LEGISLATIVE PACKET

MEDICAL BOARD MEETING

MAY 4, 2012
TORRANCE, CA

MEDICAL BOARD OF CALIFORNIA
TRACKER – LEGISLATIVE BILL FILE
April 25, 2012

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
AB 589	Perea	Medical School Scholarships	Sen. Approps.	Support	08/17/11
AB 783	Hayashi	Professional Corporations: Licensed PTs	Sen. B&P	Support	04/07/11
AB 1533	Mitchell	UCLA IMG Pilot Program	Assembly Consent	Sponsor	3/21/12
AB 1548	Carter	Cosmetic Surgery: Employment of Physicians	Assembly Consent	Support	3/22/12
AB 1621	Halderman	Physicians & Surgeons: Prostate Cancer	Senate B&P	Reco: Support	
AB 1896	Chesbro	Tribal Health Programs: Health Care Practitioners	Asm. 3rd Reading	Reco: No Position	3/27/12
AB 2561	Hernandez	Certified Surgical Tech.	Asm. Approps	Reco: Neutral	3/29/12
AB 2570	Hill	Licensees: Settlement Agreements	Asm. Approps	Reco: Support	
SB 352	Huff	Chiropractors	Assembly	Support if Amended	01/11/12
SB 924	Price, Walters & Steinberg	PTs: Direct Access: Professional Corporations	Asm. B&P	Oppose Unless Amended	01/26/12
SB 1095	Rubio	Pharmacy: Clinics	Sen. Approps, 4/30	Reco: Support	
SB 1274	Wolk	Healing Arts: Hospitals: Employment	Sen. Health	Reco: Support	04/09/12
SB 1338	Kehoe	Abortion	Sen. B&P, 4/26	Reco: No Position	4/9/12
SB 1416	Rubio	Medical Residency Training Program Grants	Sen. Health, 4/25	Reco: Support	4/16/12
SB 1483	Steinberg	Physician Health Program	Sen. Approps	Reco: Oppose Unless Amended	4/17/12
SB 1488	Yee	Traditional Chinese Medicine: Traumatologist Certification	Senate	Reco: No Position	
SB 1575	B&P Comm.	Omnibus – B&P Health	Sen. Approps	Sponsor	4/16/12
SCR 69	Pavley	Ca Autism Awareness Month	Assembly Consent	Reco: Support	4/16/12

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

SPONSORED BILLS

AB 1533

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

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

STATUS OF BILL:

This bill is on the Assembly Consent Calendar.

DESCRIPTION OF CURRENT LEGISLATION:

AB 1533 would authorize a pilot for the University of California at Los Angeles (UCLA) international medical graduate (IMG) program. The pilot would allow 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 would also request the UC to prepare a report for the Board and Legislature after the pilot program has been operative for five years, which would include the number of participants in the pilot program; the number of participants issued a license by the Board; and the potential for retention or expansion of the pilot program. This bill would sunset the pilot program on January 1, 2019.

This bill was amended to require the report to be submitted on or before January 1, 2018, and to require the report to include data on the number of participants who practice in designated medically underserved areas.

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 also requests the UC to prepare a report for the Board and Legislature after the pilot program has been operative for five years, which would include the number of participants in the pilot program; the number of participants issued a license by the Board; 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 State Rural Health Association
Los Angeles County Board of Supervisors
California Medical Association

OPPOSITION: None on file

POSITION: Sponsor/Support

AMENDED IN ASSEMBLY MARCH 21, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1533

Introduced by Assembly Member Mitchell

January 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1533, as amended, 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 ~~Medical~~ *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 ~~after the pilot program has been operative for 5 years~~ *on or before January 1, 2018*. The bill would make related legislative findings and declarations.

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

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

SECTION 1. 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~~ *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"~~ *"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~~ *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) ~~After the pilot program has been operative for five years,~~ *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.

O

OMNIBUS

SB 1575

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1575
Author:	Committee on Business, Professions, and Economic Development
Bill Date:	April 16, 2012, amended
Subject:	Omnibus
Sponsor:	Committee, Medical Board, and other health boards
Position:	Support MBC Provisions

STATUS OF BILL:

This bill is in the Senate Business, Professions and Economic Development Committee.

DESCRIPTION OF CURRENT LEGISLATION:

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

FISCAL: None to MBC

SUPPORT: MBC (Sponsor/Support)

OPPOSITION: None on file

POSITION: Support MBC Provisions

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL No. 1575

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas, and Wyland)

March 12, 2012

An act to amend Sections *1934, 1950.5,* 2021, 2064, 2184, 2220, 2424, 2516, 2518, 2904.5, 3057.5, 3742, 3750, 3750.5, *4209, 4600, 4601, 4603.7, 4612,* 4980.04, 4980.34, 4980.398, 4980.399, *4980.43, 4980.44, 4980.48,* 4980.78, 4980.80, 4984.4, 4989.16, 4989.42, 4992.07, 4992.09, 4996.6, 4999.22, 4999.32, *4999.46,* 4999.57, 4999.58, 4999.59, *4999.62, 4999.76,* 4999.90, 4999.106, and 4999.120 of, to add ~~Section~~ *Sections* 144.5, *1902.2, 1942, 1958.1, and 4300.1* to *repeal Section 1909.5 of,* and to repeal and amend Section 4999.45 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1575, as amended, 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 law, specified professions and vocations boards are required to require an applicant to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.

This bill would authorize such a board to request, and would require a local or state agency to provide, certified records of, among other things, all arrests and convictions needed by a board to complete an

applicant or licensee investigation. *By imposing additional duties on local agencies, the bill would impose a state-mandated local program.*

(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. This bill would also require an approval dental hygiene education program to register extramural dental facilities, as defined, with the committee.

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 and knowingly failing to follow infection control guidelines, as specified.

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.

~~(2)~~

(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.

~~(3)~~

(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.

~~(4)~~

(5) 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.

~~(5)~~

(6) 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.

(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. 2.~~

SEC. 8. 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. 3.~~

SEC. 9. 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. 4.~~

SEC. 10. 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. 5.~~

SEC. 11. 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. 6.~~

SEC. 12. 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. 7.~~

SEC. 13. 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. 8.~~

SEC. 14. 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. 9.~~

SEC. 15. Section 2904.5 of the Business and Professions Code is amended to read:

2904.5. A psychologist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care provider subject to the provisions of Section 2290.5.

~~SEC. 10.~~

SEC. 16. Section 3057.5 of the Business and Professions Code is amended to read:

3057.5. Notwithstanding any other provision of this chapter, the board shall permit a graduate of a foreign university who meets all of the following requirements to take the examinations for a certificate of registration as an optometrist:

(a) Is over the age of 18 years.

(b) Is not subject to denial of a certificate under Section 480.

(c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

~~SEC. 11.~~

SEC. 17. Section 3742 of the Business and Professions Code is amended to read:

3742. During the period of any clinical training, a student respiratory care practitioner shall be under the direct supervision of a person holding a valid, current, and unrestricted license issued under this chapter. "Under the direct supervision" means assigned to a respiratory care practitioner who is on duty and immediately available in the assigned patient care area.

~~SEC. 12.~~

SEC. 18. Section 3750 of the Business and Professions Code is amended to read:

3750. The board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

(a) Advertising in violation of Section 651 or Section 17500.

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

2011/2012

LEGISLATION

AB 589

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 589
Author:	Perea
Bill Date:	August 17, 2011, 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 or federal funds and would only be implemented if HPEF determines that sufficient funds are available.

This bill was amended to specify that funds supporting the Steven M. Thompson Loan Repayment Program (STLRP) shall not be used to support the STMSSP. This bill was also amended to specify that STMSSP program participants must agree in writing to the program requirements prior to completing an accredited medical or osteopathic school based in the United States. This bill also specifies that the cost of administering the program shall not exceed ten percent of the total appropriation of the program.

ANALYSIS:

The 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 in 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 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 27th 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 12th 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 17th 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.

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.

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

AMENDED IN SENATE AUGUST 17, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 589

Introduced by Assembly Member Perea
(Principal coauthors: Senators Alquist and Rubio)

February 16, 2011

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.

LEGISLATIVE COUNSEL'S DIGEST

AB 589, as amended, 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, 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 in scholarships to selected participants who agree in writing prior to ~~entering~~ *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 to receive federal or private funds for the STMSSP. This bill would provide that the STMSSP will be implemented only to the extent that the account contains sufficient funds as determined by the foundation.

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

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

SECTION 1. Article 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 ~~entering~~ *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 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.

128580. (a) The Steven M. Thompson Medical School Scholarship Account is hereby established within the Health Professions Education Fund for the purposes of receiving federal or private funds.

(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, not to exceed 5 percent of the total appropriation for the program.~~ *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.

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AB 783

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 783
Author:	Hayashi
Bill Date:	April 7, 2011, amended
Subject:	Professional Corporations: Licensed Physical Therapists
Sponsor:	California Medical Association, California Orthopaedic Association, and the Podiatric Medical Association
Position:	Support

STATUS OF BILL:

This bill is in Senate Business, Professions and Economic Development Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would add licensed physical therapists and occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical corporation.

ANALYSIS:

Since 1990, the Physical Therapy Board has allowed physical therapist's to be employed by medical corporations. On September 29, 2010, the California Legislative Counsel issued a legal opinion that concluded a physical therapist may not be employed by a professional medical corporation and stated that only professional physical therapy corporations or naturopathic corporations may employ physical therapists. This issue came to the Legislature's attention when existing law was amended to add naturopathic doctor corporations and physical therapists were listed as professionals allowed to be employed by these corporations. Because the medical corporation section of law did not specifically list physical therapists, the issue was brought to the forefront and to the California Legislative Counsel for an opinion. On November 3, 2010, the Physical Therapy Board voted to rescind the 1990 resolution that authorized the forming of a general corporation employing physical therapists.

Currently, many physical therapists are employed by medical corporations. According to the author's office, this bill was introduced to "prevent the unnecessary loss of employment during this economic recession by allowing medical and podiatric medical corporations to continue to employ physical therapists, as they have done for over 21 years".

The Occupational Therapy Association of California requested that this bill be amended to clarify that occupational therapists are allowed to be employed by medical corporations because they work in numerous health care settings throughout California and should have the choice to be employed by medical corporations; this amendment was taken.

The Medical Board has received complaints regarding physicians who are employing physical therapists. Neither the Medical Board nor the Physical Therapy Board have taken action against licensees as of yet. This bill will codify the practice that has been allowed for over 20 years and allow physicians in medical corporations to employ physical therapists.

SB 543 (Steinberg, Chapter 448, Statutes of 2011) was signed into law and is now effective, as of January 1, 2012. Among other provisions, this bill specifies that no physical therapist shall be subject to discipline by the Physical Therapy Board for providing physical therapy services as a professional employee of a professional medical corporation; this provision sunsets on January 1, 2013. The language in SB 543 was added because the Physical Therapy Board was attempting to take action against physical therapists employed by a medical corporation. SB 543 puts this issue in a holding pattern, until January 1, 2013, which will allow time for it to be fixed through a statute change.

FISCAL: None to the Board

SUPPORT: CMA (Co-sponsor), California Orthopaedic Association (Co-sponsor); California Podiatric Medical Association (co-sponsor); California Chiropractic Association; California Hospital Association; California Labor Federation; California Society of Anesthesiologists; California Society of Physical Medicine and Rehabilitation; California Teamsters Public Affairs Council; Kaiser Permanente; Occupational Therapy Association of California; Western States Council of the United Food and Commercial Workers; and Individual Physical Therapists

OPPOSITION: California Physical Therapy Association
Individual Physical Therapists

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 783

Introduced by Assembly Member Hayashi

February 17, 2011

An act to amend Section 2406 of the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to ~~professional corporations, and declaring the urgency thereof, to take effect immediately.~~ *professional corporations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 783, as amended, Hayashi. Professional corporations: licensed physical *therapists and occupational* therapists.

Existing law regulating professional corporations provides that certain healing arts practitioners may be shareholders, officers, directors, or professional employees of a medical corporation ~~or a~~, podiatric medical corporation, *or a chiropractic corporation,* subject to certain limitations.

This bill would add licensed physical therapists *and licensed occupational therapists* to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of those corporations. The bill would also make conforming changes to a related provision.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ *majority*. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

SECTION 1. Section 2406 of the Business and Professions Code is amended to read:

2406. A medical corporation or podiatry corporation is a corporation that is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians and surgeons, psychologists, registered nurses, optometrists, podiatrists, chiropractors, acupuncturists, naturopathic doctors, physical therapists, or, in the case of a medical corporation only, physician assistants, marriage and family therapists, or clinical social workers are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

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

SEC. 2. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed physical therapists.
(12) Licensed occupational therapists.
(b) Podiatric medical corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed physical therapists.
(9) Licensed occupational therapists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(d) Speech-language pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech-language pathologists.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.

