing law requires the accrediting agency to send a list of deficiencies and the corrective action to the Medical Board of California. Existing law requires the accreditation agency to report to the Medical Board of California if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the

outpatient setting has been placed on probation. Existing law makes a willful violation of those provisions governing outpatient settings a crime.

This bill would additionally require the accrediting agency to send a list of deficiencies and the corrective action to the California State Board of Pharmacy if an outpatient setting is licensed to purchase drugs at wholesale for administration or dispensing, as described above. The bill would also require the accreditation agency to report to the California State Board of Pharmacy if an outpatient setting has been issued such a license and the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation.

Because a knowing violation of these requirements by outpatient settings and ambulatory surgical centers, and a willful violation of these requirements by accreditation agencies, would be a crime, the bill would impose a state-mandated local program.

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

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

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

SECTION 1. This act shall be known and may be cited as the California Outpatient Pharmacy Patient Safety and Improvement Act.

SEC. 2. The heading of Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code is amended to read:

Article 14. Clinics

SEC. 3. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) For the purposes of this article, "clinic" means a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

(b) A clinic licensed by the board may purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the clinic, as provided in subdivision (c). A separate license shall be required for each clinic location. A clinic licensed by the board shall notify the board of any change in the clinic's address on a form furnished by the board. The clinic shall keep records of the kind and

amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(c) The drug distribution service of a clinic shall be limited to the use of drugs for administration to the patients of the clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.

(d) No clinic shall be entitled to the benefits of this section until it has obtained a license from the board.

(e) If a clinic is licensed by the board, any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.

(f) Nothing in this section shall limit the ability of a physician and surgeon to prescribe, dispense, administer, or furnish drugs at a clinic as provided in Sections 2241.5, 2242, and 4170.

SEC. 4. Section 4195 of the Business and Professions Code is amended to read:

4195. The board shall have the authority to inspect a clinic that is licensed pursuant to this article at any time in order to determine whether the clinic is, or is not, operating in compliance with this article and all other provisions of the law.

SEC. 5. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) Every outpatient setting which is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided.

(3) The Medical Board of California or the accreditation agency may enter and inspect any outpatient setting that is accredited by an accreditation agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(c) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Require correction of any identified deficiencies within a set timeframe. Failure to comply shall result in the accrediting agency issuing a reprimand or suspending or revoking the outpatient setting's accreditation.

(2) Issue a reprimand.

(3) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the board or the accreditation agency, to correct the deficiencies.

(4) Suspend or revoke the outpatient setting's certification of accreditation.

(d) (1) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient setting. During the allotted time to correct the deficiencies, the plan of correction, which includes the deficiencies, shall be conspicuously posted by the outpatient setting in a location accessible to public view. Within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to the board and to the California State Board of Pharmacy if an outpatient setting is licensed pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code. The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(2) If an outpatient setting does not comply with a corrective action within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation or suspend or revoke the accreditation of the outpatient setting, and shall notify the board of its action. This section shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

(e) The accreditation agency shall, within 24 hours, report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation. If an outpatient setting has been issued a license by the California State Board of Pharmacy pursuant

to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code, the accreditation agency shall also send this report to the California State Board of Pharmacy within 24 hours.

(f) The accreditation agency, upon receipt of a complaint from the board that an outpatient setting poses an immediate risk to public safety, shall inspect the outpatient setting and report its findings of inspection to the board within five business days. If an accreditation agency receives any other complaint from the board, it shall investigate the outpatient setting and report its findings of investigation to the board within 30 days.

(g) Reports on the results of any inspection shall be kept on file with the board and the accreditation agency along with the plan of correction and the comments of the outpatient setting. The inspection report may include a recommendation for reinspection. All final inspection reports, which include the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed, shall be public records open to public inspection.

(h) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. An outpatient setting that is denied accreditation is permitted to reapply for accreditation with the same accrediting agency. The outpatient setting also may apply for accreditation from another accrediting agency, but only if it discloses the full accreditation report of the accrediting agency that denied accreditation. Any outpatient setting that has been denied accreditation shall disclose the accreditation report to any other accrediting agency to which it submits an application. The new accrediting agency shall ensure that all deficiencies have been corrected and conduct a new onsite inspection consistent with the standards specified in this chapter.

(i) If an outpatient setting's certification of accreditation has been suspended or revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following:

(1) Notify the board of the action.

(2) Send a notification letter to the outpatient setting of the action. The notification letter shall state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation.

(3) Require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

(j) The board may take any appropriate action it deems necessary pursuant to Section 1248.7 if an outpatient setting's certification of accreditation has been suspended or revoked, or if accreditation has been denied.

SEC. 6. 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 1236

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1236
Author:	Price
Chapter:	#332
Bill Date:	August 24, 2012, amended
Subject:	Healing Arts Boards
Sponsor:	Author

DESCRIPTION OF CURRENT LEGISLATION:

This bill is the vehicle by which omnibus legislation has been carried in relation to sunset dates. This analysis will only include the relevant sections of the bill in the Business and Professions Code (BPC) that impact the Medical Board of California (Board). This bill renames the Physician Assistant Committee (PAC), the Physician Assistant Board (PAB), and makes it its own Board, not a committee of the Medical Board of California (Board). This bill was amended to include the sunset date extension of the vertical enforcement and prosecution model, from January 1, 2013 to January 1, 2014.

ANALYSIS:

In addition to making the PAC its own board, this bill would extend the sunset date of the PAB to January 1, 2017. This bill would also create a retired license status for Physician Assistants. Lastly, this bill would revise the makeup of the members of the PAB. Upon expiration of the current Medical Board Member, this bill would require a member to be appointed to the PAB that is also a member of the Board, but that member shall serve as an ex officio, nonvoting member whose functions will include reporting to the Board on the actions or discussion of the PAB.

The August 24th amendments put some of the language originally included in SB 1237 (Price), into this bill. This bill now includes the sunset date extension of the vertical enforcement and prosecution (VEP) model, from January 1, 2013 to January 1, 2014.

This date coincides with the date the Board's sunset date, and vertical enforcement will be an issue that will be identified in the Board's sunset report.

The Board is supportive of this bill because it would maintain close ties between the PAB and the Board, by continuing the requirement to have a Medical Board Member sit on the PAB and provide reports to the Board. This bill also continues the cooperative working relationship that the PAC and the Board currently maintain.

FISCAL: None to MBC

SUPPORT: Board of Podiatric Medicine
PAC
Medical Board of California

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter article
- Notify/Train Staff
- Continue to work with PAC and maintain the cooperative working relationship
- Notify the Attorney General's Office of the VEP sunset date extension
- Address VEP in the Board's Sunset Report

Senate Bill No. 1236

CHAPTER 332

An act to amend Sections 800, 801.01, 802.1, 802.5, 803, 803.1, 803.5, 803.6, 805, 2006, 2335, 2450.3, 2460, 2465, 2470, 2472, 2475, 2484, 2493, 2496, 2497.5, 2602, 2607.5, 2920, 2933, 3501, 3502, 3502.1, 3502.3, 3502.5, 3504, 3504.1, 3505, 3506, 3507, 3508, 3509, 3509.5, 3510, 3511, 3512, 3513, 3514.1, 3516, 3516.5, 3517, 3518, 3519, 3519.5, 3520, 3521, 3521.1, 3521.2, 3521.5, 3522, 3523, 3524, 3524.5, 3526, 3527, 3529, 3530, 3531, 3533, 3534, 3534.1, 3534.2, 3534.3, 3534.4, 3534.5, 3534.6, 3534.7, 3534.9, 3534.10, 3535, 3537.10, 3537.20, 3537.30, 3537.50, 3540, 3546, 4001, 4003, 4928, 4934, 4939, 4990, 4990.04, 8000, 8005, 8027, 8030.2, 8030.5, 9812.5, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9860, 9862.5, 9863, and 9873 of, and to add Section 3521.3 to, the Business and Professions Code, and to amend Sections 12529, 12529.5, and 12529.6 of the Government Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 14, 2012. Filed with Secretary of State September 14, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, Price. Professions and vocations.

