OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Board Meeting, Thursday, August 7, 2014
10:00 a.m.

Touro University College of Osteopathic Medicine
1310 Club Drive
Library Classroom 118
Vallejo, CA 94592

OMBC Phone (916) 928-8390

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- **AB 1841 – Medical Assistants**
- **AB 1868 – Medi-Cal: optional benefits: Podiatric Medicine**
- **AB 2139 – End-of-Life care: patient notification**
- **AB 2214 – Emergency room physicians (continuing education)**
- **AB 2346 – Nurse Practitioners, certified nurse-midwives, and physician assistants (supervision)**
- **SB 500 – Medical practice; pain management (task force)**
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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
OSTEOPATHIC MEDICAL BOARD OF CALIFONIA
1300 National Drive, Suite 150, Sacramento, CA 95834-1991
P (916) 928-8390 F (916) 928-8392 | www.ombc.ca.gov

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

BOARD MEETING

Date: Thursday, August 7, 2014
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business)
Location: Touro University – Mare Island
1310 Club Drive
Library Classroom 118
Vallejo CA 94592
(916) 928-8390

AGENDA

(Action may be taken on any items listed on the agenda and may be taken out of order)

Open Session

1. Call to Order and Roll Call / Establishment of a Quorum

2. Approval of Minutes – May 1, 2014 Board Meeting

3. President's Report - Joseph Zammuto, D.O.

4. Administrative Hearing

   - 10:30 a.m. Po-Long Lew, D.O. – Petition for Early Termination of Probation

5. Closed Session

   - Deliberations on petition(s) for early termination of probation. (Government Code Section 11126(c)(3).)
   - Deliberations on disciplinary or enforcement actions. (Government Code Section 11126(c)(3).)

   Return to Open Session

6. Executive Director's Report – Angie Burton

   - Licensing
   - Staffing
   - Diversion Program
   - Budget
   - BreEZe
   - CURES

- Enforcement Report / Discipline (Corey Sparks)

7. Regulations

    - Discussion and possible action regarding Disciplinary Guidelines.

8. Legislation

    - AB 809 – Telehealth Patient Consent
    - AB 1838 – Medical school accreditation (adds Liaison Committee on Medical Education)
    - AB 1841 – Medical Assistants
    - AB 1868 – Medi-Cal: optional benefits: Podiatric Medicine
    - AB 2139 – End-of-Life care: patient notification
    - AB 2214 – Emergency room physicians (continuing education)
    - AB 2346 – Nurse Practitioners, certified nurse-midwives, and physician assistants (supervision)
    - SB 500 – Medical practice; pain management (task force)
    - SB 1083 – Physician assistants: disability certifications
    - SB 1116 – Stephen Thompson Loan Repayment Fund
    - SB 1256 – Medical Services: Credit

10. Agenda Items for Next Meeting

11. Future Meeting Dates

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

13. Adjournment

For further information about this meeting, please contact Machiko Chong at 916-928-7636 or in writing 1300 National Drive, Suite 150 Sacramento CA 95834. This notice can be accessed at www.ombc.ca.gov

The meeting facilities are accessible to the physically disabled. A person, who needs a disability-related accommodation or modification in order to participate in the meeting, may make a request by contacting Machiko Chong, ADA Liaison, at (916) 928-7636 or e-mail at Machiko.Chong@dca.ca.gov or send a written request to the Board's office at 1300 National Drive, Suite 150, Sacramento, CA 95834-1991. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

TAB 2

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
1300 National Drive, Suite 150, Sacramento, CA 95834-1991
P (916) 928-8390 F (916) 928-8392 | www.ombc.ca.gov

DRAFT
BOARD MEETING
MINUTES

Thursday, May 1, 2014

BOARD MEMBERS PRESENT:	Joseph Zammuto, D.O., President Keith Higginbotham, Esq., Vice President David Connett, D.O., Board Member James Lally, D.O., Board Member Alan Howard, Esq., Board Member Claudia Mercado, Board Member Cheryl Williams, Board Member Jane Xenos, D.O., Board Member
STAFF PRESENT:	Angelina Burton, Executive Director Michael Santiago, Esq., Legal Counsel, DCA Machiko Chong, Executive Analyst Corey Sparks, Lead Enforcement Analyst
BOARD MEMBERS ABSENT:	Michael Feinstein, Board Member

The Board meeting of the Osteopathic Medical Board of California (OMBC) was called to order by Vice President, Keith Higginbotham, D.O. at 10:05 a.m. at the Western University of Health Sciences, 701 E Second Street – Health Education Center (HEC) Lecture Hall II (2nd Floor), Pomona, CA 91766.

1. Roll Call:

Mr. Higginbotham called roll and determined that a quorum was present.

2. Introduction of new board member:

Mr. Higginbotham welcomed Cheryl Williams to the board who was newly appointed by Governor Brown in January. Mrs. Williams gave a quick introduction and provided a little background of both her employment and appointment history.

3. Approval of Minutes – January 23, 2014 Board Meeting:

Mr. Higginbotham called for approval of the Board Meeting minutes of January 23, 2014. M – Connett, S – Lally for approval of the minutes with no additions or corrections. Motion carried.

4. Executive Director's Report:

Angie Burton updated the board on staffing, board budget activity, licensing stats, and diversion program statistics. She notified the board that the BCP that was submitted by the board for the FY 14/15 has since been approved and that the process to begin hiring for the requested positions would begin sometime in May with hopes to have them filled by mid-June. The board budget was discussed and it was reported that roughly 32.76% of the budget was remaining to adequately sustain the board for the final 3 months in the Fiscal Year. Funding information for the CURES Program was discussed and the board was informed that due to approval of SB 809, prescribers and pharmacists would now be required to submit applications to apply for access to the CURES or PDMP site by January of 2016. The bill would also require physicians to pay an annual fee of $6 to help fund the program which will be managed by DCA.

The MAXIMUS contract that is currently in place for the Diversion Program is set to expire December 31, 2014. Diversion Program managers from all boards that currently participate in the use of the diversion program have been meeting regularly to finalize the request for proposal for the new contract. Once implemented it shall remain in place for 5 year to ensure continuity of the program.

The BreEZe database was discussed and the board was brought up to speed on the glitches and/or fixes that the board is completing on the Versa Regulation (VR) end of the database. Dr. Lally asked what the average time was for issuance of license numbers and if it would decrease with the fix of the BreEZe glitches and increase in staff. He was notified that currently the average amount of time it takes to process a licensing application is about 4 months depending on how long it takes for documentation to be received in office and is also contingent upon the processing of the fees in the cashiering department.

Enforcement/ Discipline - The boards Lead Enforcement Analyst Corey Sparks presented the enforcement report to the board and updated them on the current time frames and statistics of the cases that are being handled by the board.

5. Administrative Hearing:

10:30 a.m. – Dennis A. Peterson, D.O. – Petition for Early Termination of Probation.

The Office of Administrative Hearing (OAH) Administrative Law Judge Julie Cabos-Owen conducted the above hearing

6. Closed Session

Deliberations on petition(s) for early termination of probation (Government Code Section 11126(c)(3).)

Return to Open Session

7. President's Report:

Dr. Zammuto informed the board about his attendance at the April 2014 FSMB conference that was held in Denver. He highlighted some of the key points from the conference and was elated to introduce the possibility of obtaining a $10,000 grant that would be used to create new educational documents and/or courses that would be readily available for physician use to further their knowledge on better practices for the use of narcotics by patients and the preventative dangers and patient protection. He notified the board that he has since been in contact with Dr. Connett and Dr. Richard Riemer to figure out the best course of action going forth. Dr. Zammuto expressed his admiration at the collegiality between the Allopathic and Osteopathic fields coming together and working towards a common goal, and made not that he requested the possibility of obtaining subsequent educational information from FSMB so that in the future conferences could be held at osteopathic university to education prospective osteopathic physicians on the duties and responsibilities of the osteopathic medical board and what the school responsibilities and interaction would be going forth creating sort of a pro-licensing board presentation.

8. Interstate Licensing Compact:

Further discussion was had about the Interstate Licensing Compact that could possibly be implemented nationwide while in attendance at the FSMB conference. Major points were touched upon regarding how the license would possibly be used and how the information would translate from state to state. Dr. Zammuto made note that in the near future subsequent information will be circulated by the FSMB which should answer some outstanding questions that boards may have.

9. Code of Ethics:

The board was provided with an updated copy of the Code of Ethics Guidelines originally presented at the September board meeting. The guidelines were reviewed and one minor change was requested for Sections 2 line 2. Dr. Zammuto called for approval of the document with the recommended change for implementation. M – Connett, S – Higginbotham. Motion carried.

10. Internet Prescribing:

The board was not provided with an updated copy of the internet prescribing document which was initially provided to them at the September board meeting.