(10) Naturopathic doctors.
(g) Marriage and family therapy corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage and family therapists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(k) Chiropractic corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.

(10) Licensed physical therapists.
(11) Licensed occupational therapists.
(*l*) Acupuncture corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed physician assistants.
(9) Licensed chiropractors.
(10) Naturopathic doctors.
(m) Naturopathic doctor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed physician assistants.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Licensed physical therapists.
(8) Licensed doctors of podiatric medicine.
(9) Licensed marriage, family, and child counselors.
(10) Licensed clinical social workers.
(11) Licensed optometrists.
(n) Dental corporation.
(1) Licensed physicians and surgeons.
(2) Dental assistants.
(3) Registered dental assistants.
(4) Registered dental assistants in extended functions.
(5) Registered dental hygienists.
(6) Registered dental hygienists in extended functions.
(7) Registered dental hygienists in alternative practice.
~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~
~~In order to authorize licensed physical therapists to be shareholders, officers, directors, or professional employees of~~

~~medical corporations and podiatric medical corporations as soon as possible, it is necessary that this act take effect immediately.~~

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AB 1548

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 1548
Author:	Carter
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

STATUS OF BILL:

This bill is on the Assembly Consent Calendar.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would prohibit 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 was amended to 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.

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 would enhance 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 would define "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, Inc.
California Society of Plastic Surgeons
Medical Board of California

OPPOSITION: None on File

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1548

Introduced by Assembly Member Carter
(Coauthors: Assembly Members Bill Berryhill and Hill)
(Coauthors: Senators Correa, Emmerson, Negrete McLeod, and Wyland)

January 25, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as amended, 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.

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

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

SECTION 1. The Legislature finds and declares that the Medical Practice Act ~~restricts the employment of physicians and surgeons by a corporation or~~ *prohibits corporations and* other artificial legal ~~entity~~ *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.

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AB 1621

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

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

STATUS OF BILL:

This bill is in the Senate Business, Professions, and Economic Development Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would exempt 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 would add 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.

Board staff believes that 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. Board staff suggests that the Board support this bill.

FISCAL: None

SUPPORT: California Chapter of the American College of Emergency Physicians
California Hospital Association
Northern CA Chapter of the American College of Surgeons
One individual

OPPOSITION: None on File

POSITION: Recommendation: Support

ASSEMBLY BILL No. 1621

Introduced by Assembly Member Halderman

February 8, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1621, as introduced, 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.

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

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
Bill Date:	March 27, 2012, amended
Subject:	Tribal Health Programs: Health Care Practitioners
Sponsor:	California Rural Indian Health Board (CRIHB)

STATUS OF BILL:

This bill is on the Assembly Third Reading File.

DESCRIPTION OF CURRENT LEGISLATION:

AB 1896 would align 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 would align 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.

Board staff will continue to work with CRIHB, the author's office, and other interested parties to ensure that if this bill is passed, it is implemented in a way that will ensure consumer protection for all patients served in tribal health programs.

FISCAL: None

SUPPORT: CRIHB (Sponsor)
CRIHB, Tribal Governments Consultation Committee

OPPOSITION: None on file

POSITION: Recommendation: No Position

AMENDED IN ASSEMBLY MARCH 27, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1896

Introduced by Assembly Member Chesbro

February 22, 2012

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.

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, as amended, 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 any state licensing requirement *with respect to acts authorized under the person's license* where the tribal health program performs specified services.

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

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 ~~this division or any initiative act referred to in this division~~ *the law of any other state*.

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AB 2561

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	AB 2561
Author:	Hernandez
Bill Date:	As proposed to be amended
Subject:	Certified Surgical Technologists
Sponsor:	Association of Surgical Technologists CA State Association of Surgical Technologists

STATUS OF BILL:

This bill is in the Assembly Appropriations Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would define certified surgical technologist (CST) and would define surgical technology patient care. This bill would prohibit individuals from holding themselves out to be CSTs unless they meet specified requirements.

ANALYSIS:

This bill would amend definitions and title protection for certified surgical technologists into the Medical Practice Act. CSTs work under the supervision of a physician, similar to a medical assistant. This bill would not require the Medical Board of California (Board) to issue a license or registration for a CST.

This bill would provide title protection by prohibiting individuals from using the title "Certified Surgical Technologist" in California unless the individual: has successfully completed a nationally accredited educational program for surgical technologists, or a training program for surgical technology in the army, navy, air force, marine corps, or coast guard of the United States or in the United States Public Health Service; and 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 certification program. This bill would define "Certified Surgical Technologist" as 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 above.

This bill would define "surgical technology" to mean surgical patient care as follows:

- Preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely.
- Preparing the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique.

- 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.

- As directed in an operating room setting, performing the following tasks at the sterile field:
    - Passing supplies, equipment, or instruments.
    - Sponging or suctioning an operative site.
    - Preparing and cutting suture material.
    - Transferring and pouring irrigation fluids.
    - Transferring but not administering drugs within the sterile field.
    - Handling specimens.
    - Holding retractors and other instruments.
    - Applying electrocautery to clamps on bleeders.
    - Connecting drains to suction apparatus.
    - Applying dressings to closed wounds.
    - Assisting in counting sponges, needles, supplies, and instruments with the registered nurse circulator.
    - Cleaning and preparing instruments for sterilization on completion of the surgery.
    - Assisting the surgical team with cleaning of the operating room on completion of the surgery.

This bill would specify that it does not repeal, modify, or amend any existing law relating to the supervision of surgical technologists and it would not prohibit or limit any healing arts licensee described in this division from performing a task or function within the scope of the healing art licensee's license. This bill would also not apply to a registered nurse or an individual employed by a health care facility whose primary functions include the cleaning or sterilization of supplies, instruments, equipment, or operating rooms.

According to the findings and declarations included in this bill, 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. Surgical site infections have been found to be the second most common hospital-acquired infections in the United States; the purpose of this bill 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. This bill does not raise any concerns for the Board; staff is suggesting the Board be neutral on this bill.

FISCAL: None

SUPPORT: Association of Surgical Technologists (Co-sponsor)
CA State Association of Surgical Technologists (Co-sponsor)

OPPOSITION: American Nurses Association – Opposed to licensure of surgical technologists

POSITION: Recommendation: Neutral

MOCK UP

BILL NUMBER: AB 2561 AMENDED BILL TEXT

AS PROPOSED TO BE AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

INTRODUCED BY Assembly Member Roger Hernández

FEBRUARY 24, 2012

An act to amend Section 152 of the Business and Professions Code, relating to the Department of Consumer Affairs.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, as amended, Roger Hernández. The Department of Consumer Affairs. 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 to use the title "certified surgical technologist" unless one meets certain educational requirements, and holds a certification issued by specified entities.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) Surgical technologists are responsible 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) "Committee" means the Certified Surgical Technologist Committee within the Medical Board of California.~~

~~(b)~~ (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 entities described in Section 2525.24.

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

(1) Preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely.

(2) 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 to use the title "certified surgical technologist" in this state unless a person (1) has successfully completed a nationally accredited educational program for surgical technologists, or a training program for surgical technology in the army, navy, air force, marine corps, or coast guard of the United States or in the United States Public Health Service, and (2) 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 certification program.

2525.26. 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.

2525.28. This article does not prohibit or limit any healing arts licensee described in this division from performing a task or function within the scope of the healing art licensee's license, nor shall it be construed as such.

2525.30. 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.

AB 2570

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: AB 2570
Author: Hill
Bill Date: February 24, 2012, introduced
Subject: Licensees: Settlement Agreements
Sponsor: Author

STATUS OF BILL:

This bill is in the Assembly Appropriations Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would prohibit a physician 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.

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 would expand this prohibition to all boards, bureaus, and programs within the Department of Consumer Affairs. The language in this bill is identical 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.

Board staff believes this bill will ensure that consumers in California will not be coerced to waive their right to file a complaint as a condition of receiving civil settlement. This will help other boards under DCA to ensure that the appropriate administrative actions are taken and consumers are protected, regardless of the status of the civil settlement.

FISCAL: None

SUPPORT: None on file

OPPOSITION: None on file

POSITION: Recommendation: Support

ASSEMBLY BILL No. 2570

Introduced by Assembly Member Hill
(Coauthor: Senator Correa)

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2570, as introduced, 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.

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. 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.

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

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

SECTION 1. Section 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 or that requires the other party to withdraw a complaint from the department, board, bureau, or program. 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.

O

SB 352

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 352
Author:	Huff
Bill Date:	January 11, 2012, amended
Subject:	Chiropractors: Allergies
Sponsor:	Author
Position:	Support if Amended

STATUS OF BILL:

This bill is in the Assembly.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would prohibit chiropractors from treating allergies, including hypersensitivity to foods, medications, environmental allergens, or venoms, including the use of laser therapy. This bill would also prohibit chiropractors from advertising to provide the above listed services.

ANALYSIS:

The Board of Chiropractic Examiners (BCE) had drafted regulations relating to the use of cold lasers by chiropractors. Their regulations would only allow chiropractors to use the cold lasers for uses approved by the FDA, and specifically prohibit chiropractors from using lasers for specified reasons, as follows:

"Nothing in this section shall be construed to authorize the use of a laser by a chiropractor outside the chiropractic scope of practice. This includes, but is not limited to, laser ablation, surgical procedures and the laser treatment of allergies in cases where there is a known risk of anaphylactic reaction to the individual being treated".

Medical Board staff has requested that the BCE add cosmetic procedures to this section of the regulation, which would prohibit chiropractors from using lasers for cosmetic procedures, as cosmetic procedures are outside the chiropractic scope of practice.

Senator Huff introduced this bill because he believes as technology has evolved, chiropractic involvement in the treatment of allergies, including the use of lasers, is outside the chiropractic scope of practice, especially for serious allergies that may result in anaphylactic reactions. The author is concerned that the regulations may be bogged down by the bigger issue of the use of cold lasers, and has introduced this bill to keep the measure moving.

Senator Huff has agreed that if the regulations get finalized before the end of the legislative session, he will drop this bill.

The procedures listed in the BCE regulations are agreeably outside the scope of chiropractic practice, and if these procedures and cosmetic procedures could be added to this bill, the Board believes it would help to ensure consumer protection. The Board will be supportive of this bill if it is amended to specifically list other procedures that chiropractors should not be authorized to perform using laser therapy, including, laser ablation, surgical procedures, and cosmetic procedures.

FISCAL: None to the Board

SUPPORT: California Medical Association
The Joint Council of Allergy, Asthma & Immunology
Capital Allergy & Respiratory Disease Center
Medical Board of California (if amended)
North Bay Allergy & Asthma Medical Associates
Allergy & Asthma Associates of Southern California

OPPOSITION: Board of Chiropractic Examiners
California Chiropractic Association
Southern California University of Health Sciences

AMENDED IN SENATE JANUARY 11, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL No. 352

Introduced by Senator Huff

February 15, 2011

An act to add Sections 1006 and 1007 to the Business and Professions Code, relating to chiropractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as amended, Huff. Chiropractors.

Existing law, the Chiropractic Act, enacted by initiative act, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Under the act, a license authorizes its holder to practice chiropractic as taught in chiropractic schools or colleges but does not authorize its holder to practice medicine, surgery, osteopathy, dentistry, or optometry.

Existing law prohibits a chiropractor, among other healing arts practitioners, from disseminating any form of public communications containing a false, fraudulent, misleading, or deceptive statement for the purpose of inducing the rendering of professional services, as specified.

This bill would specify that the practice of chiropractic does not include the treatment ~~or diagnosis~~ of hypersensitivity to foods, medications, environmental allergens, or venoms, and would prohibit a chiropractor from advertising that he or she provides or is able to provide those services, as specified. The bill would specify that a violation of these provisions constitutes a cause for discipline by the State Board of Chiropractic Examiners.

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

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) The law governing practitioners of chiropractic is an initiative statute known as the Chiropractic Act that was originally approved by the electorate on November 7, 1922.

(b) The scope of practice authorized by the Chiropractic Act does not extend beyond the scope of the term "chiropractic" as it was understood and defined in 1922. In addition, the Chiropractic Act prohibits a chiropractor from engaging in the practice of medicine.

(c) As it was understood in 1922, the term "chiropractic" did not include the treatment ~~or diagnosis~~ of hypersensitivity to foods, medications, environmental allergens, or venoms. Furthermore, those services constitute the practice of medicine. Therefore, the Chiropractic Act does not authorize licensees to provide those services.

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

1006. (a) The practice of chiropractic does not include the treatment ~~or diagnosis~~ of hypersensitivity to foods, medications, environmental allergens, or venoms, including, but not limited to, the use of laser therapy for those purposes.

(b) A violation of this section shall constitute a cause for discipline by the State Board of Chiropractic Examiners. For purposes of this subdivision, the board shall have the same powers of suspension, revocation, and discipline as authorized by the initiative measure referred to in Section 1000.