(1) Existing law, until January 1, 2013, declares that using a vertical enforcement and prosecution model for the Medical Board of California's investigations is in the best interests of the people of California. Under existing law, a vertical enforcement and prosecution model is described as the joint assignment of a complaint to a board investigator and to a deputy attorney general responsible for prosecuting the case if the investigation results in the filing of an accusation. Existing law requires the board to, among other things, establish and implement a plan to locate specified staff in the same offices in order to carry out the intent of the vertical enforcement and prosecution model.

This bill would extend the operation of these provisions to January 1, 2014, and would also make a conforming change in that regard.

(2) Existing law provides for the certification and regulation of podiatrists by the California Board of Podiatric Medicine within the jurisdiction of the Medical Board of California. Under existing law, the California Board of Podiatric Medicine will be repealed on January 1, 2013. Existing law requires that boards scheduled for repeal be reviewed by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of the California Board of Podiatric Medicine until January 1, 2017. The bill would specify that the board is subject to review by the appropriate policy committees of the Legislature.

The bill would revise provisions regarding the examination of applicants for certification to practice podiatric medicine.

(3) Existing law establishes the Physician Assistant Committee within the jurisdiction of the Medical Board of California and provides for its membership, operation, duties, and powers with respect to licensure and regulation of physician assistants, including requirements for the payment of license renewal fees. Under existing law, the committee will be repealed on January 1, 2013.

This bill would rename the committee as the Physician Assistant Board, make various conforming changes relative to this change in designation, and extend the operation of the board until January 1, 2017. The bill would revise the composition of the board and would specify that the board is subject to review by the appropriate policy committees of the Legislature. The bill would allow the board to establish, by regulation, a system for placement of a licensee on retired status, as specified.

(4) Existing law specifies reports to be made and procedures to be followed when a coroner receives information, as specified, that a death may be the result of a physician and surgeon's, or podiatrist's gross negligence or incompetence, and in connection with disciplinary actions against those licensees.

This bill would expand those provisions to include conduct of a physician assistant.

(5) Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her licensing board the occurrence of an indictment or information charging a felony against the licensee or the conviction of the licensee of a felony or misdemeanor. Under existing law the failure of those licensees to submit the required report is a crime.

This bill would impose that requirement on a physician assistant. Because a violation of this requirement by a physician assistant would be a crime, this bill would impose a state-mandated local program.

(6) Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists by the Physical Therapy Board of California. Existing law authorizes the board to appoint an executive officer. Existing law makes these provisions inoperative on July 1, 2013, and repealed on January 1, 2014. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would delete the inoperative date and would instead repeal these provisions on January 1, 2014. The bill would also specify that this board would be subject to review by the appropriate policy committees of the Legislature.

(7) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law repeals these provisions on January 1, 2014. Under existing law, boards

scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would make a conforming change with regard to the operation of these provisions until January 1, 2014, and the bill would also specify that this board would be subject to review by the appropriate policy committees of the Legislature.

(8) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians, wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law authorizes the board to appoint an executive officer. Under existing law, the board and its authority to appoint an executive officer will be repealed on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of the California State Board of Pharmacy and its authority to appoint an executive officer until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(9) Existing law provides for the licensure and regulation of psychologists by the Board of Psychology. Existing law provides for the licensure and regulation of licensed educational psychologists, clinical social workers, marriage and family therapists, and licensed professional clinical counselors by the Board of Behavioral Sciences within the Department of Consumer Affairs. Existing law specifies the composition of each board and requires or authorizes each board to employ an executive officer. Existing law repeals these provisions on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of these provisions until January 1, 2017. This bill would specify that each board is subject to review by the appropriate policy committees of the Legislature.

(10) Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Existing law authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of these provisions until January 1, 2015. The bill would instead specify that the board would be subject to review by the appropriate policy committees of the Legislature.

Existing law requires the board, on or before January 1, 2004, to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist. Under existing law, within 3 years of initial approval by the board, each program approved by the board is required to receive full institutional approval by the Bureau for Private Postsecondary Education, which is responsible for, among other things,

providing approval to operate private postsecondary institutions according to specified minimum operating standards.

This bill would provide the board with ongoing authority to establish those standards. The bill would also update references to provisions providing for the approval by the bureau to operate private postsecondary institutions.

(11) Existing law provides for the licensure and regulation of court reporters by the Court Reporters Board of California within the Department of Consumer Affairs. Existing law authorizes this board to appoint an executive officer and committees as necessary. Existing law repeals these provisions on January 1, 2013.

This bill would extend the operation of these provisions until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

Existing law requires, until January 1, 2013, certain fees and revenues collected by the board to be deposited into the Transcript Reimbursement Fund to be available to provide reimbursement for the cost of providing shorthand reporting services to low-income litigants in civil cases. Existing law authorizes, until January 1, 2013, low-income persons appearing pro se to apply for funds from the Transcript Reimbursement Fund, subject to specified requirements and limitations. Existing law requires the board, until January 1, 2013, to publicize the availability of the fund to prospective applicants. Existing law requires the unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2013, to be transferred to the Court Reporters' Fund.

This bill would extend the operation of these provisions until January 1, 2017, and would make a technical change to these provisions. By extending the operation of the Transcript Reimbursement Fund, which is a continuously appropriated fund, the bill would make an appropriation.

(12) Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for the registration and regulation of electronic and appliance service dealers and service contractors by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation within the Department of Consumer Affairs and makes a failure to comply with its provisions a crime. Existing law, until January 1, 2013, requires a service contractor to pay specified fees to the bureau, including a registration fee and a registration renewal fee. Existing law, until January 1, 2013, requires the Director of Consumer Affairs to gather evidence of violations of the Electronic and Appliance Repair Dealer Registration Law, and any of its regulations, by a service contractor or by any employee, partner, officer, or member of any service contractor. Existing law, until January 1, 2013, requires a service contractor to maintain specified records to be open for inspection by the director and other law enforcement officials. Existing law, until January 1, 2013, also provides for the revocation of the registration of a service contractor by the director and for the superior court to issue a restraining order or injunction against a service contractor who violates these provisions.

This bill would extend the operation of these and other related provisions to January 1, 2015. By extending the operation of certain of these provisions, the violation of which is a crime, this bill would impose a state-mandated local program.

(13) Existing law, until January 1, 2013, establishes the Health Quality Enforcement Section within the Department of Justice for the purpose of investigating and prosecuting 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, until January 1, 2013, requires all complaints against licensees of these boards to be made available to the Health Quality Enforcement Section.

This bill would extend the operation of these provisions until January 1, 2014.

(14) 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 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars ($3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized

professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licentiate pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 2. Section 801.01 of the Business and Professions Code is amended to read:

801.01. The Legislature finds and declares that the filing of reports with the applicable state agencies required under this section is essential for the protection of the public. It is the intent of the Legislature that the reporting requirements set forth in this section be interpreted broadly in order to expand reporting obligations.