11. Pain Management Task Force/ Guidelines (Update)

Dr. Connett updated the board on the Prescribing Task Force meeting that was held with the Medical Board, Pharmacy Board, etc. in February and informed the board that Dr. Richard Riemer was also in attendance at the meeting and presented the task force with the Presentation on the topic of chronic pain guidelines that was brought to the board in September 2013. He explained that each point that was discussed in the presentation was broken down and further analyzed, a document was drafted of the key points and it is in the process of being finalized. Once received Dr. Connett will bring it

back to the board for review and comment. Dr. Zammuto asked Dr. Connett if there were any updates on the completion of the white paper that was to be compiled by Dr. Reimer. Dr. Connett informed him that he was unsure of the status at this point, but noted that much of the information and efforts that were being put forth in the creation of the white paper would be better served at this point in time aiding the Prescribing Task Force in the creation of their document so that the board was better in line with what would be enforced statewide.

12. Regulations:

It was decided that the board would table the discussion of the Uniform Standards Related to Substance Abuse (SB 1441) and Disciplinary Guidelines, so that legal counsel was able to complete a final survey of other healing arts boards SB 1441 provisions to make the process more streamlined.

13. Legislation

No action was taken regarding legislation and all documents provided were merely for informational purposes. Dr . Zammuto asked Mrs. Burton whether or not the board is working alongside of any other associations or boards regarding legislative impact that may be caused to the board, he was notified that we do when necessary. He also had additional questions regarding Emergency room physicians (continuing education) (AB 2214) and was concerned that it may pose a problem with the Maintenance of Licensure (MOL) talks that are being held with the FSMB. He asked Kathleen Creason, Director of Osteopathic Physician and Surgeon's of California, for her opinion on the bill who stated that the association has an opposed position siting that although they feel Continuing Medical Education (CME) credits are important, they do not feel that legislation should be determining any scope requirements for specific education criteria for physicians.

Mr. Higginbotham had questions regarding Internet posting of specific information (AB 1886) and questioned how it would affect the board. He was notified by Mrs. Burton that she has been in contact with the Medical Board of California's director and was informed that current policy states that any disciplinary action that is on the site remains there for 10 years. However, with the new site once the 10 years has passed all disciplinary action is removed and the site will reflect "disciplinary action no record found." The problem is although the disciplinary information is removed from the site it is still a matter of public record and may be made available upon request by the public reaffirming why the information should remain on the board site past the 10 years as opposed to being removed.

In addition Mrs. Burton answered any questions that the board had regarding the legislative bill highlights that were provided.

14. Agenda Items for Next Board Meeting:

- Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

15. Future Meeting Dates:

- Thursday, August 7, 2014 @ 10:00 am – Vallejo
- Thursday, October 2, 2014 @ 10:00 am – Teleconference
- Thursday, January 22, 2015 @ 10:00 am - Sacramento

16. Public Comments:

There were no public comments.

17. Adjournment

There being no further business, the Meeting was adjourned at 12:20 p.m.

TAB 3

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TAB 4

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TAB 5

BOARD MEETING – AUGUST 7, 2014 - VALLEJO

STAFFING

OMBC has filled all vacant positions. The total number of staff, including the Executive Director is now 11.5

Enforcement Staff (3.5): Three (3) full-time Enforcement Analysts
One of the Enforcement Analysts also serves as our Fictitious Name Permit Analyst
One Half-time Medical Consultant

Licensing:
Renewals (2): One (1) full-time analyst; one (1) full-time Program Technician II
New Applications(2): One(1) full-time Program Technician II
One (1) Receptionist/Office Technician assists with initial ns
Cashiering Unit: (1) Office Assistant/Cashier

Administrative Office (2):
One (1) Staff Services Supervisor – Limited Term; serves as our BreEZe expert/point of contact, as well as the Diversion Program Manager.
One (1) Administrative Analyst

Because we were able to bring our cashiering back in-house, the license renewal and application forms and payments are no longer being mailed to or being forwarded to the Department of Consumer Affairs. This has reduced the processing time by at least one week. DCA cashiering staff graciously provided our new cashier several days of training at our office.

Our next staffing project is to request our limited term Staff Services Supervisor position be reclassified to a permanent, full time position.

The Governor authorized a 2% cost of living increase for most bargaining unit employees. Every staff at OMBC received their 2% cost of living increase which was effective July 1, 2014.

The transition of the Medical Board Investigators to Department of Consumer Affairs, Division of Investigations was finalized July 1, 2014. There were no interruptions to our cases during this transition. The former Medical Board Investigators are now employees of the Department of Consumer Affairs, Division of Investigations, HQIU (Health Quality Investigation Unit). These investigators will continue to conduct the OMBC's formal field investigations.

BOARD MEETING – AUGUST 7, 2014 - VALLEJO

DIVERSION PROGRAM STATISTICS

The Osteopathic Medical Board's diversion program currently has 17 participants, 11 participants are in the program on probationary orders, 4 board recommended referrals, and 2 self-referrals.

The current contract with Maximus Inc, our current diversion program vendor will expire December 31, 2014.

The Diversion Program Managers from all boards participating in the Diversion Program contract, Board of Registered Nursing, Dental Board, Pharmacy Board, including the Dental Hygiene Committee, Physical Therapy Board, Physician Assistant Board, Veterinary Medical Board, and the Osteopathic Medical Board finalized the Request for Proposal. The Program Managers will be meeting this month to evaluate the Proposals received from prospective vendors. The new contract, when implemented, will be for 5 years to ensure continuity for participants.

0264 Osteopathic Medical Board
Analysis of Fund Condition

(Dollars in Thousands)

Budget Act FY 2014-15 w/FM 12 Actuals

$1.5 Million GF Loan Outstanding	**CY 2013-14**	**Budget Act BY 2014-15**	**BY+1 2015-16**	**BY+2 2016-17**
BEGINNING BALANCE	$ 3,076	$ 3,035	$ 2,858	$ 2,647
Prior Year Adjustment	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 3,076	$ 3,035	$ 2,858	$ 2,647
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 18	$ 18	$ 18	$ 18
125700 Other regulatory licenses and permits	$ 297	$ 272	$ 272	$ 272
125800 Renewal fees	$ 1,310	$ 1,311	$ 1,311	$ 1,311
125900 Delinquent fees	$ 9	$ 9	$ 9	$ 9
141200 Sales of documents	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 5	$ 16	$ 16	$ 15
150500 Interest Income From Interfund Loans	$ -	$ -	$ -	$ -
160400 Sale of fixed assets	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ -	$ -	$ -
161400 Miscellaneous revenues	$ -	$ -	$ -	$ -
Totals, Revenues	$ 1,639	$ 1,626	$ 1,626	$ 1,625
Transfers to Other Funds				
Transfers from Other Funds				
Totals, Revenues and Transfers	$ 1,639	$ 1,626	$ 1,626	$ 1,625
Totals, Resources	$ 4,715	$ 4,661	$ 4,484	$ 4,272
EXPENDITURES				
Disbursements:				
1110 Program Expenditures (State Operations)	$ 1,672	$ 1,801	$ 1,837	$ 1,874
0840 SCO (State Operations)	$ -	$ -	$ -	$ -
8880 Financial Information System of CA (State Operations)	$ 8	$ 2	$ -	$ -
Total Disbursements	$ 1,680	$ 1,803	$ 1,837	$ 1,874
FUND BALANCE				
Reserve for economic uncertainties	$ 3,035	$ 2,858	$ 2,647	$ 2,398
Months in Reserve	20.2	18.7	17.0	15.1

NOTES:

A. ASSUMES WORKLO AD AND REVENUE PROJECTIO NS ARE REALIZED IN BY+1 AND ON -GOING.

B. ASSUMES INTERES T RATE AT .30%.

C. ASSUMES APPROP RIATION GROWTH OF 2% PER YEAR BEGIN NING IN BY+1

BOARD MEETING – AUGUST 7, 2014 - VALLEJO

BREEZE UPDATE

Our Staff Services Supervisor has been working with the DCA BreEZe team to identify and submit "tickets" and/or requests to change/fix items in the BreEZe system. OMBC continues to have significant numbers of outstanding requests. Some of these requests are for business rules which were identified prior to the implementation of BreEZe, but were not fixed as they were not deemed crucial for OMBC to go live with BreEZe. The OMBC employees are working around these issues while waiting for the BreEZe team to implement the fixes. When new issues are identified, OMBC is asked to prioritize which fixes are of most importance and the fixes are numbered and worked accordingly. The legacy system had the capability of providing various reports, both in licensing and enforcement. The BreEZe team is working on system's ability to create various reports. These reports are crucial for providing the Board with accurate statistics and to complete the annual reports required each year of all boards, bureaus and committees.