SEC. 3. Section 1007 is added to the Business and Professions Code, to read:

1007. (a) A person licensed by the State Board of Chiropractic Examiners under the Chiropractic Act shall not advertise that he or she provides or is able to provide the services described in Section 1006, unless that person holds another license under this division that authorizes the person to provide those services.

(b) For purposes of this section, "advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting.

(c) A violation of this section shall constitute a cause for discipline by the State Board of Chiropractic Examiners. For purposes of this subdivision, the board shall have the same powers of suspension, revocation, and discipline as authorized by the initiative measure referred to in Section 1000.

SEC. 4. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

O

SB 924

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 924
Author:	Price, Walters, and Steinberg
Bill Date:	January 26, 2012, amended
Subject:	Physical Therapists: Direct Access to Services: Professional Corporations
Sponsor:	California Physical Therapy Association
Position:	Oppose Unless Amended

STATUS OF BILL:

This bill is in the Assembly Business, Professions & Consumer Protection Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would add licensed physical therapists, chiropractors, acupuncturists, naturopathic doctors, occupational therapists, marriage and family therapists, and clinical social workers, to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical or podiatry corporation.

This bill would allow a patient to directly access PT services, without being referred by a physician, provided that the treatment is within the scope of a PT as long as specified conditions are met. This bill would also require a PT to provide a patient that has directly accessed their PT services to provide a specified written notice, orally and in writing and signed by the patient, before performing PT services.

ANALYSIS:

This bill would add licensed physical therapists, chiropractors, acupuncturists, naturopathic doctors, occupational therapists, marriage and family therapists, and clinical social workers, to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical or podiatry corporation. This bill would also require medical or podiatry corporations to disclose to patients, orally and in writing, when initiating physical therapy (PT) treatment services, the patient may seek services form a PT provider of his or her choice who may not necessarily be employed by the medical or podiatry corporation; this requirement does not apply to medical corporations that contract with a health care service plan.

The Medical Board of California (the Board) has taken a support position on AB 783 (Hayashi), which would add licensed physical therapists and occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors, or

professional employees of a medical corporation. This bill would also add other health care practitioners who may be professional employees of a medical corporation.

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

- If the PT has reason to believe the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a PT, the PT shall refer the patient to a physician, an osteopathic physician, or to a dentist, podiatrist or chiropractor.
- The PT shall comply with advertising requirements (Business and Professions Code Section 650).
- The PT shall notify the patient's physician, with the patient's written authorization, that the PT is treating the patient.
- The PT shall not continue treating the patient beyond 30 business days (approximately 6 weeks) or 12 visits, whichever occurs first, without receiving a dated signature on the PTs plan of care from a licensed physician or osteopathic physician, indicating approval of the PT's plan of care. The bill would specify that approval of the plan of care shall include an appropriate examination by the licensed physician.

This bill would require a PT to provide to patients that have directly accessed their PT services to provide a specified written notice, orally and in writing, and signed by the patient, before performing PT services. The notice must be in at least 14-point type, on one page, and must state the following:

Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is not a physician and surgeon, but who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of 30 business days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, a dated signature on the physical therapists plan of care indicating approval of the physical therapists plan of care.

If you have received direct physical therapy treatment services for a duration of 30 business days or 12 visits, whichever occurs first, from a

physical therapist, it may constitute unprofessional conduct for that physical therapist or another physical therapist to provide direct physical therapy treatment services without receiving from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California a dated signature on the physical therapists plan of care, indicating approval of the physical therapist's plan of care.

This bill changes the scope of practice of a PT by allowing that practitioner to treat patients without a referral from a physician. The Board has taken an oppose position in the past on bills that allowed for direct patient access to PT services. This bill does limit the amount of time a patient can receive PT services before being seen by a physician to 30 business days or 12 visits, whichever occurs first. This bill also requires that a notice be given to the patient, orally and in writing, and be signed by the patient.

The Board is opposed to this bill unless it is amended to remove the provisions that allow for direct patient access to PT services. The Board feels that expanding the scope of practice for PT's by allowing them to see patients directly, without having the patients first seen by a physician, puts patients at risk. A patient's condition cannot be accurately determined without first being examined by a physician, as PTs are not trained to make these comprehensive assessments and diagnoses. As such, the Board believes this bill would compromise patient care and consumer protection, and is opposed unless it is amended to remove the provisions that allow for direct patient access to PT services.

FISCAL: None to the Board

SUPPORT: California Physical Therapy Association (Sponsor)
(Previous Version) California Advocates for Nursing Home Reform
California Senior Legislature
Numerous Individuals

OPPOSITION: California Association of Joint Powers Authorities
(Previous Version) California Chiropractic Association
California Medical Association
California Orthopaedic Association
California Society of Anesthesiologists

AMENDED IN SENATE JANUARY 26, 2012

AMENDED IN SENATE MAY 24, 2011

AMENDED IN SENATE MAY 9, 2011

AMENDED IN SENATE MARCH 30, 2011

SENATE BILL No. 924

Introduced by ~~Senator~~ *Senators Price,* Walters, *and Steinberg*
~~(Coauthors: Senators Emmerson, Runner, and Strickland)~~
~~(Coauthors: Assembly Members Bill Berryhill, Chesbro, Knight, Morrell, Norby, and Silva)~~

February 18, 2011

An act to amend ~~Section 2660~~ *Sections 2406 and 2690* of, and to add ~~Section~~ *Sections 2406.5,* 2620.1, *and 2694.5* to, the Business and Professions Code, *and to amend Section 13401.5 of the Corporations Code,* relating to ~~physical therapists~~ *healing arts*.

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, ~~Walters~~ *Price*. Physical therapists: direct access to ~~services.~~ *services: professional corporations.*

~~Existing~~

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

This bill would specify that patients may access physical therapy treatment directly, and would, in those circumstances, require a physical

therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice, ~~to disclose to the patient any financial interest he or she has in treating the patient,~~ and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient beyond ~~a 30-day period~~ *30 business days or 12 visits, whichever occurs first*, unless the ~~patient has obtained a diagnosis from a physician and surgeon~~ *physical therapist receives a specified authorization from a person with a physician and surgeon's certificate. The bill would require a physical therapist, prior to the initiation of treatment services, to provide a patient with a specified notice concerning the limitations on the direct treatment services.* ~~The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.~~

(2) Existing law regulating professional corporations provides that certain healing arts practitioners may be shareholders, officers, directors, or professional employees of a medical corporation or a podiatric medical corporation, subject to certain limitations.

This bill would add licensed physical therapists and licensed occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of those corporations. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would require, except as specified, that a medical corporation, podiatry corporation, and physical therapy corporation provide patients with a specified disclosure notifying them that they may seek physical therapy treatment services from any physical therapy provider. The bill would also make conforming changes to related provisions.

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

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

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

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

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

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

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

2406. A medical corporation or podiatry corporation is a corporation ~~which~~ *that* is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians *and surgeons*, psychologists, registered nurses, optometrists, podiatrists, *chiropractors, acupuncturists, naturopathic doctors, physical therapists, occupational therapists,* or, in the case of a medical corporation only, physician assistants, *marriage and family therapists, or clinical social workers,* are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

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

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

2406.5. (a) A medical corporation or podiatry corporation that is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, shall disclose to its patients, orally and in writing, when initiating any physical therapy treatment services, that the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the medical or podiatry corporation.

(b) This disclosure requirement shall not apply to any medical corporation that contracts with a health care service plan with a

license issued pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) if the licensed health care service plan is also exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

~~SEC. 2.~~

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

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

(1) If, at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a physical therapist, the physical therapist shall refer the patient to a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California or to a person licensed to practice dentistry, podiatric medicine, or chiropractic.

(2) The physical therapist shall ~~disclose to the patient any financial interest he or she has in treating the patient and shall~~ comply with Article 6 (commencing with Section 650) of Chapter 1 of Division 2.

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

(4) With respect to a patient initiating physical therapy treatment services directly from a physical therapist, the physical therapist shall not continue treating that patient beyond 30 business days or 12 visits, whichever occurs first, without receiving, from a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care. Approval of the physical therapist's plan of care shall include an appropriate patient examination by the person holding a physician and surgeon's certificate from the Medical Board of California

or the Osteopathic Medical Board of California. For purposes of this paragraph, "business day" means any calendar day except Saturday, Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

(b) The conditions in paragraphs (1), (2), ~~and~~ (3), *and (4)* of subdivision (a) do not apply to a physical therapist when providing evaluation or wellness physical therapy services to a patient as described in subdivision (a) of Section 2620 *or treatment provided upon referral or diagnosis by a physician and surgeon, podiatrist, dentist, chiropractor, or other appropriate health care provider acting within his or her scope of practice. Nothing in this subdivision shall be construed to alter the disclosure requirements of Section 2406.5.*

(c) Nothing in this section shall be construed to expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(d) Nothing in this section shall be construed to require a health care service plan, insurer, *workers' compensation insurance plan,* or any other person or entity, including, but not limited to, a state program or state employer, to provide coverage for direct access to treatment by a physical therapist.

~~(e) A physical therapist shall not continue treating a patient beyond a 30-day period, unless the patient has obtained a diagnosis by a physician and surgeon.~~

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

Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is not a physician and surgeon, but who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of 30 business days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care.

If you have received direct physical therapy treatment services for a duration of 30 business days or 12 visits, whichever occurs first, from a physical therapist, it may constitute unprofessional conduct for that physical therapist or for another physical therapist to provide direct physical therapy treatment services without receiving from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California a dated signature on the physical therapist's plan of care, indicating approval of the physical therapist's plan of care.

_____

[Patient's Signature/Date]

~~SEC. 3. Section 2660 of the Business and Professions Code is amended to read:~~

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

~~(a) Advertising in violation of Section 17500.~~

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

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

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

~~(e) Habitual intemperance.~~

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

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

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

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

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

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

~~(*l*) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne 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 blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.~~

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

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

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

SEC. 5. Section 2690 of the Business and Professions Code is amended to read:

2690. A physical therapy corporation is a corporation that is authorized to render professional services, as defined in ~~Section~~ *Sections* 13401 *and 13401.5* of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physical therapists, *physicians and surgeons, podiatrists, acupuncturists, naturopathic doctors, occupational therapists, speech-language pathologists, audiologists, registered nurses, psychologists, and physician assistants* are in compliance with the Moscone-Knox Professional Corporation Act, 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 physical therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~Physical Therapy Board of California~~ *board.*

SEC. 6. Section 2694.5 is added to the Business and Professions Code, to read:

2694.5. A physical therapy corporation that is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, shall disclose to its patients, orally and in writing, when initiating any physical therapy treatment services, that the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the physical therapy corporation.

SEC. 7. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.
(1) Licensed doctors of podiatric medicine.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(12) Licensed physical therapists.
(13) Licensed occupational therapists.
(b) Podiatric medical corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed physical therapists.
(9) Licensed occupational therapists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(10) Licensed professional clinical counselors.
(d) Speech-language pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech-language pathologists.
(f) Nursing corporation.

(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(g) Marriage and family therapist corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage and family therapists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.

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

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

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

O

SB 1095

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 1095
Author: Rubio
Bill Date: February 16, 2012, introduced
Subject: California Outpatient Pharmacy Safety and Improvement Act
Sponsor: California Ambulatory Surgery Association (CASA)

STATUS OF BILL:

This bill is in Senate Appropriations Committee.

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 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 surgery centers owned by physicians to instead be accredited; and therefore were not eligible to obtain a license from the Pharmacy Board to purchase drugs at wholesale for administration or dispensing to clinic patients. According to the author, this is problematic because 90% of surgery centers have some percentage of physician ownership. Currently, physicians working in accredited surgery centers are each individually required to acquire and maintain on-hand a myriad of medications to dispense at the point of care, instead of the surgery center being able to purchase medication at wholesale and safely store the medication in a centralized location in the surgery center.

This bill 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 surgery centers to obtain a license from the Pharmacy Board, which will permit accredited surgery centers to purchase medication at wholesale and safely store the medication in a centralized location in the surgery center. Board staff is suggesting that the Board support this bill.

FISCAL: None

SUPPORT: CASA (Sponsor)
Numerous Surgical Centers

OPPOSITION: None on file

POSITION: Recommendation: Support

MOCK UP

BILL NUMBER: AB 2561 AMENDED BILL TEXT

AS PROPOSED TO BE AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

INTRODUCED BY Assembly Member Roger Hernández

FEBRUARY 24, 2012

An act to amend Section 152 of the Business and Professions Code, relating to the Department of Consumer Affairs.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, as amended, Roger Hernández. The Department of Consumer Affairs. 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 to use the title "certified surgical technologist" unless one meets certain educational requirements, and holds a certification issued by specified entities.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) Surgical technologists are responsible 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) "Committee" means the Certified Surgical Technologist Committee within the Medical Board of California.~~

~~(b)~~ (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 entities described in Section 2525.24.