(a) A complete report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board with respect to a licensee of the board as to the following:

(1) A settlement over thirty thousand dollars ($30,000) or arbitration award of any amount or a civil judgment of any amount, whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal, of a claim or action for damages for death or personal injury caused by the licensee's alleged negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) A settlement over thirty thousand dollars ($30,000), if the settlement is based on the licensee's alleged negligence, error, or omission in practice, or on the licensee's rendering of unauthorized professional services, and a party to the settlement is a corporation, medical group, partnership, or other corporate entity in which the licensee has an ownership interest or that employs or contracts with the licensee.

(b) The report shall be sent by the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or his or her counsel, if the licensee does not possess professional liability insurance.

(3) A state or local governmental agency that self-insures the licensee. For purposes of this section, "state governmental agency" includes, but is not limited to, the University of California.

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to

authorize the employment of, or contracting with, any licensee in violation of Section 2400.

(d) The report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board as appropriate, within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto, within 30 days after service of the arbitration award on the parties, or within 30 days after the date of entry of the civil judgment.

(e) The entity, person, or licensee required to report under subdivision (b) shall notify the claimant or his or her counsel, if he or she is represented by counsel, that the report has been sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If the claimant or his or her counsel has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties or the arbitration award was served on the parties or the date of entry of the civil judgment, the claimant or the claimant's counsel shall make the report to the appropriate board.

(f) Failure to substantially comply with this section is a public offense punishable by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000).

(g) (1) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may develop a prescribed form for the report.

(2) The report shall be deemed complete only if it includes the following information:

(A) The name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not the person received an award under the settlement, arbitration, or judgment.

(B) The name and last known business and residential addresses of every licensee who was alleged to have acted improperly, whether or not that person was a named defendant in the action and whether or not that person was required to pay any damages pursuant to the settlement, arbitration award, or judgment.

(C) The name, address, and principal place of business of every insurer providing professional liability insurance to any person described in subparagraph (B), and the insured's policy number.

(D) The name of the court in which the action or any part of the action was filed, and the date of filing and case number of each action.

(E) A description or summary of the facts of each claim, charge, or allegation, including the date of occurrence and the licensee's role in the care or professional services provided to the patient with respect to those services at issue in the claim or action.

(F) The name and last known business address of each attorney who represented a party in the settlement, arbitration, or civil action, including the name of the client he or she represented.

(G) The amount of the judgment, the date of its entry, and a copy of the judgment; the amount of the arbitration award, the date of its service on the parties, and a copy of the award document; or the amount of the settlement and the date it was reduced to writing and signed by all parties. If an otherwise reportable settlement is entered into after a reportable judgment or arbitration award is issued, the report shall include both the settlement and a copy of the judgment or award.

(H) The specialty or subspecialty of the licensee who was the subject of the claim or action.

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or his or her counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon, podiatrist, or physician assistant, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental agency, or licensee or his or her counsel shall maintain the records and depositions referred to in this paragraph for at least one year from the date of filing of the report required by this section.

(h) If the board, within 60 days of its receipt of a report filed under this section, notifies a person named in the report, that person shall maintain for the period of three years from the date of filing of the report any records he or she has as to the matter in question and shall make those records available upon request to the board to which the report was sent.

(i) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

(j) (1) A state or local governmental agency that self-insures licensees shall, prior to sending a report pursuant to this section, do all of the following with respect to each licensee who will be identified in the report:

(A) Before deciding that a licensee will be identified, provide written notice to the licensee that the agency intends to submit a report in which the licensee may be identified, based on his or her role in the care or professional services provided to the patient that were at issue in the claim or action. This notice shall describe the reasons for notifying the licensee. The agency shall include with this notice a reasonable opportunity for the licensee to review a copy of records to be used by the agency in deciding whether to identify the licensee in the report.

(B) Provide the licensee with a reasonable opportunity to provide a written response to the agency and written materials in support of the licensee's position. If the licensee is identified in the report, the agency shall include this response and materials in the report submitted to a board under this section if requested by the licensee.

(C) At least 10 days prior to the expiration of the 30-day reporting requirement under subdivision (d), provide the licensee with the opportunity to present arguments to the body that will make the final decision or to that body's designee. The body shall review the care or professional services provided to the patient with respect to those services at issue in the claim or action and determine the licensee or licensees to be identified in the report and the amount of the settlement to be apportioned to the licensee.

(2) Nothing in this subdivision shall be construed to modify either the content of a report required under this section or the timeframe for filing that report.

(k) For purposes of this section, "licensee" means a licensee of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board.

SEC. 3. Section 802.1 of the Business and Professions Code is amended to read:

802.1. (a) (1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant shall report either of the following to the entity that issued his or her license:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000).

SEC. 4. 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 board-certified or board-eligible 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 or podiatrists, and all other relevant information available. The initial report shall be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) The report required by this section 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 this section. No board-certified or board-eligible 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).

SEC. 5. Section 803 of the Business and Professions Code is amended to read:

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Sciences or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, doctor of podiatric medicine, or physician assistant, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

SEC. 6. Section 803.1 of the Business and Professions Code is amended to read:

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

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

(3) Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

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

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

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars ($30,000) or more.

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

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

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

(iii) Reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement

agreement, and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

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

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027.

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

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

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather

than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

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

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

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

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

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

(e) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall not use the terms "enforcement," "discipline," or similar language implying a sanction

unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

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

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

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

SEC. 7. Section 803.5 of the Business and Professions Code is amended to read:

803.5. (a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Physician Assistant Board, or other appropriate allied health board, and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

SEC. 8. Section 803.6 of the Business and Professions Code is amended to read:

803.6. (a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the Physician Assistant Board, or other appropriate allied health board, as applicable, where the total length of the transcript is under 800 pages and shall notify the appropriate board of any proceeding where the transcript exceeds that length.

(b) In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the board.

SEC. 9. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) (A) "Peer review" means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) "Peer review body" includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of

reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, or physician assistant. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for

staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons his or her application for staff privileges or membership.

(3) Withdraws or abandons his or her request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(*l*) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a

disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

SEC. 10. 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 remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 11. Section 2335 of the Business and Professions Code is amended to read:

2335. (a) All proposed decisions and interim orders of the Medical Quality Hearing Panel designated in Section 11371 of the Government Code shall be transmitted to the executive director of the board, or the executive director of the California Board of Podiatric Medicine as to the licensees of that board, within 48 hours of filing.

(b) All interim orders shall be final when filed.

(c) A proposed decision shall be acted upon by the board or by any panel appointed pursuant to Section 2008 or by the California Board of Podiatric Medicine, as the case may be, in accordance with Section 11517 of the Government Code, except that all of the following shall apply to proceedings against licensees under this chapter:

(1) When considering a proposed decision, the board or panel and the California Board of Podiatric Medicine shall give great weight to the findings of fact of the administrative law judge, except to the extent those findings of fact are controverted by new evidence.

(2) The board's staff or the staff of the California Board of Podiatric Medicine shall poll the members of the board or panel or of the California Board of Podiatric Medicine by written mail ballot concerning the proposed decision. The mail ballot shall be sent within 10 calendar days of receipt of the proposed decision, and shall poll each member on whether the member votes to approve the decision, to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of additional evidence, to defer final decision pending discussion of the case by the panel or board as a whole, or to nonadopt the decision. No party to the proceeding, including employees of the agency that filed the accusation, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the decision, may communicate directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any member of the panel or board, without notice and opportunity for all parties to participate in the communication. The votes of a majority of the board or of the panel, and a

Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 23. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. (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, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 24. Section 2920 of the Business and Professions Code is amended to read:

2920. (a) The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

(c) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 25. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 26. Section 3501 of the Business and Professions Code is amended to read:

3501. (a) As used in this chapter:

(1) "Board" means the Physician Assistant Board.