BOARD MEETING – AUGUST 7, 2014 - VALLEJO

ENFORCEMENT ADDITIONAL INFORMATION

Osteopathic Medical Board – Expert Reviewer Program

Number of experts on contract with OMBC for each specialty:

Specialty	Number
Addiction Medicine	1
Anesthesiology	1
Cardiology	1
Dermatology	1
Emergency Medicine	1
Family Practice	5
Geriatrics	1
Hospitalist	1
Internal Medicine	2
Neurology	2
Neurosurgery	2
Obstetrics/Gynecology	2
Ophthalmology	1
Pain Management	1
Pediatrics	1
Physical Medicine/Rehab	1
Psychiatry	1
Urology	1

There are 25 experts who currently have a contract with OMBC. OMBC pays $150/hour for expert review of cases. The Medical Consultant relies on these expert reviewers in specialty fields when determining whether or not a complaint has any merit. In addition to the experts on contract with the OMBC, the field investigators may utilize MD experts on contract with MBC during the course of their investigation of our cases.

Total amount spent on experts in FY 13/14 (includes MD consultants) = $28,310.

Total amount spent on Attorney General's cost for FY 13/14 = $306,417.00 (rate $170/hour)

Total amount spent on investigative cost for FY 13/14 = $59,305.68 (rate $123/hour)

The following OMBC Enforcement Report covers 3Q 2013 through 2Q 2014 (the fiscal year 2013-2014). The OMBC Enforcement Report is divided into five sections; Intake, Investigations, Enforcement, Performance Measures, and Probation. The data is reproduced from the BreEZe Enforcement Measurement Report. As a note, the new BreEZe system was rolled out in the 4th Quarter of 2013. Data from 2Q and 3Q 2013 has been migrated from the legacy system.

COMPLAINT INTAKE

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
COMPLAINTS	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Received	32	31	33	33	25	28	31	26	25	29	20	49	362
Closed w/o Inv	1	0	0	3	5	4	0	0	0	0	0	0	13
Assigned	49	31	31	17	18	10	26	27	27	39	23	33	331
Ave days to cls/assn	14	6	4	12	15	13	16	22	23	10	8	4	12
	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
CONV/ARRESTS	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Received	3	2	3	0	0	0	0	0	0	4	0	2	14
Assigned	0	6	2	1	0	0	0	0	0	2	1	2	14
Ave days to cls/assn	0	37	8	45	0	0	0	0	0	2	31	4	23
	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
TOTAL INTAKE	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Received	35	33	36	33	25	28	31	26	25	33	20	51	376
Clsd w/o Inv.	1	0	0	3	5	4	0	0	0	0	0	0	13
Assn for All Inv.	49	37	33	18	18	10	26	27	27	41	24	35	345
Ave days to cls/assn	14	11	5	14	15	13	16	22	23	10	9	4	12

Table 1: Complaint Intake with Convictions/Arrests

In Table 1 above under TOTAL INTAKE, OMBC received a total of 376 complaints which include convictions and arrests. 13 complaints were closed without investigations, 345 were assigned for investigations (both desk and formal) and the average number of days to close or assign a complaint was 12. In Figure 1 below, we see a relatively consistent number of complaints received (blue line) in the last 10 months until it drops to 20 in May and then sharply increases to 51 in June. Complaints assigned to investigation (green) show a decline from 50 to 10 complaints during the 3rd and 4th quarters of 2013 and then gradually increase between 30 to 40 complaints in 2014.

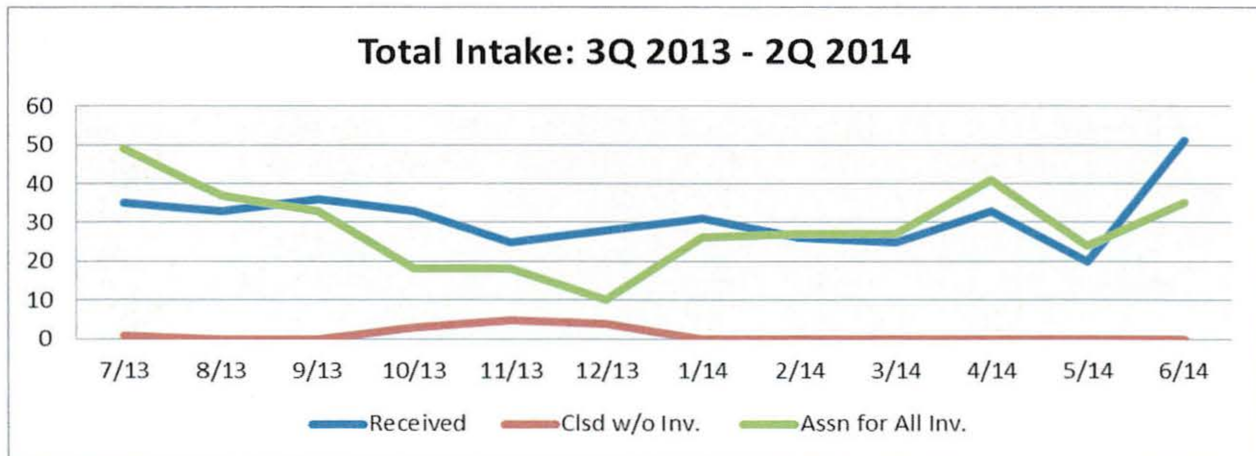

Figure 1: Total Intake

According to Figure 2 below, the average number of days to close or assign a complaint reached its highest points in February and March 2014. It appears that the late fall, winter and early spring period (October through March) has higher average days to close/assign (around 17) then the late spring and summer months at around 8. The YTD averages at 12.

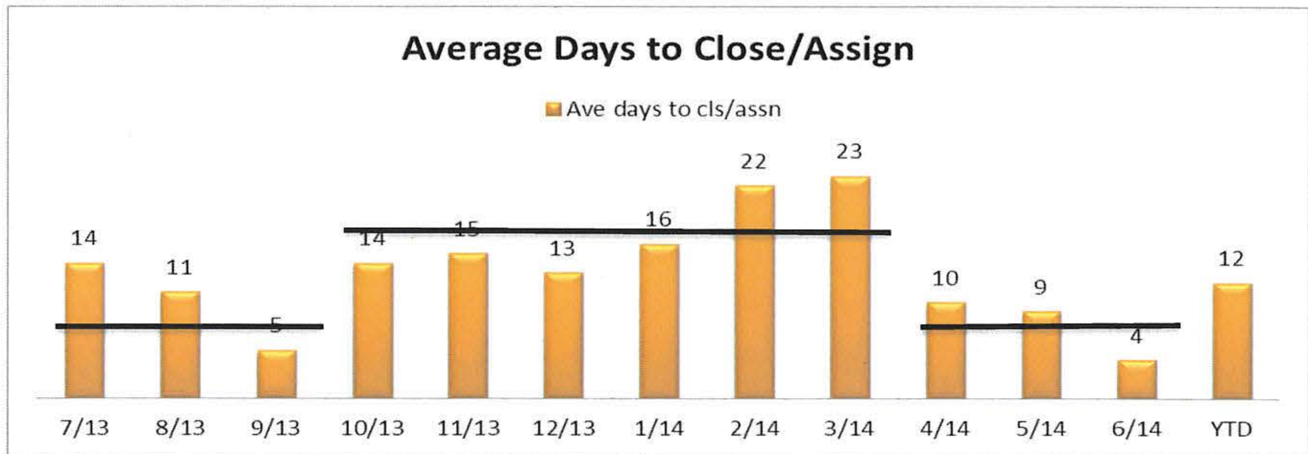

Figure 2: Average Days to Close/Assign

DESK & FIELD INVESTIGATIONS

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
Desk Inv.	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Assigned	49	37	33	18	18	10	26	27	27	41	24	35	345
Closed	28	58	34	22	8	20	47	14	7	8	20	8	274
Ave days to cl	184	202	181	151	315	265	159	93	118	27	297	130	186

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
Field Inv.	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Assigned	4	4	2	1	5	1	5	3	2	1	2	8	38
Closed	7	5	0	0	0	1	2	2	3	3	1	2	26
Ave days to cl	151	273	0	0	0	533	179	280	529	527	85	225	291

Table 2: Desk and Formal Investigations

For desk and field investigations in Table 2 above and figure 3 on the preceding page, we see a total of 345 complaints assigned for desk investigations assigned (56%) and 274 closed (44%). For field (sworn) investigations, 38 were assigned (59%) and 26 were closed (41%).