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

(1) Preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely.

(2) 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 to use the title "certified surgical technologist" in this state unless a person (1) has successfully completed a nationally accredited educational program for surgical technologists, or a training program for surgical technology in the army, navy, air force, marine corps, or coast guard of the United States or in the United States Public Health Service, and (2) 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 certification program.

2525.26. 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.

2525.28. This article does not prohibit or limit any healing arts licensee described in this division from performing a task or function within the scope of the healing art licensee's license, nor shall it be construed as such.

2525.30. 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.

SENATE BILL No. 1095

Introduced by Senator Rubio

February 16, 2012

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, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1095, as introduced, 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 but would require the clinics described above to be licensed in order to receive the benefits of these provisions. The bill would specify that the board is authorized to inspect only a clinic that is licensed by the board.

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

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

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

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

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

SECTION 1. 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. ~~Surgical~~ 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.).*

~~(a)~~

(b) Notwithstanding any provision of this chapter, a ~~surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code~~ *clinic* 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 ~~(b)~~ *(c)*. 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.

~~(b)~~

(c) The drug distribution service of a ~~surgical~~ clinic shall be limited to the use of drugs for administration to the patients of the ~~surgical~~ 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.

~~(c)~~

(d) No ~~surgical~~ clinic shall ~~operate without a license issued by the board nor shall it~~ be entitled to the benefits of this section until it has obtained a license from the board. 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.

~~(d) Any~~

(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 or a group medical practice 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 ~~a~~ *the* clinic is, or is not, operating in compliance with this article and all other provisions of the law.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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SB 1274

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 1274
Author: Wolk
Bill Date: April 9, 2012, amended
Subject: Hospitals: Employment
Sponsor: Shriners Hospital for Children

STATUS OF BILL:

This bill is in Senate Health Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would allow 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.

This bill will narrowly expand 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. Board staff is suggesting a support position on this bill.

FISCAL: None

SUPPORT: Shriners Hospital for Children (Sponsor)

OPPOSITION: None on file

POSITION: Recommendation: Support

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL No. 1274

Introduced by Senator Wolk

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, as amended, 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 ~~and~~, 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 physician and surgeon's employment meets a specified standard.*

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

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 Division of Licensing 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 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 physicians and surgeons or podiatrists 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 insurance.

(4) The medical staff concur by an affirmative vote that the physician and surgeon'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 the physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

O

SB 1338

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1338
Author:	Kehoe
Bill Date:	April 9, 2012, amended
Subject:	Abortion
Sponsor:	ACCESS Women's Health Justice American Civil Liberties Union of California NARAL Pro-Choice California Planned Parenthood Affiliates of California

STATUS OF BILL:

This bill is in Senate Business, Professions and Economic Development Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would eliminate the distinction in existing law between "surgical" and "nonsurgical" abortions and would allow physician assistants (PAs), nurse practitioners (NPs), and certified nurse-midwives (CNMs) to perform the functions necessary for an abortion by medication or aspiration techniques, if specified training is completed. This bill would sunset the authorization of PAs, NPs and CNMs to perform abortions by medication or aspiration techniques and the associated training requirements on January 1, 2015. After January 1, 2015, this bill would allow only those PAs, NPs, and CNMs who have completed the specified training to continue to perform aspiration abortions.

ANALYSIS:

According to the author, this bill seeks to codify the Health Workforce Pilot Project (HWPP) #171, coordinated through the Office of Statewide Health Planning and Development (OSHPD) and sponsored by the Advancing New Standards in Reproductive Health (ANSIRH) program at the University of California, San Francisco (UCSF). This pilot project has been approved since March 31, 2007, and will end on September 31, 2012. The purpose of the pilot project is to evaluate the safety, effectiveness and acceptability of NPs, CNMs, and PAs in providing aspiration abortions, and to evaluate the implementation of a standardized, competency based curriculum in provision of aspiration abortion care.

As part of the pilot, 41 NPs, CNMs and PAs were trained to be competent in aspiration abortion care. Clinicians participated in a comprehensive didactic and supervised clinical training program, which included a written exam and competency-based evaluation process. Trainee competency was evaluated daily and at the end of training on confidence, procedural performance, patient care, communication /interpersonal skills, professionalism, practice-based learning, and clinical knowledge.

This bill would also require PAs, NPs, and CNMs to complete the training required as a part of this pilot project before they are allowed to perform abortions by medication or aspiration techniques.

STATISTICS of the HWPP Pilot Project (#171) - Taken from the fact sheet:

Patient sample selection, enrollment and consent:

- 7,585 first-trimester aspiration abortion procedures were completed by NPs/CNMs/PAs and 6,195 procedures were completed by physicians, for a total of 13,780 abortion procedures.

- 13,876 patients agreed to participate in HWPP #171 and less than 20% (n=2,469) of study patients declined having a NP/CNM/PA perform their abortion procedure.

Abortion-related complications summary:

- A complication is identified at the time of the procedure (immediate) or after the procedure (delayed) and classified as either major (defined by the DCSMC as "complications requiring abortion-related surgeries, transfusion or hospitalization") or minor.

- Overall abortion-related complication rate: 1.3% of all procedures (178 of 13,780) have abortion-related complication diagnoses; this falls well below the expected rate of 5% for total complication diagnoses. No deaths have been reported during the study period at any of the clinic sites.

- Group-specific abortion-related complication rate: 1.5% for NPs, CNMs, and PAs (115 out of 7,585), and 1.0% for physicians (63 out of 6,195); this variation in complication rates between the two groups is within an acceptable clinical margin of difference.

- 97% (173 out of 178) of abortion-related complications have been minor and completely resolved without adverse outcomes; 5 cases have been classified as major complications and were successfully managed and resolved with appropriate treatment.

- The most common type of minor abortion-related complication diagnoses reported for both provider groups were incomplete abortion, hematometra, failed abortion, and symptomatic intrauterine material. Major abortion-related complications include incomplete abortion, infection, and uterine perforation.

- For both provider groups, less than 0.5% of the minor abortion-related complications were immediate and the remaining were delayed (n=142) with 1.2% in the clinician group and 0.8% in the physician group.

According to the sponsors, this bill is needed to assure that women in California have access to early abortion by aspiration technique. The sponsors state that many low-income and underserved

women do not have sufficient access to aspiration abortion because many counties in California lack an abortion provider, which requires women to travel a significant distance for care. The sponsors believe that increasing the number of providers for aspiration abortions will increase the ability of women to receive safe reproductive health care from providers in their community.

The California Nurses Association (CNA) believes that this bill is unnecessary because first trimester aspiration abortions require the performance of functions that are within the current legal authority of advanced practice clinicians. They also believe this bill is premature because the results of HWPP #171 have not been completed, published and subject to peer review.

Legislative counsel issued an opinion on April 6, 2012 that existing law does not authorize a NP, CNM, or PA to perform an aspiration abortion. Counsel made the conclusion that an aspiration abortion is a surgical abortion and as such, may only be performed by a licensed physician and surgeon.

FISCAL: None

SUPPORT: ACCESS Women's Health Justice (sponsor); American Civil Liberties Union of California (Sponsor); NARAL Pro-Choice California (sponsor); Planned Parenthood Affiliates of California (sponsor); ACT for Women and Girls; American Nurses Association of California; **California Academy of Family Physicians**; California Academy of Physician Assistants; California Association of Nurse Practitioners; California Latinas for Reproductive Justice; **California Medical Association**; California Nurse-Midwives Association; Law Students for Reproductive Justice; Maternal and Child Health Access; National Asian Pacific American Women's Forum; National Center for Youth Law; **Physicians for Reproductive Choice in Health**; Planned Parenthood Action Fund, Inc. of Santa Barbara, Ventura and San Luis Obispo Counties, Inc.; Planned Parenthood Advocacy Project Los Angeles County; Planned Parenthood Mar Monet; Planned Parenthood of Pasadena and San Gabriel Valley, Inc.; Planned Parenthood Shasta Pacific Action Fund; Santa Cruz Mujeres Women's Health Center; Service Employees International Union; Women's Community Clinic; and Numerous Individuals.

OPPOSITION: California Catholic Conference
California Nurses Association

POSITION: Recommendation: No Position

AMENDED IN SENATE APRIL 9, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL No. 1338

Introduced by Senator Kehoe
(Principal coauthor: Senator Steinberg)
(Principal coauthors: Assembly Members Atkins, John A. Pérez, and Skinner)
(Coauthors: Senators Alquist, De León, DeSaulnier, Evans, Hancock, Leno, Lieu, Liu, and Wolk)
(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Butler, Lara, and Williams)

February 24, 2012

An act to amend, *repeal, and add* Section 2253 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Kehoe. Abortion.

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

some other provision of law authorizing him or her to perform or assist in performing the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

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

This bill would make it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform ~~or assist in performing~~ an abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing an abortion without a valid license or certificate obtained in accordance with ~~some other provision of~~ law authorizing him or her to perform the functions necessary to assist in performing an abortion, except as specified. The bill would also make it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform ~~or assist in performing~~ an abortion by medication or aspiration techniques without a valid license to practice as a physician and surgeon or without a license or certificate ~~obtained in accordance with some other provision of law, including, but not limited to, the Nursing Practice Act or the Physician Assistant Practice Act,~~ *to practice as a nurse practitioner, a certified nurse-midwife, or a physician assistant* authorizing him or her to perform ~~or assist in performing~~ the functions necessary for an abortion by medication or aspiration techniques. *The bill would also, until January 1, 2015, require a nurse practitioner, certified nurse-midwife, or physician assistant to complete specified training in order to perform an abortion by aspiration techniques, but would indefinitely authorize a nurse practitioner, certified nurse-midwife, or physician assistant who completed a specified training program and achieved clinical competency to continue to perform abortions by aspiration techniques.* The bill would delete the description of what a nonsurgical abortion includes. ~~The bill~~ *and* would make ~~other~~ technical, nonsubstantive changes.

Because the bill would change the definition of crimes, the bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 2253 of the Business and Professions Code is amended to read:

2253. (a) Failure to comply with the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion constitutes unprofessional conduct.

(b) (1) Except as provided in paragraph (2), a person is subject to Section 2052 if he or she performs ~~or assists in performing~~ an abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon as provided in this chapter, or if he or she assists in performing an abortion and does not have a valid, unrevoked, and unsuspended license or certificate obtained in accordance with ~~some other provision of~~ law that authorizes him or her to perform the functions necessary to assist in performing an abortion.

(2) A person is subject to Section 2052 if he or she performs ~~or assists in performing~~ an abortion by medication or aspiration techniques, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon as provided in this chapter, or does not have a valid, unrevoked, and unsuspended license or certificate ~~obtained in accordance with some other provision of law, including, but not limited to, the Nursing Practice Act (Chapter 6 (commencing with Section 2700)) or the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500))~~, *to practice as a nurse practitioner, a certified nurse-midwife, or a physician assistant* that authorizes him or her to perform ~~or assist in performing~~ the

functions necessary for an abortion by medication or aspiration techniques, *subject to subdivision (c).*

(c) For purposes of paragraph (2) of subdivision (b), both of the following shall apply:

(1) In order to perform an abortion by aspiration techniques, a person with a license or certificate to practice as a nurse practitioner or a certified nurse-midwife shall complete training recognized by the Board of Registered Nursing. The training protocols established by Health Care Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be considered as recognized by the board and deemed to satisfy this requirement. A nurse practitioner or certified nurse-midwife who has completed training and achieved clinical competency through HWPP No. 171 shall be authorized to continue to perform abortions by aspiration techniques.

(2) In order to receive authority from his or her supervising physician and surgeon to perform an abortion by aspiration techniques, a physician assistant shall complete training either through training programs approved by the Physician Assistant Committee pursuant to Section 3513 or by training to perform medical services which augment his or her current areas of competency pursuant to Section 1399.543 of Title 16 of the California Code of Regulations. The training protocols established by HWPP No. 171 shall be deemed to meet the standards of the Physician Assistant Committee. A physician assistant who has completed training and achieved clinical competency through HWPP No. 171 shall be authorized to continue to perform abortions by aspiration techniques.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 2. Section 2253 is added to the Business and Professions Code, to read:

2253. (a) Failure to comply with the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion constitutes unprofessional conduct.

(b) (1) Except as provided in paragraph (2), a person is subject to Section 2052 if he or she performs an abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon as provided in this chapter, or if he or she assists in performing an abortion and does not have a valid, unrevoked, and unsuspended license or certificate obtained in accordance with law that authorizes him or her to perform the functions necessary to assist in performing an abortion.

(2) A person is subject to Section 2052 if he or she performs an abortion by medication or aspiration techniques, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon as provided in this chapter, or does not have a valid, unrevoked, and unsuspended license or certificate to practice as a nurse practitioner, a certified nurse-midwife, or a physician assistant that authorizes him or her to perform the functions necessary for an abortion by medication or aspiration techniques. A nurse practitioner, certified nurse-midwife, or physician assistant who has completed training and achieved clinical competency through Health Care Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be authorized to continue to perform abortions by aspiration techniques.