(2) "Approved program" means a program for the education of physician assistants that has been formally approved by the board.

(3) "Trainee" means a person who is currently enrolled in an approved program.

(4) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the board.

(5) "Supervising physician" means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of

California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(6) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

(7) "Regulations" means the rules and regulations as set forth in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(8) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

(9) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

(10) "Delegation of services agreement" means the writing that delegates to a physician assistant from a supervising physician the medical services the physician assistant is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of Regulations.

(11) "Other specified medical services" means tests or examinations performed or ordered by a physician assistant practicing in compliance with this chapter or regulations of the Medical Board of California promulgated under this chapter.

(b) A physician assistant acts as an agent of the supervising physician when performing any activity authorized by this chapter or regulations adopted under this chapter.

SEC. 27. Section 3502 of the Business and Professions Code is amended to read:

3502. (a) Notwithstanding any other provision of law, a physician assistant may perform those medical services as set forth by the regulations adopted under this chapter when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant.

(b) Notwithstanding any other provision of law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from the supervising physician and surgeon.

The supervising physician and surgeon shall be physically available to the physician assistant for consultation when such assistance is rendered. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties included within the scope of practice of a doctor of podiatric medicine.

(c) (1) A physician assistant and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervision of the physician assistant. This requirement may be satisfied by the supervising physician and surgeon adopting protocols for some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to this subdivision shall comply with the following requirements:

(A) A protocol governing diagnosis and management shall, at a minimum, include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be provided to the patient.

(B) A protocol governing procedures shall set forth the information to be provided to the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the followup care.

(C) Protocols shall be developed by the supervising physician and surgeon or adopted from, or referenced to, texts or other sources.

(D) Protocols shall be signed and dated by the supervising physician and surgeon and the physician assistant.

(2) The supervising physician and surgeon shall review, countersign, and date a sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician assistant functioning under the protocols within 30 days of the date of treatment by the physician assistant. The physician and surgeon shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

(3) Notwithstanding any other provision of law, the Medical Board of California or board may establish other alternative mechanisms for the adequate supervision of the physician assistant.

(d) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

SEC. 28. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the Medical Board of California, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a

physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. Protocols for Schedule II controlled substances shall address the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is being administered, provided, or issued. The drugs listed in the protocols shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order," for purposes of this section, means an order for medication that is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be approved by the supervising physician and surgeon before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide, or issue a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that

particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets standards, including pharmacological content, approved by the board. The education course shall be provided either by an accredited continuing education provider or by an approved physician assistant training program. If the physician assistant will administer, provide, or issue a drug order for Schedule II controlled substances, the course shall contain a minimum of three hours exclusively on Schedule II controlled substances. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established by the board prior to the physician assistant's use of a registration number issued by the United States Drug Enforcement Administration to the physician assistant to administer, provide, or issue a drug order to a patient for a controlled substance without advance approval by a supervising physician and surgeon for that particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and telephone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant and shall otherwise comply with the provisions of Section 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances registration number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The board shall consult with the Medical Board of California and report during its sunset review required by Division 1.2 (commencing with Section 473) the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 29. Section 3502.3 of the Business and Professions Code is amended to read:

3502.3. (a) Notwithstanding any other provision of law, in addition to any other practices that meet the general criteria set forth in this chapter or the Medical Board of California's regulations for inclusion in a delegation of services agreement, a delegation of services agreement may authorize a physician assistant to do any of the following:

(1) Order durable medical equipment, subject to any limitations set forth in Section 3502 or the delegation of services agreement. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payer to require prior approval.

(2) For individuals receiving home health services or personal care services, after consultation with the supervising physician, approve, sign, modify, or add to a plan of treatment or plan of care.

(b) Nothing in this section shall be construed to affect the validity of any delegation of services agreement in effect prior to the enactment of this section or those adopted subsequent to enactment.

SEC. 30. Section 3502.5 of the Business and Professions Code is amended to read:

3502.5. Notwithstanding any other provision of law, a physician assistant may perform those medical services permitted pursuant to Section 3502 during any state of war emergency, state of emergency, or state of local emergency, as defined in Section 8558 of the Government Code, and at the request of a responsible federal, state, or local official or agency, or pursuant to the terms of a mutual aid operation plan established and approved pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), regardless of whether the physician assistant's approved supervising physician is available to supervise the physician assistant, so long as a licensed physician is available to render the appropriate supervision. "Appropriate supervision" shall not require the personal or electronic availability of a supervising physician if that availability is not possible or practical due to the emergency. The local health officers and their designees may act as supervising physicians during emergencies without being subject to approval by the Medical Board of California. At all times, the local health officers or their designees supervising the physician assistants shall be licensed physicians and surgeons. Supervising physicians acting pursuant to this section shall not be subject to the limitation on the number of physician assistants supervised under Section 3516.

No responsible official or mutual aid operation plan shall invoke this section except in the case of an emergency that endangers the health of individuals. Under no circumstances shall this section be invoked as the result of a labor dispute or other dispute concerning collective bargaining.

SEC. 31. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Board within the jurisdiction of the Medical Board of California. The board consists of nine

members. This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 32. Section 3504.1 of the Business and Professions Code is amended to read:

3504.1. Protection of the public shall be the highest priority for the Physician Assistant Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 33. Section 3505 of the Business and Professions Code is amended to read:

3505. The members of the board shall include four physician assistants, one physician and surgeon who is also a member of the Medical Board of California, and four public members. Upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant. Upon the expiration of the term of the member who is a member of the Medical Board of California, above, there shall be appointed to the board a physician and surgeon who is also a member of the Medical Board of California who shall serve as an ex officio, nonvoting member and whose functions shall include reporting to the Medical Board of California on the actions or discussions of the board. Following the expiration of the term of the member described above, the board shall include five physician assistants, one physician and surgeon, and four public members.

Each member of the board shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section and two public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 34. Section 3506 of the Business and Professions Code is amended to read:

3506. Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 35. Section 3507 of the Business and Professions Code is amended to read:

3507. The appointing power has power to remove from office any member of the board, as provided in Section 106.

SEC. 36. Section 3508 of the Business and Professions Code is amended to read:

3508. (a) The board may convene from time to time as deemed necessary by the board.

(b) Notice of each meeting of the board shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving notification.

(c) The board shall receive permission of the director to meet more than six times annually. The director shall approve meetings that are necessary for the board to fulfill its legal responsibilities.

SEC. 37. Section 3509 of the Business and Professions Code is amended to read:

3509. It shall be the duty of the board to:

(a) Establish standards and issue licenses of approval for programs for the education and training of physician assistants.

(b) Make recommendations to the Medical Board of California concerning the scope of practice for physician assistants.

(c) Make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration of applications by licensed physicians to supervise physician assistants and approval of such applications.

(d) Require the examination of applicants for licensure as a physician assistant who meet the requirements of this chapter.

SEC. 38. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The board shall elect annually a chairperson and a vice chairperson from among its members.

SEC. 39. Section 3510 of the Business and Professions Code is amended to read:

3510. The board may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this chapter; provided, however, that the Medical Board of California shall adopt, amend, and repeal such regulations as may be necessary to enable the board to implement the provisions of this chapter under its jurisdiction. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 40. Section 3511 of the Business and Professions Code is amended to read:

3511. Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the board shall be required to carry any motion. The physician and surgeon who serves as an ex officio member shall not be counted for purposes of a quorum.