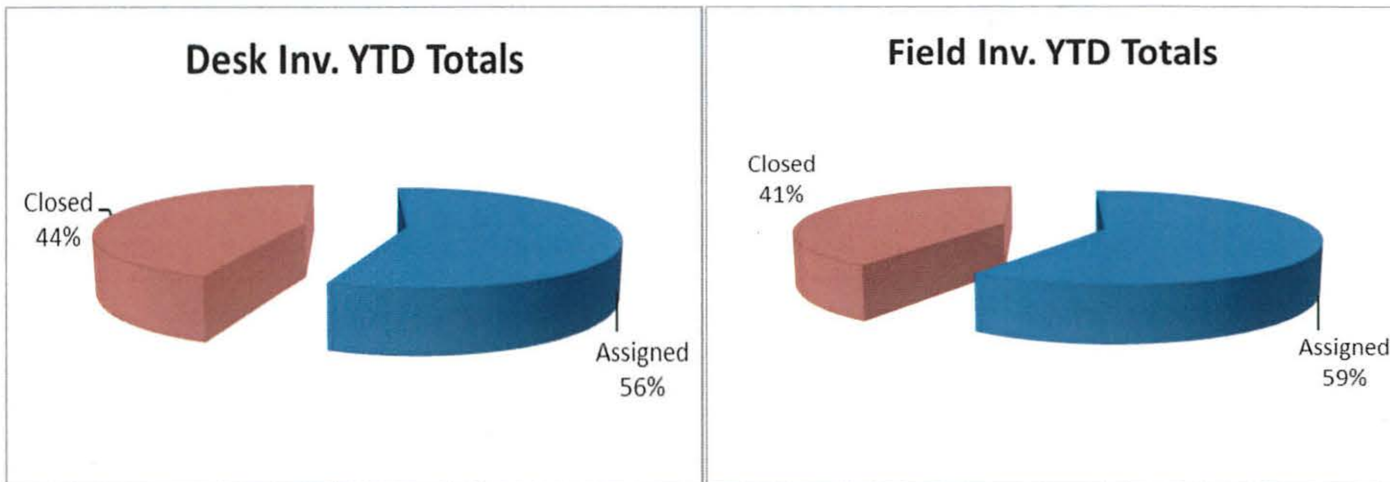

Figure 3: Desk & Field Investigations

Average Days to Close (Complete) an Investigation

In Figure 4 below, the desk investigations YTD average days-to-close was 186 (blue). The average days-to-close was fairly consistent except for November and December 2013 and May 2014, where we see an increase around 300. There was a decrease in the average days-to-close in April to 27. For field investigations (red), the YTD average days-to-close was 291. In general, the average days-to-close was low during the fall and summer periods and high for winter and spring.

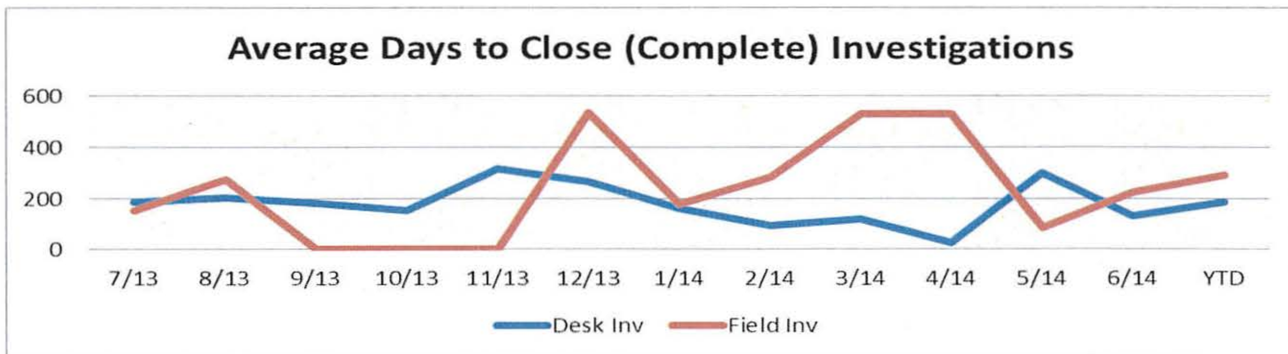

Figure 4: Average Days to Close an Investigation

All Investigations Aging

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
All Inv Aging	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
90 days	5	16	10	3	0	3	2	2	2	2	0	0	45
91-180 days	8	10	3	0	1	2	23	1	2	0	0	0	50
181-1 yr	7	13	11	2	0	6	13	2	2	0	1	2	59
1 yr-2 yrs	6	12	4	1	1	4	1	0	1	1	12	0	43
2 yrs-3 yrs	0	1	1	0	0	2	0	0	1	0	0	0	5
over 3 yrs	0	1	0	0	0	0	0	0	0	0	0	0	1

Table 4: All Investigations Aging

In Table 4 above we see the number of investigations that were closed within a specific time period. There were a total of 45 investigations for the last four quarters that were completed within 90 days; 50 investigations were completed between 91 and 180 days; 59 completed between 181 and 365 days, etc.

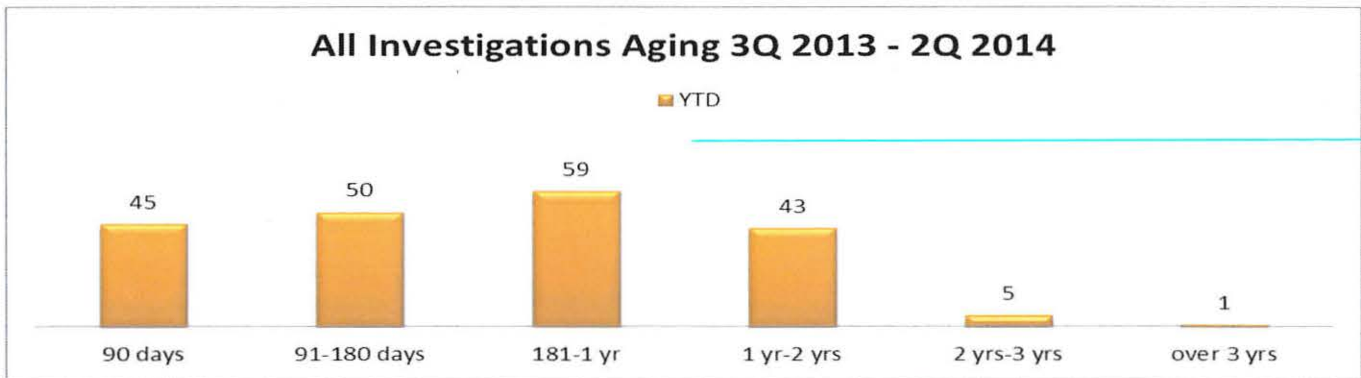

Figure 5: All Investigations Aging

Investigations Closed (Completed) without Discipline Referral

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
Clsd w/o Disc	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
Closed	21	49	29	5	2	14	39	2	7	2	13	2	185
Av. Days close	186	219	203	167	295	362	163	99	254	33	460	246	227

Table 5: Investigations Closed without Discipline Referral

In Table 5, we see that 185 investigations were closed without discipline for the last four quarters and that the average days- to-close was 227. In May 2014, there were 13 investigations closed with the highest average days-to-close at 460.

ENFORCEMENT ACTIONS

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
AG Cases Initiated	4	4	0	0	0	1	1	3	1	3	4	2	23
Acc/SOI Filed	4	1	0	1	3	1	0	2	1	4	3	2	22
PROP/DFLT Dec / Stip	2	2	2	2	3	1	2	3	0	3	2	2	24
Final Discplinary Orders	2	4	2	2	4	2	2	2	0	3	2	2	27
Acc/SOI Withdrawn	1	0	0	0	0	0	0	0	0	0	0	0	1
Closed w/out Disc Action	0	0	0	0	0	1	0	0	0	0	0	0	1
Citations	1	0	2	0	0	0	0	0	0	0	0	0	3
Interim Sus Orders Issued	0	0	0	0	1	0	0	0	0	0	0	1	2
PC 23 Orders Issued	0	0	0	0	0	0	0	0	0	0	0	0	0

Table 6: Enforcement Actions

In Table 6 above and Figure 6 below, during the last four quarters, 23 cases were initiated to the Attorney General; 22 case filed; 24 finalized by either Decision or Stipulation; 27 Final Orders; 1 case withdrawn; 1 closed without any disciplinary action, 3 Citations and 2 Interim Suspension Orders. In