(c) This section shall become operative on January 1, 2015.

~~SEC. 2.~~

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

SB 1416

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 1416
Author: Rubio and Hernandez
Bill Date: April 16, 2012, amended
Subject: Medical Residency Training Program Grants
Sponsor: Author

STATUS OF BILL:

This bill is in Senate Health Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would establish a grant program in the Office of Statewide Health Planning and Development (OSHPD) to be used to fund grants to medical residency training programs for the creation of additional residency positions. The grant program would be funded by donations from private individuals or entities, and the funds are required to be appropriated by the Legislature.

ANALYSIS:

This bill would allow for private funding to be used to fund grants to be used to create more medical residency training positions. This bill may help to create more medical residency slots using private funding and may help to address physician shortages, which is especially important as provisions of health care reform take effect in 2014, and as California prepares to provide health services to substantial numbers of new patients. This bill is also consistent with the mission of the Medical Board of promoting access to care. Board staff is recommending a support position on this bill.

FISCAL: None

SUPPORT: None on file

OPPOSITION: None on file

POSITION: Recommendation: Support

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL No. 1416

Introduced by ~~Senator~~ *Senators* Rubio *and Hernandez*

February 24, 2012

An act *to add Article 4 (commencing with Section 128310) to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code,* relating to ~~public postsecondary education.~~ *health care.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1416, as amended, Rubio. ~~Public postsecondary education: construction of new medical school.~~ *Medical residency training program grants: grants.*

Existing law, the Song-Brown Family Physician Training Act, declares the intent of the Legislature to increase the number of students and residents receiving quality education and training in the specialty of family practice and as primary care physician's assistants and primary care nurse practitioners. Existing law establishes, for this purpose, a state medical contract program with accredited medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners, registered nurses, hospitals, and other health care delivery systems.

Existing law establishes the California Healthcare Workforce Policy Commission and requires the commission to, among other things, identify specific areas of the state where unmet priority needs for primary care family physicians and registered nurses exist, establish standards for family practice training programs, family practice residency programs, primary care physician assistants programs, and programs that train primary care nurse practitioners, and review and make recommendations to the Director of the Office of Statewide Health

Planning and Development concerning the funding of those programs that are submitted to the Health Professions Development Program for participation in the state medical contract program.

The bill would create the Graduate Medical Education Trust Fund in the State Treasury and would require that moneys in the fund be used by the Office of Statewide Health Planning and Development, upon appropriation by the Legislature, to fund grants to medical residency training programs for the creation of additional residency positions, which would be funded at the same rate as residency positions funded through the Medicare Program.

~~Existing law establishes the system of public postsecondary education in this state, consisting of 3 segments: the University of California, the California State University, and the California Community Colleges. Existing law provides that the University of California has exclusive jurisdiction in public higher education over instruction in the profession of law and over graduate instruction in the professions of medicine, dentistry, and veterinary medicine.~~

~~This bill would express the intent of the Legislature to enact legislation that would provide for the establishment and construction of a new medical school in this state.~~

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

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

SECTION 1. Article 4 (commencing with Section 128310) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 4. Medical Residency Training Program Grants

128310. (a) The Graduate Medical Education Trust Fund is hereby created in the State Treasury.

(b) Moneys in the fund shall, upon appropriation by the Legislature, be used by the office solely for the purposes specified in this section.

(c) Notwithstanding Section 16305.7 of the Government Code, all interest earned on the moneys that have been deposited into the fund shall be retained in the fund and used for purposes consistent with the fund.

(d) The fund shall consist of all of the following:

(1) All private moneys donated by private individuals or entities to the commission for deposit into the fund.

(2) Any amounts appropriated to the fund by the Legislature.

(3) Any interest that accrues on amounts in the fund.

(e) Moneys in the fund shall be used by the office to fund grants to medical residency training programs for the creation of additional residency positions. Additional residency positions funded pursuant to this section shall be funded at the same rate as residency positions funded through the Medicare Program.

(f) For purposes of this section, "office" means the Office of Statewide Health Planning and Development.

~~SECTION 1. It is the intent of the Legislature to enact legislation that would provide for the establishment and construction of a new medical school in this state.~~

O

SB 1483

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number:	SB 1483
Author:	Steinberg
Bill Date:	April 17, 2012, amended
Subject:	Physicians and Surgeons: Physician Health Program
Sponsor:	California Medical Association California Hospital Association California Psychiatric Association California Society of Addiction Medicine

STATUS OF BILL:

This bill is in the Senate Business, Professions and Economic Development Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would create the Physician Health Awareness, and Monitoring Quality Act of 2012. This bill would establish the Physician Health Program (PHP), which would be administered by the Physician Health, Recovery, and Monitoring Oversight Committee (Committee), also created by this bill. This bill would require the Department of Consumer Affairs (DCA) to select a contractor to implement the PHP, and the Committee would serve as the evaluation body of the PHP. The PHP would provide for confidential participation by physicians who have a qualifying illness and are not on probation with the Medical Board of California (Board). The PHP would refer physicians (participants) to monitoring programs though written agreements and monitor the compliance of the participants with that agreement. The bill would require the Committee to report to DCA on the outcome of the PHP and the bill would require regular audits of the PHP.

ANALYSIS:

This bill would define "physician and surgeon" as a holder of a valid physician and surgeon's certificate. For the purposes of participating in the PHP, it also would include students enrolled in medical schools approved or recognized by the Board, graduates of medical schools enrolled in medical specialty residency training programs approved or recognized by the Board, or physicians and surgeons seeking reinstatement of a license from the Board.

Including students and graduates enrolled in residency training programs could expand the PHP to include individuals that do not reside in California or may even include individuals attending international medical schools. In addition, if a student or graduate enrolled in residency training, who is participating in the PHP

doesn't comply with the written agreement, that individual may not yet be licensed by the Board, and there is no mechanism in the bill to alert the Board when a student or graduate in a residency program is not compliant and could be a danger to patients in the future.

This bill would define "qualifying illness" to mean alcohol or substance abuse, a mental disorder, or another health condition that a clinical evaluation determines can be monitored and treated with private clinical and monitoring programs. The definition for "impairment" also includes this terminology.

Including "another health condition" in the definition of qualifying illness is too broad. It is not clear what other health condition could be monitored and treated with private and clinical monitoring programs.

This bill would define "Physician Health Program" in part as the vendors, providers, or entities that contract with the committee. This bill would prohibit the PHP from offering or providing treatment services to physicians.

This bill would create the PHP and require the PHP to do all of the following:

- Be available to all physicians and surgeons.
- Promote awareness among members of the medical community on the recognition of health issues that could interfere with safe practice.
- Educate the medical community on the benefits of and options available for early intervention to address those health issues.
- Refer physicians and surgeons to monitoring programs certified by the program by executing a written agreement with the participant and monitoring the compliance of the participant with that agreement.
- Provide for the confidential participation by physicians and surgeons who have a qualifying illness and that are not on probation with the Board.

Promoting awareness and education is a positive step, but could be done through other avenues, such as the Board's Newsletter. The bill requires the PHP to refer physicians to monitoring programs certified by the PHP; however, this bill does not include a requirement or a process for the PHP to certify monitoring programs. Most importantly, this bill does not identify a funding mechanism for the PHP program. Because the provisions of this bill are being amended into the Medical Practice Act, it would appear to make the Board a responsible party for implementing and overseeing the PHP, but the Board is clearly not named to do this. In addition, it appears to possibly make the Board responsible for funding this bill with moneys from the Board's contingent fund. This is a major concern for the Board and the Board was previously opposed to bills that would have created similar programs were funded by moneys in the Board's contingent fund without any oversight or control of the expenditures.

This bill would create the Physician Health, Awareness, and Monitoring Quality Oversight Committee that would be allowed to take any reasonable administrative actions to carry out the responsibilities of this bill, including hiring staff and entering into contracts with vendors or others. The Committee would consist of 14 members; 12 members would be appointed by the Governor and would consist of the following:

- Eight physician members that have education, training, and experience in the identification and treatment of substance use or mental disorders, or both. The physician appointments are as follows:
    - Two members recommended by a statewide association representing psychiatrists with at least 3,000 members.
    - Two members recommended by a statewide association representing addiction medicine specialists with at least 300 members.
    - Three members recommended by a statewide association representing physician from all specialties, modes of practice, and practice settings with at least 25,000 members.
    - One member recommended by a statewide hospital association representing at least 400 hospitals.
- Four members of the public that have experience in a field related to mental illness, or alcohol or substance abuse, or both, as specified.

One member would be appointed by the Speaker of the Assembly, and one member would be appointed by the Senate Committee on Rules. This bill would require members of the Committee to serve without compensation and would serve for a term of four years, unless specified differently in the bill. The Committee would be subject to the Bagley-Keene Open Meeting Act and the California Public Records Act.

The Committee would be required to adopt rules that would include, but not be limited to, criteria for acceptance of participants into the PHP and refusal to accept a person as a participant, and assigning the costs of participation and the associated financial responsibilities of participants.

This bill does not assign a state agency to have jurisdiction over the PHP or the Committee. It seems that this bill intends the Committee to act as the body that has jurisdiction over the PHP program, as the PHP would report to the Committee, and the Committee would only have to report statistics to DCA, but DCA would not have oversight authority or the ability to direct the Committee or the PHP. In addition, there is no funding mechanism identified to fund any portion of the Committee, including the staff that this bill would authorize the Committee to hire and the contracts that this Committee would be executing, nor costs associated with the meetings of this Committee.

This bill would require DCA to select a contractor for the PHP program for a five year term, termed a "program vendor". This bill would require the Committee to serve as the evaluation body for procurement. This bill would specify criteria for the program vendor selected through the contracting process, who would be responsible for running the PHP program. This criteria would require the program vendor to monitor the monitoring entities that participants have retained for mentoring treatment, and provide ongoing services to physicians that resume practice. The program vendor would also be required to have a system in place to promptly report physicians that are unable to practice safely to the Board, when, contrary to agreements with the PHP, they continue to practice unsafely. The system would be required to ensure absolute confidentiality in the communication to the enforcement division of the Board, and would not be allowed to provide information to any other individual or entity, unless authorized by the physician.

Again, this bill does not identify a funding mechanism for the contract that DCA would be required to execute, although it might be a no cost contract. Although the bill charges DCA with selecting a contract, this bill would still require the Committee to serve as the evaluation body for procurement. For the reporting of physicians to the Board, in order to clarify that the PHP has a system in place to report physicians to the Board, the language should instead say that if the requirements in this bill are violated, then the physician would be reported to the Board. Lastly, it is also unclear what kind of "ongoing services" the program vendor would be providing to physicians that resume practice, as the PHP is not allowed by this bill to provide treatment services.

The contract with the Program Vendor for the PHP would require the PHP to do the following:

- Report annually to the Committee on the statistics of the PHP, as specified.
- Submit to periodic audits and inspections, as specified. The audits would be required to be published, given to the Legislature, and posted on the Committee's Web site. The Committee would be required to biennially contract to perform an audit of the PHP, as specified. This bill would not allow General Fund monies to be used for this purpose.
- The Committee would be required to report statistics to DCA, and DCA would be required to report this information to the Legislature, as specified.

Again, this bill does not include a funding mechanism for the statistics report or the audit that the Committee would be required to contract out for; this bill only specifies that General Fund monies cannot be used for the audit.

This bill would require a physician to enter into an individual agreement with the PHP as a condition of participation. The agreement would be required to include the following:

- A jointly agreed-upon plan and mandatory conditions and procedures to monitor compliance with the program, including, but not limited to, an agreement to cease practice.
- Compliance with the terms and conditions of treatment and monitoring.
- Limitations on practice.
- Conditions and terms for return to practice.
- Criteria for program completion.
- Criteria for termination of the participant from the program.
- If a participant retains the service of a private monitoring entity, the participant must agree to authorize the program to receive reports from the private monitoring entity and to request information from the private monitoring entity regarding the participant's treatment status.

This bill would specify that agreements with participants would not be disclosed to the Board or Committee if the participant did not enroll in PHP as a condition of probation or as a result of an action by the Board and if the participant is in compliance with the conditions and procedures in the agreement. This bill would require the PHP to immediately report the name of the participant to the Committee when it learns the participant is failing to meet the requirements of the program, if the participant's impairment is not substantially alleviated through treatment, if the participant withdraws or is terminated from PHP prior to completion, or if the participant is unable to practice medicine with reasonable skill and safety. This bill would require the Committee to refer the matter to the Board within two business days of receiving a report from the PHP.