SEC. 41. Section 3512 of the Business and Professions Code is amended to read:

3512. (a) Except as provided in Sections 159.5 and 2020, the board shall employ within the limits of the Physician Assistant Fund all personnel

necessary to carry out the provisions of this chapter including an executive officer who shall be exempt from civil service. The Medical Board of California and board shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The board may accept contributions to effect the purposes of this chapter.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 42. Section 3513 of the Business and Professions Code is amended to read:

3513. The board shall recognize the approval of training programs for physician assistants approved by a national accrediting organization. Physician assistant training programs accredited by a national accrediting agency approved by the board shall be deemed approved by the board under this section. If no national accrediting organization is approved by the board, the board may examine and pass upon the qualification of, and may issue certificates of approval for, programs for the education and training of physician assistants that meet board standards.

SEC. 43. Section 3514.1 of the Business and Professions Code is amended to read:

3514.1. (a) The board shall formulate by regulation guidelines for the consideration of applications for licensure as a physician assistant.

(b) The board shall formulate by regulation guidelines for the approval of physician assistant training programs.

SEC. 44. Section 3516 of the Business and Professions Code is amended to read:

3516. (a) Notwithstanding any other provision of law, a physician assistant licensed by the board shall be eligible for employment or supervision by any physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that employment or supervision.

(b) No physician and surgeon shall supervise more than four physician assistants at any one time, except as provided in Section 3502.5.

(c) The Medical Board of California may restrict a physician and surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon.

SEC. 45. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the Medical Board of California, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the Medical Board of California for authorization under which the director may grant approval for emergency care physicians on the staff of the hospital to supervise emergency care physician assistants.

(b) The application shall encompass all supervising physicians employed in that service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than four physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000).

(e) A violation of this section shall be grounds for suspension of the approval of the director or disciplinary action against the director or suspension of the approved program under Section 3527.

SEC. 46. Section 3517 of the Business and Professions Code is amended to read:

3517. The board shall require a written examination of physician assistants in the manner and under the rules and regulations as it shall prescribe, but the examination shall be conducted in that manner as to ensure that the identity of each applicant taking the examination will be unknown to all of the examiners until all examination papers have been graded. Except as otherwise provided in this chapter, or by regulation, no physician assistant applicant shall receive approval under this chapter without first successfully passing an examination given under the direction of the board.

Examinations for licensure as a physician assistant may be required by the board under a uniform examination system, and for that purpose the board may make those arrangements with organizations furnishing examination material as may, in its discretion, be desirable. The board shall, however, establish a passing score for each examination. The licensure examination for physician assistants shall be held by the board at least once a year with such additional examinations as the board deems necessary. The time and place of examination shall be fixed by the board.

SEC. 47. Section 3518 of the Business and Professions Code is amended to read:

3518. The board shall keep current, two separate registers, one for approved supervising physicians and one for licensed physician assistants, by specialty if applicable. These registers shall show the name of each licensee, his or her last known address of record, and the date of his or her licensure or approval. Any interested person is entitled to obtain a copy of the register in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon application to the board together with a sum as may be fixed by the board, which amount shall not exceed the cost of this list so furnished.

SEC. 48. Section 3519 of the Business and Professions Code is amended to read:

3519. The board shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

(a) Provide evidence of successful completion of an approved program.
(b) Pass any examination required under Section 3517.
(c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.
(d) Pay all fees required under Section 3521.1.

SEC. 49. Section 3519.5 of the Business and Professions Code is amended to read:

3519.5. (a) The board may issue under the name of the Medical Board of California a probationary license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:
(1) Practice limited to a supervised, structured environment where the applicant's activities shall be supervised by another physician assistant.
(2) Total or partial restrictions on issuing a drug order for controlled substances.
(3) Continuing medical or psychiatric treatment.
(4) Ongoing participation in a specified rehabilitation program.
(5) Enrollment and successful completion of a clinical training program.
(6) Abstention from the use of alcohol or drugs.
(7) Restrictions against engaging in certain types of medical services.
(8) Compliance with all provisions of this chapter.
(b) The board and the Medical Board of California may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.
(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the board and the Medical Board of California. These proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 50. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the Medical Board of California shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund shall be used to carry out the purpose of this chapter.

SEC. 51. Section 3521 of the Business and Professions Code is amended to read:

3521. The fees to be paid for approval to supervise physician assistants are to be set by the board as follows:
(a) An application fee not to exceed fifty dollars ($50) shall be charged to each physician and surgeon applicant.
(b) An approval fee not to exceed two hundred fifty dollars ($250) shall be charged to each physician and surgeon upon approval of an application to supervise physician assistants.

(c) A biennial renewal fee not to exceed three hundred dollars ($300) shall be paid for the renewal of an approval.

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate approval fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of approval shall be ten dollars ($10).

SEC. 52. Section 3521.1 of the Business and Professions Code is amended to read:

3521.1. The fees to be paid by physician assistants are to be set by the board as follows:

(a) An application fee not to exceed twenty-five dollars ($25) shall be charged to each physician assistant applicant.

(b) An initial license fee not to exceed two hundred fifty dollars ($250) shall be charged to each physician assistant to whom a license is issued.

(c) A biennial license renewal fee not to exceed three hundred dollars ($300).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate license fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be ten dollars ($10).

SEC. 53. Section 3521.2 of the Business and Professions Code is amended to read:

3521.2. The fees to be paid by physician assistant training programs are to be set by the board as follows:

(a) An application fee not to exceed five hundred dollars ($500) shall be charged to each applicant seeking program approval by the board.

(b) An approval fee not to exceed one hundred dollars ($100) shall be charged to each program upon its approval by the board.

SEC. 54. Section 3521.3 is added to the Business and Professions Code, to read:

3521.3. (a) The board may establish, by regulation, a system for the placement of a license on a retired status, upon application, for a physician assistant who is not actively engaged in practice as a physician assistant or any activity that requires them to be licensed by the board.

(b) No licensee with a license on a retired status shall engage in any activity for which a license is required.

(c) The board shall deny an applicant's application for a retired status license if the license is canceled or if the license is suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(d) Beginning one year from the effective date of the regulations adopted pursuant to subdivision (a), if an applicant's license is delinquent, the board shall deny an applicant's application for a retired status license.

(e) The board shall establish minimum qualifications for a retired status license.

(f) The board may exempt the holder of a retired status license from the renewal requirements described in Section 3524.5.

(g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (c) of Section 3521.1.

SEC. 55. Section 3521.5 of the Business and Professions Code is amended to read:

3521.5. The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the Medical Board of California approves a fee increase pursuant to Sections 3521 and 3521.1. The board shall specify the reasons for each increase in the report. Reports prepared pursuant to this section shall identify the percentage of funds derived from an increase in fees pursuant to Senate Bill 1077 of the 1991–92 Regular Session (Chapter 917, Statutes of 1991) that will be used for investigational and enforcement activities by the Medical Board of California and board.

SEC. 56. Section 3522 of the Business and Professions Code is amended to read:

3522. An approval to supervise physician assistants shall expire at 12 midnight on the last day of the birth month of the physician and surgeon during the second year of a two-year term if not renewed.

The Medical Board of California shall establish a cyclical renewal program, including, but not limited to, the establishment of a system of staggered expiration dates for approvals and a pro rata formula for the payment of renewal fees by physician and surgeon supervisors.

To renew an unexpired approval, the approved supervising physician and surgeon, on or before the date of expiration, shall apply for renewal on a form prescribed by the Medical Board of California and pay the prescribed renewal fee.