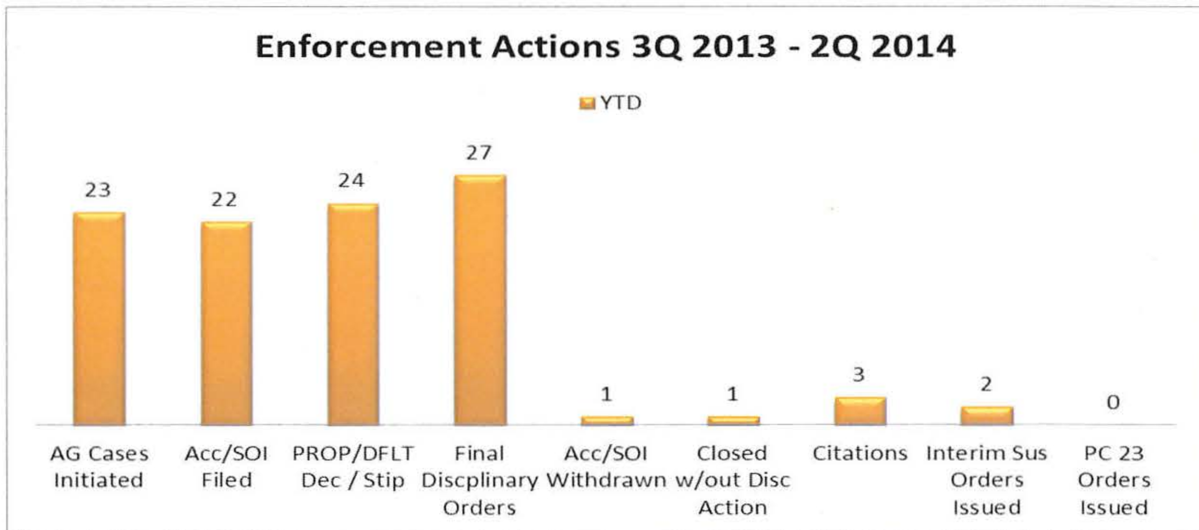

Figure 6: Enforcement Actions

Total Final Orders Aging

	3Q/2013			4Q/2013			1Q/2014			2Q/2014			
Total Orders Aging	7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
90 Days	0	0	0	0	0	0	0	0	0	0	0	1	1
181-1 yr	0	1	0	0	2	0	2	1	0	0	0	1	7
1 yr-2 yrs	1	0	0	2	1	2	0	1	0	0	2		9
2 yrs-3 yrs	0	0	2	0	1	0	0	0	0	1	0	0	4
over 3 yrs	1	3	0	0	0	0	0	0	0	2	0	0	6

Table 7: Total Final Orders Aging

In Table 7 above we see the Aging of the 27 Final Orders that were completed in the last four quarters. The pie chart below shows the percentage of cases distributed within each period. 33% of the Final Orders take 1-2 years to complete.

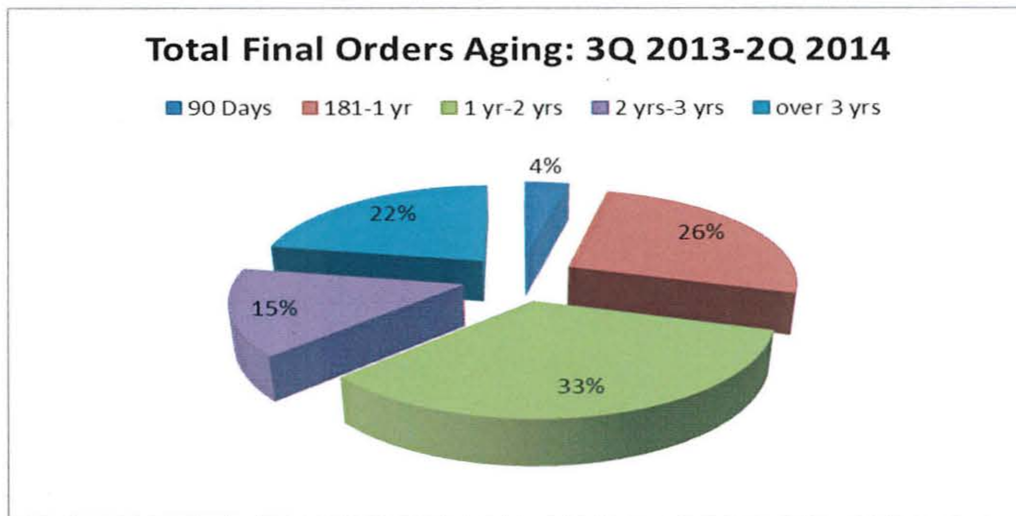

Figure 7: Total Orders Aging

PERFORMANCE MEASURES

		3Q/2013			4Q/2013			1Q/2014			2Q/2014			
		7/13	8/13	9/13	10/13	11/13	12/13	1/14	2/14	3/14	4/14	5/14	6/14	YTD
PM1	Complaints Volume	32	31	33	33	25	28	31	26	25	29	20	49	362
PM1	Conv/Arrest Rpt Vol	3	2	3	0	0	0	0	0	0	4	0	2	14
PM2	PM2: Cycle Time-Intake	14	11	5	14	15	13	16	22	23	10	9	4	12
PM3	PM3: Cycle Time-No Disc	196	226	182	193	154	285	208	310	190	119	347	202	229
PM4	PM4: Cycle Time-Disc	1008	704	849	667	323	907	225	479	0	1187	605	111	672

Table 8: Performance Measures

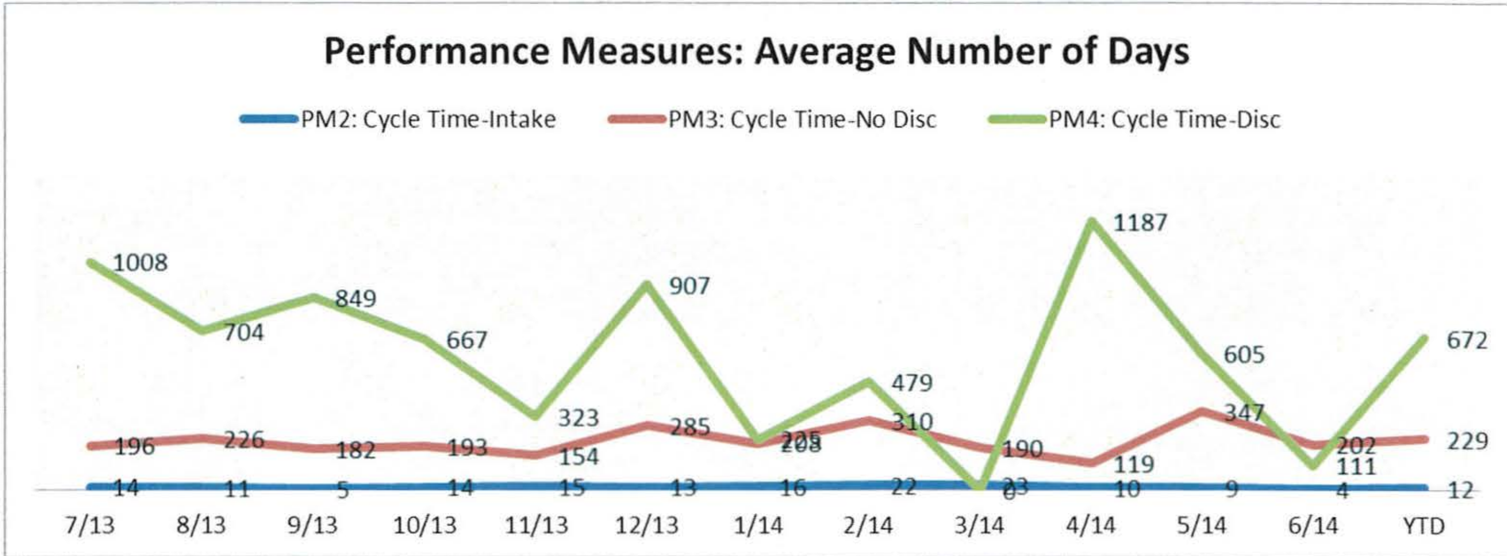

Figure 8: Performance Measures

PM1: COMPLAINTS VOLUME and CONV/ARREST REPORTS VOLUME: Number of complaints and convictions/arrest orders received within the specified time period.

PM2: CYCLE TIME-INTAKE: Average number of days to complete Complaint Intake during the specified time period.

PM3: CYCLE TIME – NO DISCIPLINE: Average number of days to complete Complaint Intake and Investigation steps of the Enforcement process for Closed Complaints not resulting in Formal Discipline during the specified time period.

PM4: CYCLE TIME – DISCIPLNE: Average number of days to complete Enforcement process (Complaint Intake, Investigation, and Formal Discipline steps) for Cases Closed which had gone to the Formal Discipline step during the specified time frame.

PROBATION

There are currently 47 probation cases, of which 12 have overdue compliance issues. 33 cases have a cost recovery order. The total outstanding cost recovery due is $452,705.46. To date, the Board has recovered $108,152.10 leaving a balance of $344,553.36.