The major issues of concern with this bill are that it is currently located in the Medical Practice Act, it does not identify a state agency to have oversight of the Committee and the PHP, and there is no funding source identified. Although the Board is not specifically named in this bill, it would appear to make the Board a responsible party for implementing and overseeing the PHP. In addition, it appears to possibly make the Board responsible for funding this bill with moneys from the Board's contingent fund. This is a major concern for the Board and the Board was previously opposed to bills that would have created similar programs were funded by moneys in the Board's contingent fund without any oversight or control of the expenditures. According to the author's office, this bill is a work in progress, and many of the issues pointed out in this analysis will be fixed as the bill goes through the process.

Board staff is suggesting an Oppose Unless Amended position on this bill. The major amendments would be to move the provisions of this bill out of the Medical Practice Act and into the general code sections to make this a DCA oversight function and to identify a funding source that is not the Board's contingent fund or a cost to all licensees.

FISCAL: Unknown, as a funding source is not identified in this bill.

SUPPORT: California Medical Association (Co-Sponsor)
California Hospital Association (Co-Sponsor)
California Psychiatric Association (Co-Sponsor)
California Society of Addiction Medicine (Co-sponsor)

OPPOSITION: None on file

POSITION: Recommendation: Oppose Unless Amended

AMENDED IN SENATE APRIL 17, 2012

SENATE BILL No. 1483

Introduced by Senator Steinberg

February 24, 2012

An act to ~~amend Section 2842~~ *add Article 14 (commencing with Section 2340) to Chapter 5 of Division 2* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1483, as amended, Steinberg. ~~Vocational nursing.~~ *Physicians and surgeons.*

Existing law provides for the licensing and regulation of physicians and surgeons by the Medical Board of California.

This bill would create the Physician Health Program, administered by the Physician Health, Recovery, and Monitoring Oversight Committee, with 14 members to be appointed as specified. The purpose of the program would be to promote awareness and education relative to physician and surgeon health issues, including impairment due to alcohol or substance abuse, mental disorders, or other health conditions that could affect the safe practice of medicine. The bill would provide for referral by the program of physicians and surgeons, as defined, to certified monitoring programs on a voluntary basis, governed by a written agreement between the participant and the program. The bill would require the Department of Consumer Affairs to select a contractor to implement the program, with the committee serving as the evaluation body for submitted proposals. The bill would require the committee to report to the department on the outcome of the program and would require regular audits of the program. The bill would enact other related provisions.

~~Existing law, the Vocational Nursing Practice Act, provides for the licensure and regulation of the practice of vocational nursing by the Board of Vocational Nursing and Psychiatric Technicians of the State of California. The board is comprised of 11 members, including one member who is a licensed vocational nurse or registered nurse with specified experience as a teacher or administrator in an accredited school of vocational nursing.~~

~~This bill would instead require that experience to have been obtained in a board-approved school of vocational nursing. The bill would make other technical, nonsubstantive changes.~~

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

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

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

(a) (1) It is in every patient's interest to have physicians and surgeons that are healthy and well.

(2) Physicians and surgeons may have health conditions that interfere with their ability to practice medicine safely.

(3) In such cases, the most effective long-term protection for patients is early intervention to address health issues that have the potential to interfere with the safe practice of physicians and surgeons.

(b) While the Legislature recognizes that physicians and surgeons have a number of options for obtaining treatment, it is the intent of the Legislature in enacting this act to promote awareness among members of the medical community about health issues that could interfere with safe practice, to promote awareness that private early intervention options are available, to provide resources and referrals to ensure physicians and surgeons are better able to choose high quality private interventions that meet their specific needs, and to provide a separate mechanism for monitoring treatment.

SEC. 2. Article 14 (commencing with Section 2340) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 14. Physician Health, Awareness, and Monitoring Quality

2340. This article shall be known and may be cited as the Physician Health, Awareness, and Monitoring Quality Act of 2012.

2341. For purposes of this article, the following terms have the following meanings:

(a) "Board" means the Medical Board of California.

(b) "Committee" means the Physician Health, Awareness, and Monitoring Quality Oversight Committee established pursuant to Section 2343.

(c) "Department" means the Department of Consumer Affairs.

(d) "Impairment" means the inability to practice medicine with reasonable skill and safety to patients by reason of alcohol or substance abuse, a mental disorder, or another health condition as determined by a clinical evaluation in individual circumstances.

(e) "Participant" means a physician and surgeon enrolled in the program pursuant to an agreement entered into as provided in Section 2346.

(f) "Physician Health Program" or "program" means the program defined in Section 2342 and includes vendors, providers, or entities that contract with the committee pursuant to this article. The program itself shall not offer or provide treatment services to physicians and surgeons.

(g) "Physician and surgeon" means a holder of a valid physician and surgeon's certificate. For the purposes of participating in the program under this article, "physician and surgeon" shall also mean a student enrolled in a medical school approved or recognized by the board, a graduate of a medical school enrolled in a medical specialty residency training program approved or recognized by the board, or a physician and surgeon seeking reinstatement of a license from the board.

(h) "Qualifying illness" means alcohol or substance abuse, a mental disorder, or another health condition that a clinical evaluation determines can be monitored and treated with private clinical and monitoring programs.

2342. The Physician Health Program shall do all of the following:

(a) Be available to all physicians and surgeons, as defined in subdivision (g) of Section 2341.

(b) Promote awareness among members of the medical community on the recognition of health issues that could interfere with safe practice.

(c) Educate the medical community on the benefits of and options available for early intervention to address those health issues.

(d) Refer physicians and surgeons to monitoring programs certified by the program by executing a written agreement with the participant and monitoring the compliance of the participant with that agreement.

(e) Provide for the confidential participation by physicians and surgeons who have a qualifying illness and that are not on probation with the board.

2343. (a) (1) There is hereby established the Physician Health, Awareness, and Monitoring Quality Oversight Committee that shall have the duties and responsibilities set forth in this article. The committee may take any reasonable administrative actions to carry out the responsibilities and duties set forth in this article, including, but not limited to, hiring staff and entering into contracts.

(2) The committee shall be formed no later than _____.

(3) The committee composition shall be as follows:

(A) All of the members under this subparagraph shall be appointed by the Governor and licensed in this state as physicians and surgeons with education, training, and experience in the identification and treatment of substance use or mental disorders, or both.

(i) Two members recommended by a statewide association representing psychiatrists with at least 3,000 members.

(ii) Two members recommended by a statewide association representing addiction medicine specialists with at least 300 members.

(iii) Three members recommended by a statewide association representing physician and surgeons from all specialties, modes of practice, and practice settings with at least 25,000 members.

(iv) One member recommended by a statewide hospital association representing at least 400 hospitals.

(v) For the purpose of the initial composition of the committee, one member appointed under clause (i) shall be appointed for a two-year term and the other member for a three-year term; one

member appointed under clause (ii) shall be appointed for a two-year term and the other member for a three-year term; one member appointed under clause (iii) shall be appointed for a two-year term, one member for a shall be appointed for three-year term, and one member shall be appointed for a four-year term; and the member appointed under clause (iv) shall be appointed for a four-year term.

(B) All members appointed under this subparagraph shall have experience in a field related to mental illness, or alcohol or substance abuse, or both.

(i) Four members of the public appointed by the Governor. For the initial appointment to the committee, two members shall be appointed to serve for two-year terms and two members shall be appointed to serve for four-year terms.

(ii) One member of the public appointed by the Speaker of the Assembly. The initial appointment shall be for a three-year term.

(iii) One member of the public appointed by the Senate Committee on Rules. The initial appointment shall be for a three-year term.

(4) For the purposes of this section, a public member may not be any of the following:

(A) A current or former physician and surgeon or an immediate family member of a physician and surgeon.

(B) A current or former employee of a physician and surgeon, or a business providing or arranging for physician and surgeon services, or having any financial interest in the business of a physician and surgeon.

(C) An employee or agent or representative of any organization representing physicians and surgeons.

(D) An individual or an affiliate of an organization who has conducted business with or regularly appeared before the board.

(5) A public member shall meet all of the requirements for public members on a board as set forth in Chapter 6 (commencing with Section 450) of Division 1.

(b) Members of the committee shall serve without compensation.

(c) Except as provided for in subdivision (a), committee members shall serve terms of four years and may be reappointed.

(d) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government

Code) and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(e) The rules adopted by the committee shall be consistent with Section 315, the guidelines of the Federation of State Physician Health Programs, Inc., as well as community standards of practice, including, but not limited to, criteria for acceptance of participants into the program and the refusal to accept a person as a participant into the program and the assigning of costs of participation and associated financial responsibilities of participants. In the event of any conflicts between standards established pursuant to Section 315 and the guidelines of the Federation of State Physician Health Programs, Inc., and community standards of practice, Section 315 shall prevail.

2344. (a) The department shall select a contractor for the Physician Health Program pursuant to a request for proposals, and the committee shall contract for a five-year term with that entity. The process for procuring the services for the program shall be administered by the department pursuant to Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. However, the committee shall serve as the evaluation body for the procurement.

(b) The chief executive officer of the program vendor shall have expertise in the areas of substance or alcohol abuse, and mental disorders in health care professionals.

(c) The program vendor shall have a medical director to oversee clinical aspects of the program's operations. The medical director shall have expertise in the diagnosis and treatment of alcohol and substance abuse and mental disorders in health care professionals.

(d) The program vendor shall have established relationships with local medical societies and hospital well-being committees for conducting education, outreach, and referrals for physician and surgeon health.

(e) The program vendor shall monitor the monitoring entities that participating physicians and surgeons have retained for monitoring the participant's treatment and shall provide ongoing services to physicians and surgeons that resume practice.

(f) The program vendor shall have a system for promptly reporting physicians and surgeons unable to practice safely to the board when, contrary to agreements with the Physician Health

Program, they continue to practice unsafely. This system shall ensure absolute confidentiality in the communication to the enforcement division of the board, and shall not provide this information to any other individual or entity unless authorized by the enrolled physician and surgeon.

(g) The contract entered into pursuant to this article shall also require the program vendor to do both of the following:

(1) Report annually to the committee statistics related to the program, including, but not limited to, the number of participants currently in the program, the number of participants referred by the board as a condition of probation, the number of participants who have successfully completed their agreement period, the number of participants terminated from the program, and the number of participants reported by the program pursuant to subdivision (c) of Section 2346. However, in making that report, the program shall not disclose any personally identifiable information relating to any participant.

(2) Submit to periodic audits and inspections of all operations, records, and management related to the program to ensure compliance with the requirements of this article and its implementing rules and regulations, if any.

(h) In addition to the requirements of Section 2349, the committee shall monitor compliance of the program with the requirements of this article. The committee or its designee may make periodic inspections and onsite visits with the vendor contracted to provide Physician Health Program services.

(i) Copies of the audits referenced in paragraph (2) of subdivision (g) shall be published and provided to the appropriate policy committees of the Legislature within 10 business days of publication. A copy shall also be made available to the public by posting a link on the committee's Internet Web site homepage no more than 10 business days after publication.

2346. (a) A physician and surgeon shall, as a condition of participation in the Physician Health Program, enter into an individual agreement with the program.

(b) The agreement between the physician and surgeon and the program shall include all of the following:

(1) A jointly agreed-upon plan and mandatory conditions and procedures to monitor compliance with the program, including, but not limited to, an agreement to cease practice.

(2) Compliance with terms and conditions of treatment and monitoring.

(3) Limitations on practice.

(4) Conditions and terms for return to practice.

(5) Criteria for program completion.

(6) Criteria for termination of the participant from the program.

(c) In addition, if the physician and surgeon retains the services of a private monitoring entity, he or she shall agree to authorize the program vendor to receive reports from the private monitoring entity and to request information from the private monitoring entity regarding his or her treatment status. Except as provided in subdivisions (b), (c), (d), and (e), and subdivision (f) of Section 2344, a physician and surgeon's participation in the program pursuant to an agreement shall be confidential unless waived by the physician and surgeon.

(d) Any agreement entered into pursuant to this section shall not be considered a disciplinary action or order by the board, and shall not be disclosed to the committee or the board if both of the following apply:

(1) The physician and surgeon did not enroll in the program as a condition of probation or as a result of an action of the board.

(2) The physician and surgeon is in compliance with the conditions and procedures in the agreement.

(e) (1) The program shall immediately report the name of a participant to the committee when it learns of the participant's failure to meet the requirements of the program including failure to cease practice when required or failure to submit to evaluation, treatment, or biological testing when required. The program shall also immediately report the name of a participant to the committee when it learns that the participant's impairment is not substantially alleviated through treatment, or if the participant withdraws or is terminated from the program prior to completion, or if, in the opinion of the program after a risk assessment is conducted, the participant is unable to practice medicine with reasonable skill and safety.

(2) Within two business days of receiving a report pursuant to paragraph (1), the committee shall refer the matter to the board.