SEC. 57. Section 3523 of the Business and Professions Code is amended to read:

3523. All physician assistant licenses shall expire at 12 midnight of the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The board shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates and a pro rata formula for the payment of renewal fees by physician assistants affected by the implementation of the program.

To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

SEC. 58. Section 3524 of the Business and Professions Code is amended to read:

3524. A license or approval that has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board or Medical Board of California, as the case may be, and payment of all accrued and unpaid renewal fees. If the

license or approval is not renewed within 30 days after its expiration, the licensed physician assistant and approved supervising physician, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 59. Section 3524.5 of the Business and Professions Code is amended to read:

3524.5. The board may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The board shall not require more than 50 hours of continuing education every two years. The board shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the board, as evidence of compliance with continuing education requirements.

SEC. 60. Section 3526 of the Business and Professions Code is amended to read:

3526. A person who fails to renew his or her license or approval within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but that person may apply for and obtain a new license or approval if he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice as a physician assistant.

(c) Pays all of the fees that would be required as if application for licensure was being made for the first time.

SEC. 61. Section 3527 of the Business and Professions Code is amended to read:

3527. (a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The Medical Board of California may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Medical Board of California, in conjunction with an action it has commenced against a physician and surgeon, may, in its own discretion and without the concurrence of the Medical Board of California, order the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(e) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, a physician assistant license, after a hearing as required in Section 3528 for unprofessional conduct that includes, except for good cause, the knowing failure of a licensee 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 Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, 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 blood-borne infectious diseases.

(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction

to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

SEC. 62. Section 3529 of the Business and Professions Code is amended to read:

3529. The board may hear any matters filed pursuant to subdivisions (a) and (b) of Section 3527, or may assign the matter to a hearing officer. The Medical Board of California may hear any matters filed pursuant to subdivision (c) of Section 3527, or may assign the matter to a hearing officer. If a matter is heard by the board or the Medical Board of California, the hearing officer who presided at the hearing shall be present during the board's or the Medical Board of California's consideration of the case, and, if requested, assist and advise the board or the Medical Board of California.

SEC. 63. Section 3530 of the Business and Professions Code is amended to read:

3530. (a) A person whose license or approval has been revoked or suspended, or who has been placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

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

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

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

(b) The petition shall state any facts as may be required by the Medical Board of California. The petition shall be accompanied by at least two verified recommendations from physicians licensed either by the Medical Board of California or the Osteopathic Medical Board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The board or the administrative law judge hearing the petition, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and

professional ability. The hearing may be continued, as the board or administrative law judge finds necessary.

(e) The board or administrative law judge, when hearing a petition for reinstating a license or approval or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

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

(g) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 64. Section 3531 of the Business and Professions Code is amended to read:

3531. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which is substantially related to the qualifications, functions, or duties of the business or profession to which the license was issued is deemed to be a conviction within the meaning of this chapter. The board may order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 65. Section 3533 of the Business and Professions Code is amended to read:

3533. Whenever any person has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the Medical Board of California, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The Medical Board of California or the board may commence action in the superior court under the provisions of this section.

SEC. 66. Section 3534 of the Business and Professions Code is amended to read:

3534. It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physician assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of medicine in a manner which will not endanger the public health and safety.

SEC. 67. Section 3534.1 of the Business and Professions Code is amended to read:

3534.1. The board shall establish and administer a diversion program for the rehabilitation of physician assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. As used in this article, "committee" means a diversion evaluation committee. A committee created under this article operates under the direction of the diversion program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

SEC. 68. Section 3534.2 of the Business and Professions Code is amended to read:

3534.2. (a) Any committee established by the board shall have at least three members. In making appointments to a committee the board shall consider the appointments of persons who are either recovering of substance abuse and have been free from abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider matters relating to any physician assistant applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

SEC. 69. Section 3534.3 of the Business and Professions Code is amended to read:

3534.3. Each committee has the following duties and responsibilities:

(a) To evaluate physician assistants who request participation in the program and to make recommendations to the program manager. In making recommendations, a committee shall consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) To review and designate treatment facilities to which physician assistants in the diversion program may be referred, and to make recommendations to the program manager.

(c) The receipt and review of information concerning physician assistants participating in the program.

(d) To call meetings as necessary to consider the requests of physician assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) To consider whether each participant in the diversion program may with safety continue or resume the practice of medicine.

(f) To set forth in writing the terms and conditions of the diversion agreement that is approved by the program manager for each physician assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a committee shall be considered a public employee. No board or committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

SEC. 70. Section 3534.4 of the Business and Professions Code is amended to read:

3534.4. Criteria for acceptance into the diversion program shall include all of the following: (a) the applicant shall be licensed as a physician assistant by the board and shall be a resident of California; (b) the applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice medicine safely or competently; (c) the applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action; (d) the applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program; (e) the applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program; and (f) the applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

An applicant may be denied participation in the program if the board, the program manager, or a committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

SEC. 71. Section 3534.5 of the Business and Professions Code is amended to read:

3534.5. A participant may be terminated from the program for any of the following reasons: (a) the participant has successfully completed the treatment program; (b) the participant has failed to comply with the treatment program designated for him or her; (c) the participant fails to meet any of the criteria set forth in subdivision (d); or (d) it is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of medicine by that individual creates too great a risk to the public health and safety, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physician assistant who requests participation in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The board shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physician assistant in the program, and the possible results of noncompliance with the program.

SEC. 72. Section 3534.6 of the Business and Professions Code is amended to read:

3534.6. In addition to the criteria and causes set forth in Section 3534.4, the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

SEC. 73. Section 3534.7 of the Business and Professions Code is amended to read:

3534.7. All board and committee records and records of proceedings and participation of a physician assistant in a program shall be confidential and are not subject to discovery or subpoena.

SEC. 74. Section 3534.9 of the Business and Professions Code is amended to read:

3534.9. If the board contracts with any other entity to carry out this section, the executive officer of the board or the program manager shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

SEC. 75. Section 3534.10 of the Business and Professions Code is amended to read:

3534.10. Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physician assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

SEC. 76. Section 3535 of the Business and Professions Code is amended to read:

3535. (a) Notwithstanding any other provision of law, physicians and surgeons licensed by the Osteopathic Medical Board of California may use or employ physician assistants provided (1) each physician assistant so used or employed is a graduate of an approved program and is licensed by the board, and (2) the scope of practice of the physician assistant is the same as that which is approved by the Division of Licensing of the Medical Board of California for physicians and surgeons supervising physician assistants in the same or similar specialty.

(b) Any person who violates subdivision (a) shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) This section shall become operative on July 1, 2001.

SEC. 77. Section 3537.10 of the Business and Professions Code is amended to read:

3537.10. (a) Subject to the other provisions of this article, the Office of Statewide Health Planning and Development, hereafter in this article referred to as the office, shall coordinate the establishment of an international medical graduate physician assistant training program, to be conducted at an appropriate educational institution or institutions. The goal of the program shall be to place as many international medical graduate physician assistants in medically underserved areas as possible in order to provide greater access to care for the growing population of medically indigent and underserved. The method for accomplishing this goal shall be to train foreign medical graduates to become licensed as physician assistants at no cost to the participants in return for a commitment from the participants to serve full time in underserved areas for a four-year period.

(b) By February 1, 1994, or one month after federal funds to implement this article become available, whichever occurs later, the office shall establish a training program advisory task force. The task force shall be comprised of representatives from all of the following groups:

(1) Physician assistant program directors.
(2) Foreign medical graduates.
(3) The California Academy of Physician Assistants.
(4) Nonprofit community health center directors.
(5) Physicians.
(6) The board, at the board's option.