TAB 6

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
DISCIPLINARY GUIDELINES AND
MODEL TERMS OF PROBATION
[7/24/2014 DRAFT for Discussion at the Board's 8/7/2014 Meeting]

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INTRODUCTION

The Osteopathic Medical Board is charged with protecting the consumers of osteopathic physician's services within the State of California. In keeping with its mission and obligation to ensure the safe and qualified practice of Osteopathic Medicine, the Osteopathic Medical Board of California has adopted the following recommended guidelines for disciplinary orders and model conditions of probation for violations of the Osteopathic and Medical Practice Acts.

Each disciplinary matter must be considered on a case-by-case basis. The Board carefully considers the totality of the facts and circumstances of each case, with the safety of the consuming public for medical services being paramount. Consequently, in reaching a resolution via a Stipulated Settlement and Disciplinary Order, or a Proposed Decision following an administrative hearing, the Board requests that the factual basis for each resolution be clearly delineated.

Except as provided in the Uniform Standards for Substance Abusing Licensees ("Standards"), the Board recognizes that an individual case may necessitate the departure from these standards. If there are deviations from the standards, the Board requests that the Administrative Law Judge (ALJ) hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

The Board takes very seriously any violations that involve drugs or alcohol. In addition, the Legislature has specifically codified within Business and Professions Code section 315 various requirements in the event that a licensee is determined to be a "substance abusing licensee."

Nothing in these guidelines shall prohibit the Board from imposing, or an ALJ from proposing, terms and conditions of probation that may relate to drugs and alcohol, such as random bodily fluid testing, counseling, and abstention from use of drugs and alcohol regardless of the outcome of the clinical diagnostic evaluator.

ORGANIZATION OF DISCIPLINARY GUIDELINES

These Disciplinary Guidelines first address the General Considerations that administrative law judges and other users of this document should consider when a matter is being resolved. Those general considerations are followed by a description of the types of discipline and some definitions that appear throughout the Guidelines.

The Model Probationary Conditions section of this document contains the recommended language for probationary orders. It is divided into three categories of conditions, each of which is explained in more detail in that section – some that are standard, some that are specific to the violation, and some that must be applied when the violation involved the use of drugs or alcohol.

The Recommended Discipline section of this document sets forth, for each specified violation, the recommended discipline, including which model conditions should be considered. Although not all conditions will be applicable, significant deviations should be explained to the Board.

GENERAL CONSIDERATIONS

The Board requests that Proposed Decisions following administrative hearings include the following:

1. Specific code sections violated with their definitions.
2. Clear description of the violation.
3. Respondent's explanation of the violation if he/she is present at the hearing.
4. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
5. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

In determining whether revocation, suspension or probation is to be imposed in a given case, the following factors should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

TYPES OF DISCIPLINE AND DEFINITIONS

Revocation: Permanent loss of a license. Respondent may take affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

Suspension: Invalidation of a license for a temporary, fixed period of time. The licensee may not practice during any period of suspension.

Stayed Revocation: Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Stayed Suspension: Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Probation: A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to the violation(s). The Board may impose any stayed discipline if respondent fails to comply with the probationary conditions.

Uniform Standards ~~Related to~~ for Substance Abuseing Licensees (Uniform Standards). The standards adopted pursuant to Business and Professions Code section 315 by the Substance Abuse Coordination Committee in April, 2011, relating to substance-abusing licensees. ~~The Conditions implementing t~~These provisions must be included in any order granting probation where the violation involved drugs or alcohol. In such cases, every Respondent must be evaluated, although certain probationary conditions may be waived depending on the outcome of the evaluation.

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA DISCIPLINARY GUIDELINES OF ~~2007~~ 2014

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~~SECTION II~~

~~Sample Model Orders .... 10-19~~

~~1. DISCIPLINARY PENALTIES~~

~~The following disciplinary penalties for selected Business and Professions Code violations are guidelines for use by administrative law judges at hearings as well as for use in the settlement of cases. Individual penalties may vary depending upon the particular circumstances of the case resulting in aggravation or mitigation of the offenses alleged. If probation is imposed as part of a penalty, the probation should include: (1) standard conditions, which will appear in all cases; and (2) the optional conditions, which will be tailored according to the nature of the offense.~~

MODEL PROBATIONARY TERMS AND CONDITIONS

Unless otherwise specified, the use of the term "Board" in these conditions includes the Board itself or its designee. The model probationary conditions are divided into three general categories:

- (A) Standard Terms and Conditions of Probation. Those conditions of probation that will generally appear in all cases involving probation as a standard term and condition;
- (B) Optional Terms and Conditions of Probation. Those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case; and
- (C) Terms and Conditions of the Uniform Standards for Substance – Abusing Licensees. Those conditions which must be used in cases where the misconduct found involved the use of drugs or alcohol.

A list of the model conditions appears below, followed by the model text for each condition.

A. STANDARD TERMS AND CONDITIONS OF PROBATION

~~The standard of probation conditions are as follows:~~

(1) Obey all L~~l~~aws ~~(1) *;~~
(2) ~~File~~ Q~~q~~uarterly R~~r~~eports ~~(2);~~
(3) Probation S~~s~~urveillance P~~p~~rogram ~~(3);~~
(4) Interviews with M~~m~~edical C~~c~~onsultants ~~(4);~~
(5) Cost Recovery ~~(5);~~
(6) License Surrender ~~(6);~~
(7) Extension of Probation
~~(7) Tolling of probation, if out of state (7); and~~
(8) Probation V~~v~~iolation/C~~c~~ompletion of P~~p~~robation ~~(8).~~
(9) Notification to Board of Employers/Notification to Employers

~~** The number in the parentheses refers to the sample model orders found in Part II: Sample Model Orders.*~~

B. OPTIONAL TERMS AND CONDITIONS OF PROBATION

~~The following conditions of probation, generally listed by statute order as set forth by the Business and Professions Code, are recommended by the Board for proven or stipulated violations. In all circumstances, the maximum penalty for any violation of the Business and Professions Code will be revocation. Additionally, violations of Business and Professions Code sections 2235 (obtaining license by fraud), 2288 (impersonation of an applicant in an examination), and 2306 (practice under suspension) shall all result in an order of revocation.~~

(10) Actual Suspension
(11) Controlled Drugs – Total Restriction
(12) Controlled Drugs – Surrender of DEA Permit
(13) Controlled Drugs – Partial Restriction
(14) Controlled Drugs – Maintain Record
(15) Pharmacology Course
(16) Education Course

(17) Medical Ethics Course
(18) Clinical Assessment and Training Program
(19) Written Examination
(20) Third Party Presence
(21) Prohibited Practice
(22) Psychiatric Evaluation
(23) Psychotherapy
(24) Medical Evaluation
(25) Medical Treatment
(26) Community Service
(27) Restitution
(28) Monitoring – Billing/Practice
(29) Solo Practice Prohibition/Supervised Structure

C. TERMS AND CONDITIONS OF THE UNIFORM STANDARDS FOR SUBSTANCE -ABUSING LICENSEES

(30) Clinical Diagnostic Evaluation
(31) Diversion Program – Alcohol and Drugs
(32) Drugs – Abstain from Use
(33) Alcohol – Abstain from Use
(34) Notification to Employer
(35) Biological Fluid Testing
(36) Group Support Meetings
(37) Worksite Monitor
(38) Results of Biological Fluid Tests
(39) Major and Minor Violations
(40) Request by a Substance-Abusing Licensee to Return to Practice
(41) Request by a Substance-Abusing Licensee for Reinstatement of a full and unrestricted license – Petition for Reinstatement

~~B&P 725 - EXCESSIVE PRESCRIBING~~

~~Minimum penalty: Stayed revocation, 5 years probation~~

~~1. Drugs - Total DEA restriction (10)~~
~~Surrender DEA permit (11)~~
~~(or) - Partial DEA restriction (12)~~
~~2. Pharmacology course (18)~~
~~3. If warranted, education course (19)~~
~~4. If warranted, supervised structured environment (29)~~
~~5. If warranted, oral/practical examination (22)~~
~~6. If warranted, suspension of at least 90 days (9)~~
~~7. If warranted, maintain drug records for review (13)~~

~~B&P 725 - EXCESSIVE TREATMENTS~~

~~Minimum penalty: Stayed revocation, 5 years probation~~

~~1. Education course (20)~~
~~2. If warranted, supervised structured environment (29)~~
~~3. If warranted, oral/practical examination (22)~~
~~4. If warranted, suspension of at least 90 days (9)~~

B&P 726 – SEXUAL MISCONDUCT

Minimum penalty: Stayed revocation, 10 years probation

1. Education course (19)

2. Psychiatric evaluation (25)
   or, psychotherapy (26)
3. If warranted, supervised structured environment (29)
4. Require third party present when examining patients (23)

B&P 820 – MENTAL OR PHYSICAL ILLNESS

Minimum penalty: Stayed revocation, 5 years probation

1. If warranted, restricted practice (24)
2. If warranted, monitoring (29)

B&P 2234(b) – GROSS NEGLIGENCE

B&P 2234(c) – REPEATED NEGLIGENT ACTS

B&P 2234(d) – INCOMPETENCE

Minimum penalty: Stayed revocation, 5 years probation

1. Pharmacology course (18)
2. Education course (19)
   clinical training program (21) (where deficiency is noted but the physician is not a present danger to the public)
3. Oral/practical examination (22)
4. If warranted, supervised structured environment (29)
5. If warranted, restricted practice (24)
6. If warranted, medical evaluation (27)
7. If warranted, medical treatment (28)

B&P 810 – INSURANCE FRAUD

B&P 2234(e) – DISHONESTY

B&P 2261 – MAKING OR SIGNING FALSE DOCUMENT

B&P 2262 – FALSE MEDICAL RECORDS

B&P 2263 – VIOLATION OF PROFESSIONAL CONFIDENCE

Minimum Penalty: Stayed revocation, 5 years probation.