(f) Except as provided in subdivisions (b), (c), and (e) and subdivision (f) of Section 2344, and this subdivision, any oral or written information reported to the board pursuant to this section,

including, but not limited to, any physician and surgeon's participation in the program and any agreement entered into pursuant to this article, shall remain confidential as provided in subdivision (c) of Section 800, and shall not constitute a waiver of any existing evidentiary privileges under any other provision or rule of law. However, confidentiality regarding the physician and surgeon's participation in the program and of all information and records created by the program related to that participation shall not apply if the board has referred a participant as a condition of probation.

(g) Nothing in this section prohibits, requires, or otherwise affects the discovery or admissibility of evidence in an action by the board against a physician and surgeon based on acts or omissions within the course and scope of his or her practice.

(h) Any information received, developed, or maintained by the committee regarding a physician and surgeon in the program shall not be used for any other purposes.

2347. The committee shall report to the department statistics received from the program pursuant to Section 2344, and the department shall, thereafter, report to the appropriate policy committees of the Legislature on or before ____, and annually thereafter, the outcomes of the program, including, but not limited to, the number of individuals served, the number of participants currently in the program, the number of participants referred by the board as a condition of probation, the number of individuals who have successfully completed their agreement period, the number of participants terminated from the program, and the number of individuals reported to the board for noncompliance pursuant to subdivision (c) of Section 2346. However, in making those reports, the committee and the department shall not disclose any personally identifiable information relating to any physician and surgeon participating in the program pursuant to an agreement entered into pursuant to Section 2346.

2349. (a) The committee shall biennially contract to perform an audit of the Physician Health Program and its vendors. This section is not intended to reduce the number of audits the committee may otherwise conduct. The initial audit shall commence two years after the award of an initial five-year contract. Under no circumstances shall General Fund revenue be used for this purpose.

(b) Any person or entity conducting the audit required by this section shall maintain the confidentiality of all records reviewed and information obtained in the course of conducting the audit and shall not disclose any information identifying any program participant.

(c) The biennial audit shall be done by ____ and shall ascertain if the program is operating in conformance with the rules and regulations established by the committee.

~~SECTION 1. Section 2842 of the Business and Professions Code is amended to read:~~

~~2842. (a) Each member of the board shall be a citizen of the United States and a resident of the State of California. The board shall have the following composition:~~

~~(1) Two members shall be duly licensed vocational nurses who have been licensed for a period of not less than three years prior to appointment.~~

~~(2) Two members shall be licensed psychiatric technicians, each of whom shall have had not less than five years' experience in a psychiatric hospital, or in a psychiatric unit of a hospital licensed by the State Department of Health Care Services, or a private institution licensed by the State Department of Health Care Services.~~

~~(3) One member shall be a licensed vocational nurse or registered nurse who shall have had not less than five years' experience as a teacher or administrator in a board-approved school of vocational nursing.~~

~~(4) Six members shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~(b) No person may serve as a member of the board for more than two consecutive terms.~~

~~(c) Per diem and expenses of members of the board who are licensed psychiatric technicians shall be paid solely from revenues received pursuant to Chapter 10 (commencing with Section 4500) of Division 2.~~

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SB 1488

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 1488
Author: Yee
Bill Date: February 24, 2012, introduced
Subject: Traditional Chinese Medicine Traumatologist Certification
Sponsor: Author

STATUS OF BILL:

This bill is on the Senate Floor.

DESCRIPTION OF CURRENT LEGISLATION:

This bill defines Traditional Chinese Medicine Traumatology and would establish the Traditional Chinese Medicine (TCM) Traumatology Council; a nonprofit organization that would develop standards and certify the practice of TCM Traumatology. The Council would issue certificates for certified TCM Traumatology to individuals who apply and meet specified training and clinical experience, as set forth in the standards that the Council would be required to establish. This bill would limit the time frame for new applications from January 1, 2013, to December 16, 2013. After December 16, 2013, the Council would only issue renewals. This bill would sunset January 1, 2017.

ANALYSIS:

According to the Author, traumatology is one of the modalities that constitute TCM. Before China systemized its health care system, the mastery of traumatology was acquired through master-apprentice relationships through hands-on training, so it is difficult to obtain proof of their training.

According to the National Institutes of Health's (NIH) National Center for Complementary and Alternative Medicine (Center), "TCM originated in ancient China and has evolved over thousands of years. TCM practitioners use herbs, and other methods to treat a wide range of conditions. In the United States, TCM is considered part of complementary and alternative medicine. Herbal remedies and acupuncture are the treatments most commonly used by TCM practitioners. Other TCM practices include cupping, mind-body therapy and dietary therapy. Although TCM is used by the American public, scientific evidence of its effectiveness is, for the most part, limited. Acupuncture has the largest body of evidence and is considered safe if practiced correctly."

This bill would define "Traditional Chinese Medicine Traumatology" to include a range of treatments to address both acute and chronic musculoskeletal conditions, as well as nonmusculoskeletal conditions. Techniques would include, but are not limited to, brushing, kneading, rolling, pressing, and rubbing areas between the joints to pen the body's defensive chi and stimulate the energy movement in both meridians.

This bill would establish the TCM Traumatology Council as a non- profit organization for the purpose of developing standards for, and certifying the practice of, TCM Traumatology. The Council would consist of seven members, **including a member from the Medical Board of California (Board).** The Council would be required to determine the certification standards, including the level of experience and training needed to qualify for TCM Traumatology Certification.

This bill would require an individual to apply to the Council for a certificate for TCM Traumatology and an applicant would have to meet specified requirements set forth by the Council, in order to obtain the certificate. This bill would require an individual to possess a certificate issued by the Council for TCM Traumatology, in order to hold himself or herself out as a certified TCM Traumatologist. This bill would also specifically prohibit a certified TCM Traumatologist from practicing medicine and from practicing within the chiropractic scope of practice. This bill would limit the time frame for new applications to be from January 1, 2013, to December 16, 2013. After December 16, 2013, the Council would only issue renewals. This bill would sunset January 1, 2017.

This bill would require a certified TCM Traumatologist when engaging in TCM Traumatology to be supervised by a physician and surgeon who has completed an orthopaedic residency program. This bill would require the extent of the relationship between the physician and the TCM Traumatologist to be determined by the Council after the qualifications necessary for certification are defined and adopted by the Council.

Board staff is bringing this bill to the Board's attention because a member of the Board would be required to sit on the Council.

FISCAL: None

SUPPORT: American Association of Acupuncture and Traditional Chinese Medicine
American Chinese Cultural Exchange & Trading Association
American Traditional Chinese Medical Traumatology Association
California Acupuncture Medical Association
National Guild of Acupunture and Oriental Medicine
Numerous Groups and Individuals (over 450 letters received)

OPPOSITION: California Acupuncture Coalition
California Orthopaedic Association
Numerous Individuals

POSITION: Recommendation: No Position

SENATE BILL No. 1488

Introduced by Senator Yee

February 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as introduced, Yee. Healing arts: traditional Chinese Medicine traumatologist certification.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

This bill would establish the Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements and pays a specified fee. This bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

This bill would limit the timeframe for new applications to the period from January 1, 2013, to December 15, 2013. Thereafter, the council may only issue renewals of current certificates.

This bill would set forth procedures for the renewal of a certificate to perform traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would also require specified treatment procedures to be performed under the supervision of an orthopedic surgeon and prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of "certified traditional Chinese Medicine traumatologist" without meeting these certification requirements.

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

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

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

SECTION 1. Chapter 12.5 (commencing with Section 4979.1) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 12.5. TRADITIONAL CHINESE MEDICINE TRAUMATOLOGY

4979.1. As used in this chapter:

(a) "Certified traditional Chinese Medicine traumatologist" means a person who has been certified by the Traditional Chinese Medicine Traumatology Council to perform traditional Chinese Medicine traumatology.

(b) "Traditional Chinese Medicine traumatology" includes a range of treatments to address both acute and chronic musculoskeletal conditions, as well as many nonmusculoskeletal conditions. Techniques include, but are not limited to, brushing, kneading, rolling, pressing, and rubbing the areas between each of the joints to open the body's defensive chi and stimulate the energy movement in both meridians.

4979.2. The Traditional Chinese Medicine Traumatology Council shall be established as a nonprofit organization for the purpose of developing standards for, and certifying the practice of, traditional Chinese Medicine traumatology.

4979.3. (a) (1) The council shall consist of seven members, composed of three representatives from the clinical settings of traumatology, two representatives from the California Orthopaedic Association, and one representative each from the Medical Board of California and the California Medical Association.

(2) Representatives from the clinical settings of traumatology shall be selected by professional societies, associations, or other entities, whose memberships are comprised solely of practitioners of traditional Chinese Medicine traumatology.

(3) To qualify, a professional society, association, or entity shall have a dues-paying membership in California of at least 30 individuals for the last three years and shall have bylaws that require its members to comply with a code of ethics.

(b) (1) Subject to subdivision (d), the council shall meet and confer to determine the certification standards, including the level of experience and training needed for an individual to qualify for traditional Chinese Medicine traumatology certification.

(2) The council shall develop the application form for certification.

(3) The meetings and deliberations of the council shall be subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The council shall issue a certificate for certified traditional Chinese Medicine traumatology to any person who makes an application and meets all of the following requirements, as determined by the council pursuant to subdivision (d):

(1) Is at least 18 years of age.

(2) Furnishes satisfactory evidence of training and clinical experience that meets the standards established by the council.

(3) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(d) The council shall evaluate whether an applicant meets the certification standards, including the level of experience and training to sufficiently qualify for the traumatology certification.

(e) An individual who is not qualified to receive a certificate under this section, or who fails to apply for certification under this section, shall not hold himself or herself out as a certified traditional Chinese Medicine traumatologist pursuant to this section.

4979.4. (a) A certified traditional Chinese Medicine traumatologist, when engaging in traditional Chinese Medicine traumatology manipulation techniques to realign the musculoskeletal and ligamentous relationships, shall be supervised by a physician and surgeon who has completed an orthopaedic residency program. The extent of the relationship between a traditional Chinese Medicine traumatologist and orthopedic surgeon regarding those manipulation techniques shall be determined by the council after the qualifications necessary for certification are defined and adopted by the council.

(b) A certified traditional Chinese Medicine traumatologist shall not practice medicine, as defined in Section 2052.

(c) A certified traditional Chinese Medicine traumatologist shall not practice within the scope of activities regulated by the State Board of Chiropractic Examiners.

4979.5. (a) An applicant for traditional Chinese Medicine traumatology certification shall, commencing January 1, 2013, until December 15, 2013, file an application for a certificate for traditional Chinese Medicine traumatology with the council.

(b) On and after December 16, 2013, the council shall not issue an initial certificate to any applicant.

(c) On and after December 16, 2013, the council may issue only a renewal of a certificate under this section.

(d) An individual who is not qualified to receive a certificate under this section, or who fails to apply for certification under this section by December 15, 2013, shall not hold himself or herself out as a certified traditional Chinese Medicine traumatologist.

4979.6. An applicant for certification as a traditional Chinese Medicine traumatologist shall pay an application fee in a reasonable amount, not to exceed two hundred dollars ($200) for the regulatory cost to the council of processing the application, when submitting his or her application to the council.

4979.7. A certified traditional Chinese Medicine traumatologist shall renew his or her certificate every two years.

4979.8. An expired certificate may be renewed at any time within six months after its expiration. The holder of the certificate shall pay all accrued and unpaid renewal fees, plus a delinquency fee.

(a) The renewal fee shall be one hundred dollars ($100).

(b) The delinquency fee shall be twenty-five dollars ($25).

(c) The fee for a duplicate or replacement engraved wall certificate shall be fifteen dollars ($15).

(d) The fee for a duplicate or replacement renewal receipt/pocket certificate shall be ten dollars ($10).

4979.9. Moneys received under this section shall be utilized by the council to pay for the costs associated with administering this chapter.

4979.10. It is an unfair business practice for any person to hold himself or herself out as a certified traditional Chinese Medicine traumatologist or use the title of "certified traditional Chinese Medicine traumatologist" without meeting the requirements of this chapter.

4979.11. This chapter 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.

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SCR 69

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SCR 69
Author: Pavley
Bill Date: April 16, 2012, amended
Subject: California Autism Awareness Month
Sponsor: Author

STATUS OF BILL:

This bill is on the Assembly Consent Calendar.

DESCRIPTION OF CURRENT LEGISLATION:

This concurrent resolution would designate April 2012 as California Autism Awareness Month. This resolution would also affirm the Legislature's commitment to autism spectrum disorders (ASDs) issues; would emphasize that every individual with an ASD is a valued member of society; would commend the individuals and nonprofit organizations contributing to the well-being of individuals with ASDs and their families; and, would stress the need to identify children with ASD to begin early intervention, integrated, seamless, comprehensive, and competent services and supports for individuals with ASDs and their families.