The office may, instead, serve solely as a consultant to the task force.

(c) The task force shall do all of the following:

(1) Develop a recommended curriculum for the training program that shall be from 12 to 15 months in duration and shall, at a minimum, meet curriculum standards consistent with the board's regulations. The program shall be subject to the board's approval. By April 1, 1994, or three months after federal funds to implement this article become available, whichever occurs later, the curriculum shall be presented by the office to the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor organization, for approval.

(2) Develop recommended admission criteria for participation in the pilot and ongoing program.

(3) Assist in development of linkages with academic institutions for the purpose of monitoring and evaluating the pilot program.

SEC. 78. Section 3537.20 of the Business and Professions Code is amended to read:

3537.20. Any person who has satisfactorily completed the program established by this article shall be eligible for licensure by the board as a "physician assistant" if the person has complied with all of the following requirements:

(a) Has successfully completed the written examination required under Section 3517.

(b) Has successfully completed the Test of English as a Foreign Language (TOEFL).

SEC. 79. Section 3537.30 of the Business and Professions Code is amended to read:

3537.30. (a) The Legislature recognizes that the goal of this program would be compromised if participants do not observe their commitments under this program to provide the required service in a medically underserved area. The goal of this program would not be met if all that it accomplished was merely to license physician assistants that served populations that are not medically underserved.

(b) Since damages would be difficult or impossible to ascertain in the event of default by the participant, this section shall set forth the extent of liquidated damages that shall be recoverable by the program in the case of default.

(c) In the case of default by a participant who has successfully completed the program and has obtained licensure under this article, the program shall collect the following damages from the participant:

(1) The total cost expended by the program for the training of the applicant, and interest thereon from the date of default.

(2) The total amount needed for the program to seek cover as set forth in subdivision (b) of Section 3537.35.

(3) The costs of enforcement, including, but not limited to, the costs of collecting the liquidated damages, the costs of litigation, and attorney's fees.

(d) The Attorney General may represent the office, or the board, or both in any litigation necessitated by this article, or, if the Attorney General declines, the office, or the board, or both may hire other counsel for this purpose.

(e) Funds collected pursuant to subdivision (c) shall be allocated as follows:

(1) Costs of training recovered pursuant to paragraph (1) of subdivision (c) shall be allocated to the office to be used upon appropriation for the continuing training program pursuant to this article.

(2) Costs of seeking cover recovered pursuant to paragraph (2) of subdivision (c) shall be deposited in the Physician Assistant Training Fund established pursuant to Section 3537.40 for the purposes of providing grants pursuant to subdivision (c) of Section 3537.35.

(3) Costs of enforcement recovered pursuant to paragraph (3) of subdivision (c) shall be allocated between the office, and the Attorney General, or other counsel, according to actual costs.

SEC. 80. Section 3537.50 of the Business and Professions Code is amended to read:

3537.50. No General Fund revenues shall be expended to carry out this article. The implementation of the pilot program and, if applicable, the permanent program established by this article shall be contingent upon the availability of federal funds, which do not divert or detract from funds currently utilized to underwrite existing physician assistant training programs or to fund existing functions of the board. The new funding shall be sufficient to cover the full additional cost to the educational institution or institutions that establish the program or programs, the cost of tuition and attendance for the students in the program or programs, and any additional costs, including enforcement costs, that the office or the board incurs as a result of implementing this article. Nothing in this article shall be construed as imposing any obligations upon the office, the board, or any physician assistant training program in the absence of adequate funding as described in this section. Nothing in this article shall be construed either as precluding applicants for the program established by this article from seeking state or federal scholarship funds, or state and federal loan repayment funds available to physician assistant students, or as requiring that any applicants be granted preference in the award of those funds. Nothing in this article shall be construed as impairing the autonomy of any institution that offers a physician assistant training program.

SEC. 81. Section 3540 of the Business and Professions Code is amended to read:

3540. A physician assistants corporation is a corporation which 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 certified physician assistants 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 physician assistants corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act

(commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code is the board.

SEC. 82. Section 3546 of the Business and Professions Code is amended to read:

3546. The Medical Board of California may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physician assistant corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a physician assistant corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 83. Section 4001 of the Business and Professions Code is amended to read:

4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.

(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 112. Section 12529 of the Government Code, as amended by Section 8 of Chapter 505 of the Statutes of 2009, 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, 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 board.

(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, 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.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 113. Section 12529 of the Government Code, as amended by Section 9 of Chapter 505 of the Statutes of 2009, 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 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, and to provide ongoing review of the investigative activities conducted in support of those prosecutions, as provided in subdivision (b) of Section 12529.5.

(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 board.

(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, 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.

(e) This section shall become operative January 1, 2014.

SEC. 114. Section 12529.5 of the Government Code, as amended by Section 10 of Chapter 505 of the Statutes of 2009, 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, or the Board of Psychology 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 (d) of Section 12529 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 or committees in designing and providing initial and in-service training programs for staff of the boards or committees, 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 or committees as appropriate in consultation with the senior assistant.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 115. Section 12529.5 of the Government Code, as amended by Section 11 of Chapter 505 of the Statutes of 2009, 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, or the Board of Psychology 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 assist the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt through disposition and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative,

medical advisory, and intake staff. The Senior Assistant Attorney General and deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards or committees in designing and providing initial and in-service training programs for staff of the boards or committees, 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 or committees as appropriate in consultation with the senior assistant.

(e) This section shall become operative January 1, 2014.

SEC. 116. 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.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 117. 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 1274

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1274
Author:	Wolk
Chapter:	#793
Bill Date:	April 26, 2012, amended
Subject:	Hospitals: Employment
Sponsor:	Shriners Hospital for Children
Position:	Support

DESCRIPTION OF CURRENT LEGISLATION:

This bill allows Shriners Hospital for Children (Shriners) to continue to employ physicians, and will allow the hospital to bill insurers for the services rendered to patients with insurance coverage.

ANALYSIS:

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

Shriners has provided high quality sub-specialty care to children with neuromusculoskeletal conditions, burn injuries and other special health care needs without regard to payment for services, since 1923. There are two Shriners hospitals in California, one in Sacramento and one in Los Angeles, which serve 34,000 children in California each year.

Shriners has always directly employed physicians because they are exempted from the ban on the corporate practice of medicine (CPM), as they are a charitable institution that does not charge for medical professional services. The Shriners Endowment Fund has fully supported the operations of Shriners hospitals since its inception. However, the Endowment Fund has incurred a significant decrease in value and Shriners has continued to serve children and their families through deficit spending, which is not sustainable. This bill would allow Shriners to bill insurers for services provided to patients who have insurance coverage, and still allow Shriners to directly employ physicians.

This bill is drafted in a way that would only apply to the two Shriners Hospitals in California, by requiring the hospital to be owned and operated by a licensed charitable organization that offers only pediatric subspecialty care, and that prior to January 1, 2013, must have employed physicians on an annual basis and must not have charged for professional services rendered to patients. This bill requires Shriners Hospital to meet the following conditions:

- The hospital does not increase the number of salaried licensees by more than five physicians and surgeons or podiatrists each year.
- The hospital does not expand its scope of services beyond pediatric subspecialty care.
- The hospital accepts each patient needing service, regardless of his or her ability to pay, including whether the patient has any form of health insurance.
- The medical staff concur by an affirmative vote that the physician's and surgeon's employment is in the best interest of the communities served by the hospital.
- The hospital does not interfere with, control, or otherwise direct the physician's and surgeon's professional judgment in a manner prohibited by existing law.