1. If warranted, community service program (30)
2. If warranted, actual suspension (9)
3. If warranted, restitution (31)
4. Education course (19)

~~B&P 2236 – CRIMINAL CONVICTION~~

~~Minimum Penalty: Stayed revocation, 5 years probation.~~

~~Terms and conditions depend on the underlying facts of the criminal offense.~~

~~B&P 2237 – DRUG RELATED CONVICTION~~

~~B&P 2238 – VIOLATION OF DRUG STATUTE~~

~~B&P 2241 – FURNISHING DRUGS TO AN ADDICT~~

~~B&P 2242 – PRESCRIBING DRUGS WITHOUT PRIOR EXAMINATION~~

~~Minimum penalty: Stayed revocation, 5 years probation~~

~~1. Drugs – total DEA restriction (10)~~
~~or – surrender DEA permit (11)~~
~~partial DEA permit (12)~~
~~2. Pharmacology course (18)~~
~~3. Education course (19) m and/or a clinical training program (21)~~
~~4. If warranted, oral/practical examination (22)~~
~~5. If warranted, supervised structured environment (29)~~
~~6. If self-user of drugs: See B&P 2239~~
~~7. If warranted, suspension of at least 90 days (9)~~
~~8. If warranted, maintain drug records for review (13)~~
~~9. If warranted, monitoring (29)~~

~~*NOTE: Unless there is extensive mitigation, outright revocation for conviction of illegal sales of controlled drugs is the proper penalty.*~~

~~B&P 2239 – SELF-ABUSE OF DRUGS OR ALCOHOL~~

~~B&P 2250 – FAILURE TO COMPLY WITH STERILIZATION CONSENT PROVISIONS~~

~~B&P 2251 – USE OF SILICONE~~

~~B&P 2252 – ILLEGAL CANCER TREATMENT~~

~~Minimum penalty: Stayed revocation , 5 years probation~~

~~1. If warranted, period of actual suspension (9)~~
~~2. Community service (30)~~
~~3. Education (19)~~
~~4. If warranted, monitoring (29)~~

~~B&P 2264 – AIDING AND ABETTING UNLICENSED PRACTICE~~

~~Minimum penalty: Stayed revocation, at least 3 years probation~~

~~1. If warranted, suspension of at least 60 days (9)~~
~~2. If warranted, oral/practical or written examination (22)~~
~~3. If warranted, monitoring (29)~~
~~4. If warranted, restricted practice (24)~~

~~B&P 2265 - USE OF QUALIFIED PHYSICIAN ASSISTANT WITHOUT APPROVAL~~

~~Minimum penalty: 90 days stayed suspension, one year probation~~

1. ~~If warranted, period of actual suspension (9)~~
2. ~~If warranted, community service (30)~~

~~B&P 2271, 651 - DECEPTIVE ADVERTISING~~

~~B&P 2272 - ANONYMOUS ADVERTISING~~

~~B&P 2273 - EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS~~

~~B&P 2274 - MISUSE OF TITLE~~

~~B&P 2275 - USE OF "M.D."~~

~~B&P 2276 - MISUSE OF "D.O."~~

~~B&P 2280 - INTOXICATION WHILE TREATING PATIENTS~~

~~Minimum penalty: Stayed revocation, 5 years probation~~

1. ~~If drugs - total DEA restriction (10)~~
   ~~or surrender of DEA permit (11)~~
   ~~partial DEA restriction (12)~~
2. ~~If alcohol - abstain from alcohol (16)~~
3. ~~If warranted, in case of drug abuse, abstain from alcohol (16)~~
4. ~~Drugs - abstain from use (15)~~
5. ~~Biological fluid testing (17)~~
6. ~~Psychiatric evaluation (25)~~
7. ~~If warranted, psychiatric treatment (26)~~
8. ~~If warranted, drug or alcohol rehabilitation program (14)~~
9. ~~Medical evaluation (27) and/or medical treatment (28)~~
10. ~~Pharmacology course (18)~~
11. ~~Education Course (19)~~
12. ~~If warranted, oral/practical examination (22)~~
13. ~~If warranted, supervised structured environment (29~~
14. ~~If warranted, maintain drug records for review (13)~~

~~B&P 2285 - USE OF FICTITIOUS NAME WITHOUT PERMIT~~

~~Minimum penalty: 90 days stayed suspension, 3 years probation~~

1. ~~If warranted, actual suspension (9)~~
2. ~~If warranted, community service (30)~~
3. ~~If warranted, restitution (31)~~
4. ~~If warranted, education course (19)~~

~~B&P 2305 - DISCIPLINE BY ANOTHER STATE OR FEDERAL AGENCY~~

~~Minimum penalty: add actual period of suspension~~
~~Maximum penalty: impose penalty that was stayed~~

~~A repeated similar offense or a violation of probation evidencing an unreformed attitude should call for the maximum penalty. Other violations of probation should call for at least a meaningful period of actual suspension, preferably 90 days or more.~~

~~II. SAMPLE MODEL ORDERS~~

A. STANDARD TERMS AND CONDITIONS OF PROBATION

1. Obey all L~~l~~aws -

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

2. Quarterly R~~r~~eports -

Respondent shall submit quarterly reports to the Board ~~quarterly declaration under penalty of perjury on the~~ using the Quarterly Report of Compliance Form, OMB 10 ~~(5/97)~~ (07/08) ~~which is hereby incorporated by reference, stating~~ declaring under penalty of perjury whether there has been compliance with all the conditions of probation.

3. Probation S~~s~~urveillance P~~p~~rogram -

Respondent shall comply with the Board's probation surveillance program. Respondent shall, at all times, keep the Board informed of his or her addresses of business and residence which shall both serve as addresses of record for purposes of service of process. Changes of such addresses shall be immediately communicated in writing to the Board. ~~Under no circumstances shall a post office box serve as an address of record.~~

Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

4. Interviews with M~~m~~edical C~~c~~onsultants -

Respondent shall appear in person for interviews with the Board's medical consultants upon request at various intervals and with reasonable notice.

5. Cost R~~r~~ecovery -

~~The~~ R~~r~~espondent ~~is hereby ordered to~~ shall reimburse the Board the amount of $_______ within 90 days from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

6. License S~~s~~urrender -

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her certificate to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

7. Tolling of probation for O~~o~~ut-of-S~~s~~tate P~~p~~ractice or R~~r~~esidence, or I~~i~~n-S~~s~~tate N~~n~~on-P~~p~~ractice ~~(inactive license).~~

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the board or its designee in writing within ten days of the dates of

departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Section 2051 and/or 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Board or its designee in or out of state shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will ~~not apply to the reduction of~~ extend the probationary period by the period of out-of-state residence or non-practice.

8. Probation V~~v~~iolation/C~~c~~ompletion of P~~p~~robation -

If respondent violates probation in any respect, the Board may revoke probation and carry out the disciplinary order that was stayed after giving respondent notice and the opportunity to be heard. If an Accusation and/or Petition to revoke is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be automatically extended until the matter is final. Upon successful completion of probation, respondent's ~~certificate~~ license will be fully restored.

9. Notification to Board of Employers; Notification to Employers of Discipline

Respondent shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers, and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

Respondent shall notify any employer of the terms of this probation by providing a copy of this decision to each and every employer within 30 days of this effective date of the decision, asking each employer to acknowledge receipt in writing, and submitting such acknowledgement to the Board.

B. OPTIONAL TERMS AND CONDITIONS OF PROBATION

~~9.~~10. Actual suspension -

Respondent shall be suspended from the practice of medicine for _____________ beginning the effective date of this decision.