ANALYSIS:

In addition to designating April 2012 as California Autism Awareness Month, this resolution would also make the following legislative findings:

- ASDs impact one out of every 110 children and one in every 70 boys in the United States; and, ASDs are the fastest growing serious developmental disability, making these disorders more common than pediatric cancer, diabetes, and acquired immunodeficiency syndrome combined.

- Many Californians are not adequately informed about ASDs and the value and importance of early identification, assessment, and treatment of these disorders; and, scientific research demonstrates that early identification and intervention can result in significant positive outcomes in many children with ASDs.

- The Legislature supports the goal of increasing research to learn the root causes of autism and identify the best methods of early intervention and treatment, expanding programs for individuals with autism across their lifespan, and promoting understanding of the special needs of people with autism.

- The Senate Select Committee on Autism and Related Disorders established in 2009 has appointed regional autism taskforces to assist and support the work of the Committee; and in 2007, the Legislative Blue Ribbon Commission on Autism submitted its report, "An Opportunity to Achieve Real Change for Californians with Autism Spectrum Disorders," which provided specific findings and recommendations.

This resolution would affirm the Legislature's commitment to autism spectrum disorders (ASDs) issues; would emphasize that every individual with an ASD is a valued member of society; would commend the individuals and nonprofit organizations contributing to the well-being of individuals with ASDs and their families; and, would stress the need to identify children with ASD to begin early intervention, integrated, seamless, comprehensive, and competent services and supports for individuals with ASDs and their families.

Board staff suggests the Board take a support position on this bill, as ASD is an important health issue in California and the Board should support any efforts to promote consumer awareness and the importance of early intervention for ASDs.

FISCAL: None

SUPPORT: None on file

OPPOSITION: None on file

POSITION: Recommendation: Support

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN SENATE MARCH 26, 2012

Senate Concurrent Resolution No. 69

Introduced by Senator Pavley

(Coauthors: Senators Alquist, Cannella, Correa, DeSaulnier, Dutton, Evans, Fuller, Liu, Price, *Steinberg,* Strickland, and Wolk)

(Coauthors: Assembly Members *Alejo,* Ammiano, *Block,* Hall, Huffman, Ma, Miller, Monning, Portantino, Wieckowski, Williams, and Yamada)

February 23, 2012

Senate Concurrent Resolution No. 69—Relative to California Autism Awareness Month.

LEGISLATIVE COUNSEL'S DIGEST

SCR 69, as amended, Pavley. California Autism Awareness Month.

This measure would designate April 2012 as California Autism Awareness Month, would affirm the Legislature's commitment to the important issues related to autism spectrum disorders (ASDs), and would emphasize that each and every individual with an ASD is a valued and important member of our society.

Fiscal committee: no.

WHEREAS, Autism spectrum disorders (ASDs) now impact one out of every 110 children, and one in every 70 boys, in the United States and are the fastest growing serious developmental disability, making these disorders more common than pediatric cancer, diabetes, and acquired immunodeficiency syndrome (AIDS) combined; and

WHEREAS, The prevalence of autism is increasing by 10 to 17 percent annually and ASDs cost the nation over $35 billion per year, and this cost is estimated to exceed $200 billion in 10 years; and

WHEREAS, Most school districts in California have seen a doubling of pupils with ASDs in the past five years. The number of Californians with ASDs who are served by the State Department of Developmental Services now exceeds 50,000, which ~~is a number that~~ has increased fivefold since 1998, and is more than 12 times what it was in 1987; and

WHEREAS, Many Californians are not adequately informed about ASDs and the value and importance of early identification, assessment, and treatment of these disorders; and

WHEREAS, Current scientific research demonstrates that the early identification ~~of~~ and intervention ~~with~~ *of* children with ASDs can result in significant positive outcomes ~~in many children with ASDs~~; and

WHEREAS, The Legislature supports the goal of increasing research to learn the root causes of autism and identify the best methods of early intervention and treatment, expanding programs for individuals with autism across their lifespan, and promoting understanding of the special needs of people with autism; and

WHEREAS, Parents and family members have made invaluable contributions through their commitment, care, and advocacy, to important advances in research, education, and treatment for individuals with ASDs; and

WHEREAS, Public information and awareness efforts are of paramount importance in accelerating early identification efforts and the proliferation of early intervention programs and services; and

WHEREAS, The Senate Select Committee on Autism and Related Disorders has appointed regional autism task forces that are comprised of consumers and their family members, advocates, providers, researchers, and other experts in the area of ASDs, and other stakeholders, to provide assistance to, and to support the work of, the select committee. Senator Steinberg, as Chair of the Senate Select Committee on Autism and Related Disorders, has established the Statewide Coordinating Council of Autism Taskforces that consists of the leadership of the regional autism task forces and has provided input and integrated recommendations

for consideration by the Senate Select Committee on Autism and Related Disorders; and

WHEREAS, California has been the established leader in providing services and support for the early identification, assessment, intervention, education, and treatment of individuals with ASDs. This leadership began with the passage of landmark state legislation, such as the Lanterman Developmental Disabilities Services Act in 1969 and Assembly Bill 3854 (Chapter 1527 of the Statutes of 1974), relating to autism and public education; and

WHEREAS, In 2007, the Legislative Blue Ribbon Commission on Autism submitted its report, "An Opportunity to Achieve Real Change for Californians with Autism Spectrum Disorders," which provided specific findings and recommendations; and

WHEREAS, In 2009, the Senate Committee on Rules, pursuant to Senate Rule 12.5, established the Senate Select Committee on Autism and Related Disorders and this committee has appointed regional autism task forces; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature designates April 2012 as California Autism Awareness Month, affirms the Legislature's commitment to the important issues related to ASDs, and emphasizes that each and every individual with an ASD is a valued and important member of our society; and be it further

Resolved, That the Legislature recognizes and commends the parents and relatives of individuals with ASDs for their sacrifice and dedication in providing for the special needs of individuals with ASDs; and be it further

Resolved, That the Legislature recognizes and commends the work of all of the nonprofit organizations that contribute to the well-being of individuals with autism and their families; and be it further

Resolved, That the Legislature stresses the need to identify children with ASDs and to begin early intervention services immediately after a child has been diagnosed with autism; and be it further

Resolved, That the Legislature also stresses the need to provide these intervention services, as well as supports, for individuals with ASDs and their families in an integrated, seamless, comprehensive, and competent manner that is delivered across the child's lifespan; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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TRACKER II

MBC TRACKER II BILLS
4/25/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 70	Monning	Public Health: Federal Grant Opportunities	Senate	01/23/12
AB 137	Portantino	Health Care Coverage: Mammographies	Sen. Health	01/23/12
AB 174	Monning	Health Information Exchange	Sen. Health	03/21/11
AB 369	Huffman	Health Care Coverage: Prescriptions Drugs	Sen. Health	
AB 377	Solorio	Pharmacy	Sen. Approps	04/14/11
AB 389	Mitchell	Bleeding Disorders	Sen. Floor	01/17/12
AB 439	Skinner	Health Care Information	Sen. Judiciary	06/28/11
AB 510	Lowenthal, B.	Radiation Control: Health Facilities and Clinics: Records	Sen. Approps	04/16/12
AB 714	Atkins	Health Care Coverage: California Health Benefit Exchange	Sen. Approps	06/30/11
AB 916	Perez, M.	Health: Underserved Communities	Sen. Health	08/15/11
AB 972	Butler	Substance Abuse: Treatment Facilities	Sen. Approps	08/15/11
AB 1217	Fuentes	Surrogacy Agreements	Sen. Judiciary	04/09/12
AB 1280	Hill	Ephedrine: Retail Sale	Sen. Approps	02/09/12
AB 1409	Perez, M.	Regulations: Small Business	Sen. B&P	03/22/12
AB 1431	Comm. on Acct. & Admin Review	Government Reports	Senate	01/24/12
AB 1453	Monning	Essential Health Benefits	Asm. Approps	04/17/12
AB 1461	Monning	Individual Health Care Coverage	Asm. Approps	04/09/12
AB 1580	Bonilla	Health Care: Eligibility: Enrollment	Senate	
AB 1584	Eng	Health Education: Health Science & Medical Technology Project	Asm. Approps	04/23/12
AB 1588	Atkins	Reservist Licensees: Fees and Continuing Education	Asm. Approps	03/05/12
AB 1636	Monning	Health and Wellness Programs	Asm. Approps	
AB 1687	Fong	Worker's Compensation: Utilization Review	Asm. Approps	03/12/12
AB 1731	Block	Newborn Screening Program: Critical Congenital Heart Disease	Asm. Approps	04/09/12
AB 1733	Logue	Telehealth	Asm. Health	04/16/12
AB 1904	Block	Military Spouses: Temporary Licenses	Asm. Approps	
AB 1914	Garrick	Agency Reports	Asm. Approps	04/09/12

MBC TRACKER II BILLS
4/25/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
AB 1932	Gorrell	United States Armed Services: Healing Arts Boards	Asm. Veterans	04/17/12
AB 1976	Logue	Licensure and Certification Requirements: Military Experience	Asm. Veterans	04/11/02
AB 1982	Gorrell	Regulations: Effective Date: Legislative Review	Asm. B&P	04/18/12
AB 2009	Galgiani	Communicable Disease: Influenza Vaccinations	Asm. Approps	04/16/12
AB 2064	Perez, M.	Immunizations for Children: Physician Reimbursement	Asm. Health	
AB 2109	Pan	Communicable Disease: Immunization Exemption	Asm. Approps	04/23/12
AB 2214	Monning	Health Workforce Development	Asm. Approps	03/27/12
AB 2221	Block	Public Records	Asm. Approps	03/28/12
AB 2285	Eng	Peace Officer Testing: Cheating	Asm. Consent	04/11/12
AB 2312	Ammiano	Controlled Substances: Marijuana	Asm. Approps	
AB 2343	Torres	Criminal History Information	Asm. Consent	03/28/12
AB 2348	Mitchell	Registered Nurses: Dispensation of Drugs	Asm. B&P	03/29/12
AB 2356	Skinner	Tissue Donation	Asm. Health	03/29/12
SB 103	Liu	State Government: Meetings	Asm. Approps	07/12/11
SB 173	Simitian	Healing Arts: Mammograms	Asm. Approps	08/15/11
SB 252	Vargas	Public Contracts: Personal Services	Asm. B&P	05/31/11
SB 393	Hernandez	Medical Homes	Asm. Health	05/31/11
SB 411	Price	Home Care Services Act of 2011	Inactive File	08/30/11
SB 628	Yee	Acupuncture: Regulation	Asm. B&P	02/23/12
SB 728	Hernandez	Health Care Coverage	Asm. Health	05/31/11
SB 764	Steinberg	Developmental Services: Telehealth Systems Program	Asm. Human Svcs.	01/12/12
SB 951	Hernandez	Health Care Coverage: Essential Health Benefits	Sen. Approps	04/16/12
SB 961	Hernandez	Individual Health Care Coverage	Sen. Approps	04/09/12
SB 975	Wright	Professions & Vocations: Regulatory Authority	Sen. B&P	03/27/12
SB 1050	Alquist	Autism: Telehealth Task Force	Sen. Human Svcs.	04/12/12
SB 1079	Rubio	Inmates: Medical Treatment	Sen. Public Safety	03/20/12

MBC TRACKER II BILLS
4/25/2012

BILL	AUTHOR	TITLE	STATUS	AMENDED
SB 1134	Yee	Persons of Unsound Mind: Psychotherapist Duty to Protect	Sen. Judiciary	03/28/12
SB 1136	Steinberg	Mental Health Services Act	Sen. Health	04/16/12
SB 1172	Lieu	Sexual Orientation Change Efforts	Sen. Judiciary	04/16/12
SB 1182	Leno	Medical Marijuana	Sen. Public Safety	04/09/12
SB 1185	Price	Centralized Intelligence Partnership Act	Sen. Gov. Org.	04/09/12
SB 1199	Dutton	Radiologic Technologists	Sen. Approps	04/17/12
SB 1236	Price	Healing Arts Boards	Sen. Approps	04/17/12
SB 1250	Alquist	Medical Records: Confidentiality	Sen. Judiciary	02/23/12
SB 1267	Padilla	Genetic Information Privacy Act	Sen. Judiciary	03/27/12
SB 1301	Hernandez	Prescription Drugs: 90-Day Supply	Sen. Approps	04/16/12
SB 1320	Harman	Retainer Practices	Sen. Health	03/28/12
SB 1329	Simitian	Prescription Drugs: Collection & Distribution Program	Sen. B&P	03/29/12
SB 1374	Harman	Liability: Good Faith Reliance on Administrative Regulation	Sen. Judiciary	04/23/12
SB 1407	Leno	Medical Information: Disclosure	Sen. Judiciary	04/16/12
SB 1524	Hernandez	Nursing	Sen. Approps	03/28/12
SB 1538	Simitian	Health Care: Mammograms	Sen. Approps	03/27/12
SCR 72	Price	National Consumer Protection Week	Senate	