The April 26th amendments make technical changes only; these changes do not impact the Board's analysis or recommended position.

This bill narrowly expands the CPM exemption to allow Shriners to recoup some patient care costs from insurance companies, which will allow Shriners to stay in operation, without having to limit services to the 34,000 children they serve each year in California. The Board has taken a support position on this bill.

FISCAL: None

SUPPORT: Shriners Hospital for Children (Sponsor)
Medical Board of California

OPPOSITION: None on file

IMPLEMENTATION:

- Newsletter article
- Notify/Train Staff

Senate Bill No. 1274

CHAPTER 793

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

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, Wolk. Healing arts: hospitals: employment.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions.

This bill would authorize a hospital that is owned and operated by a licensed charitable organization, that offers only pediatric subspecialty care, that, prior to January 1, 2013, employed licensees on a salary basis, and that has not charged for professional services rendered to patients, to charge for services rendered to patients, provided certain conditions are met, including, but not limited to, that the hospital does not increase the number of salaried licensees by more than 5 each year, that the hospital accepts each patient regardless of his or her ability to pay, and that the medical staff concur by an affirmative vote that the licensee's employment meets a specified standard.

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

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

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

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

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital owned and operated by a health care district pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code may employ a licensee pursuant to Section 2401.1, and may charge for professional services rendered by the licensee, if the physician and surgeon in whose name the charges are made approves the charges. However, the hospital shall not interfere with, control, or otherwise direct the physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

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

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

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

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

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

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

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TRACKER II

MBC TRACKER II BILLS
10/10/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 137	Portantino	Health Care Coverage: Mammographies	Chaptered, #436	08/22/12
AB 174	Monning	Office of Systems Integration: CHHS Automation Fund	Chaptered, #815	08/24/12
AB 369	Huffman	Health Care Coverage: Prescriptions Drugs	Vetoed	08/24/12
AB 377	Solorio	Pharmacy	Chaptered, #687	08/24/12
AB 439	Skinner	Health Care Information	Chaptered, #437	08/24/12
AB 510	Lowenthal, B.	Radiation Control: Health Facilities and Clinics: Records	Chaptered, #106	07/02/12
AB 714	Atkins	Health Care Coverage: California Health Benefit Exchange	Dead	06/30/11
AB 1217	Fuentes	Surrogacy Agreements	Chaptered, #466	08/24/12
AB 1280	Hill	Ephedrine: Retail Sale	Dead	02/09/12
AB 1309	Miller	UC Riverside Medical School	Dead	07/02/12
AB 1409	Perez, M.	Regulations: Small Business	Dead	06/19/12
AB 1453	Monning	Essential Health Benefits	Chaptered, #854	08/23/12
AB 1461	Monning	Individual Health Care Coverage	Vetoed	08/24/12
AB 1580	Bonilla	Health Care: Eligibility: Enrollment	Chaptered, #856	08/09/12
AB 1588	Atkins	Reservist Licensees: Fees and Continuing Education	Chaptered, #742	08/22/12
AB 1636	Monning	Health and Wellness Programs	Dead	06/25/12
AB 1687	Fong	Worker's Compensation	Vetoed	06/18/12
AB 1731	Block	Newborn Screening Program: Critical Congenital Heart Disease	Chaptered, #336	08/24/12
AB 1733	Logue	Telehealth	Chaptered, #782	08/21/12
AB 1751	Pan	Child Support: Access to Information	Chaptered, #637	08/24/12
AB 1783	Perea	Public Contracts: Small Business Preferences	Chaptered, #114	04/10/12
AB 1800	Ma	Health Care Coverage	Dead	08/06/12
AB 1904	Block	Military Spouses: Expedited Licensure	Chaptered, #399	06/12/12
AB 2009	Galgiani	Communicable Disease: Influenza Vaccinations	Chaptered, #443	08/16/12
AB 2041	Swanson	Regulations: Adoption: Disability Access	Chaptered, #723	08/15/12
AB 2109	Pan	Communicable Disease: Immunization Exemption	Chaptered, #821	08/20/12

MBC TRACKER II BILLS
10/10/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 2214	Monning	Health Workforce Development	Dead	08/06/12
AB 2221	Block	Public Records	Chaptered, #697	08/06/12
AB 2266	Mitchell	Medi-Cal: Enhanced Health Homes	Dead	08/24/12
AB 2285	Eng	Peace Officer Testing: Cheating	Chaptered, #372	05/23/12
AB 2343	Torres	Criminal History Information	Chaptered, #256	08/13/12
AB 2348	Mitchell	Registered Nurses: Dispensation of Drugs	Chaptered, #460	08/20/12
AB 2356	Skinner	Tissue Donation	Chaptered, #699	08/24/12
AB 2392	Perez, M.	Medi-Cal: CommuniCal	Dead	08/31/12
SB 103	Liu	State Government: Meetings	Dead	07/12/11
SB 173	Simitian	Healing Arts: Mammograms	Dead	08/15/11
SB 393	Hernandez	Patient-Centered Medical Homes	Vetoed	08/24/12
SB 411	Price	Home Care Services Act of 2011	Vetoed	08/13/12
SB 447	DeSaulnier	State Agencies: Communications: Social Security Numbers	Vetoed	08/24/12
SB 623	Kehoe	Public Health: Health Workforce Projects	Chaptered, #450	08/07/12
SB 628	Yee	Acupuncture: Regulation	Chaptered, #326	08/06/12
SB 703	Hernandez	Basic Health Program	Dead	06/25/12
SB 728	Negrete McLeod	Medi-Cal: Durable Medical Equipment Reimbursement	Chaptered, #451	06/25/12
SB 764	Steinberg	Developmental Services: Telehealth Systems Program	Vetoed	08/20/12
SB 951	Hernandez	Health Care Coverage: Essential Health Benefits	Chaptered, #866	08/24/12
SB 961	Hernandez	Individual Health Care Coverage	Vetoed	08/24/12
SB 975	Wright	Professions & Vocations: Regulatory Authority	Vetoed	08/22/12
SB 1025	Lowenthal	State Regulations: Review	Dead	08/24/12
SB 1050	Alquist	Autism: Telehealth Task Force	Vetoed	08/06/12
SB 1099	Wright	Regulations	Chaptered, #295	08/24/12
SB 1134	Yee	Persons of Unsound Mind: Psychotherapist Duty to Protect	Chaptered, #149	05/08/12
SB 1172	Lieu	Sexual Orientation Change Efforts	Chaptered, #835	07/05/12

MBC TRACKER II BILLS
10/10/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 1185	Price	Centralized Intelligence Partnership Act	Dead	05/29/12
SB 1199	Dutton	Radiologic Technologists	Chaptered, #358	08/24/12
SB 1301	Hernandez	Prescription Drugs: 90-Day Supply	Chaptered, #455	08/06/12
SB 1318	Wolk	Health Facilities: Influenza Vaccinations	Vetoed	08/24/12
SB 1329	Simitian	Prescription Drugs: Collection & Distribution Program	Chaptered, #709	08/16/12
SB 1407	Leno	Medical Information: Disclosure	Chaptered, #657	06/20/12
SB 1410	Hernandez	Independent Medical Review	Chaptered, #872	08/20/12
SB 1446	Negrete McLeod	Naturopathic Doctors	Chaptered, #333	08/22/12
SB 1524	Hernandez	Nursing	Chaptered, #796	06/28/12
SB 1538	Simitian	Health Care: Mammograms	Chaptered, #458	08/22/12
SCR 72	Price	National Consumer Protection Week	Dead	03/06/12