[Optional: Respondent shall be suspended from the practice of medicine until terms _____________ are completed and evidence of the completion is received and acknowledged by the Board.]

~~10.~~11. Controlled D~~d~~rugs - T~~t~~otal R~~r~~estriction -

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined in the California Uniform Controlled Substance Act except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

~~11.~~12. Controlled D~~d~~rugs - S~~s~~urrender of DEA P~~p~~ermit -

Respondent is prohibited from practicing medicine until respondent provides documentary proof to the Board or its designee that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any triplicate prescription forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board.

~~12.~~13 Controlled D~~d~~rugs - P~~p~~artial R~~r~~estriction-

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined by the California Uniform Controlled Substances Act (Act), except for those drugs listed in Schedule(s) _________________ of the Act and prescribed to respondent for a bona fide illness or condition by another practitioner.

(or)

Respondent is permitted to prescribe, administer, dispense or order controlled substances listed in Schedule(s)________________of the California Uniform Controlled Substances Act for in-patients in a hospital setting, and not otherwise.

NOTE: Use the following additional paragraph only if there is an actual elimination of the authority to prescribe a Scheduled Controlled Substance.

[OPTION]

Respondent shall immediately surrender his/her current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order.

~~13.~~14. Controlled D~~d~~rugs - M~~m~~aintain R~~r~~ecord -

Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: (1) the name and address of the patient, (2) the date, (3) the character and quantity of controlled substances involved and (4) the pathology and purpose for which the controlled substance was furnished. Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

~~14. Diversion program – alcohol and drugs -~~

~~Within 30 days of the effective date of this decision, respondent shall enroll and participate in the Board's Diversion Program until the Board determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by respondent.~~

~~15. Drugs – abstain from use -~~

~~Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by the Business and Professions Code, or any drugs requiring a prescription except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.~~

~~16. Alcohol - abstain from use -~~

~~Respondent shall abstain completely from the use of alcoholic beverages.~~

~~17. Biological fluid testing -~~

~~Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.~~

~~18.~~15. Pharmacology C~~c~~ourse -

Within 60 calendar days of the effective date of this D~~d~~ecision, R~~r~~espondent shall enroll in a course in p~~P~~harmacology/prescribing practices course equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the program may deem pertinent. Respondent ~~and~~ shall participate in and successfully complete the classroom component of the course ~~during the first year of probation~~ not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices/pharmacology course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirement for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board.

Respondent shall submit written evidence of successful completion of the course to the Board within fifteen (15) calendar days after successful completion.

~~19.~~16. Education C~~c~~ourse -

Within 90 calendar days of the effective date of this decision, ~~and on an annual basis thereafter~~, R~~r~~espondent shall enroll in ~~submit to the Board for its prior approval~~ an educational ~~program or~~ course (i.e., medical records keeping, professional boundaries, professionalism, etc.) related to ~~the violations~~ charge~~d~~s in the A~~a~~ccusation which would be equivalent the similar courses offered by the physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent ~~This~~ shall successfully ~~be~~ complete~~d~~ any other component of the course within one (1) ~~during the first~~ year of ~~probation~~ enrollment. ~~This~~ All courses shall be at Respondent's expense and ~~program~~ shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board.

~~Following the completion of each course, the Board or its designee may administer an examination to test the respondent's knowledge of the course.~~ Respondent shall ~~provide proof of attendance for both continuing medical education requirements and education course on a yearly basis~~ submit written evidence of successful completion of the course to the Board within fifteen (15) days after successful completion.

~~20.~~17. Medical E~~e~~thics C~~c~~ourse -

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in medical ethics which respondent shall successfully complete during the first year of probation.

~~21.~~18. Clinical Assessment and T~~t~~raining P~~p~~rogram -

Within 90 days of the effective date of this decision, respondent shall submit to the Board for its prior approval, an intensive clinical assessment and training program (Program) equivalent to the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine. The exact number of hours and the specific content of the program shall be determined by the Board or its designee and shall be related to the violations ~~charged in the accusation~~. Respondent shall successfully complete the ~~training~~ P~~p~~rogram within six (6) months from the date of enrollment, and may be required to pass an examination administered by the Board or its designee related to the program's contents.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent's physical and mental health, basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the area of practice to which the violation(s) related and, at a minimum, a 40 hour program of clinical education in the area of practice to which the violations related and which takes into account the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the Program.

Based upon Respondent's performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional education or training, treatment needed for any medical or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the recommendations of the program.

The Board may immediately Order Respondent to cease the practice of medicine without a hearing if the Respondent should fail to enroll, participate in, or successfully complete the Program within the time specified. The respondent may not resume the practice of medicine until enrollment or participation in the Program is complete.

Respondent shall submit written evidence of successful completion of the course to the Board within fifteen (15) calendar days after successful completion.

~~22. Written Examination -~~

~~Within 60 days of the effective date of this decision, (or upon completion of the required education course) (or upon completion of the required clinical training program) respondent shall take and pass a written examination to be administered by the Board or its~~

~~designee. Written examination will be the Comvex. If respondent fails this examination, respondent must wait three months between reexaminations, except that after three failures respondent must wait one year to take each necessary reexamination thereafter. The respondent shall pay the costs of all examinations.~~

~~(Use either of the following two options with the above paragraph.)~~

OPTION #1: Condition precedent

Respondent shall not practice medicine until respondent has successfully ~~passed this examination and has been so notified by Board in writing.~~ enrolled, participated in, and completed the Program, submitted written evidence of successful completion to the Board has confirmed receipt of such evidence.

NOTE: The condition precedent option is preferred in all cases involving findings of gross negligence or incompetence or repeated acts of negligence ~~where the physician is a present danger to the public~~ or incompetence or repeated acts of negligence where the physician's fitness to practice should be evaluated before he or she may practice to ensure the public is protected..

OPTION #2: ~~Condition subsequent~~ Additional Professional Enhancement Program

~~If respondent fails to take and pass this examination by the end of the first six months of probation, respondent shall cease the practice of medicine until this examination has been successfully passed and respondent has been so notified by the Board in writing.~~

Within 60 days after Respondent has successfully completed the clinical assessment and training program, Respondent shall participate in a professional enhancement program (Enhanced Program) equivalent to the one offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine, which shall include quarterly chart review, semi0annual practice assessment, and semi0annual review of professional growth and education. Respondent shall participate in such Enhanced Program at Respondent's own expense during the term of probation, or until the Board, or its designee, determines that further participation is no longer necessary.

~~22.~~19. Written Examination -

Within 60 days of the effective date of this decision, (or upon completion of the required education course) (or upon completion of the required clinical training program) respondent shall take and pass a written examination to be administered by the Board or its designee. Written examination will be the Comvex. If respondent fails this examination, respondent must wait three months between reexaminations, except that after three failures respondent must wait one year to take each necessary reexamination thereafter. The respondent shall pay the costs of all examinations.

(Use either of the following two options with the above paragraph.)

OPTION #1: Condition precedent

Respondent shall not practice medicine until respondent has passed this examination and has been so notified by the Board in writing.

NOTE: The condition precedent option is preferred in all cases involving findings of gross negligence or incompetence or repeated acts of negligence where the physician or any other case where public protection requires confirmation of respondent's skills prior to a return to practice.

OPTION #2: Condition subsequent

If respondent fails to take and pass this examination by the end of the first six months of probation, respondent shall cease the practice of medicine until this examination has been successfully passed and respondent has been so notified by the Board in writing.

~~23.~~20. Third Pparty Ppresence ~~- sexual violations -~~

During probation, respondent shall have a third party present while examining or treating _________ patients. Respondent shall, within 30 days of the effective date of the decision, submit to the Board or its designee for its approval name(s) of persons who will

act as the third party present. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis.

NOTE: Sexual ~~transgressors should normally be placed in a supervised structured environment~~ contact, as defined, requires revocation without probation. This term should be used where public protection requires monitoring of a licensees' contact with specific patient populations.

~~24.~~21. Prohibited P~~p~~ractice -

During probation, respondent is prohibited from practicing______________________________.

~~25.~~22. Psychiatric E~~e~~valuation -

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychiatric evaluation by a Board appointed psychiatrist who shall furnish a psychiatric report to the Board or its designee. The respondent shall pay the cost of the psychiatric evaluation.

In the event further treatment is recommended by the evaluating psychiatrist to ensure public protection, ~~If~~ respondent ~~is~~ may be required by the Board or its designee to undergo psychiatric treatment~~,~~. R~~r~~espondent shall within 30 days of ~~the requirement~~ notice by the Board, submit to the Board for its prior approval the name and qualifications of a psychiatrist of respondent's choice to provide the further treatment. Upon approval of the treating psychiatrist, respondent shall undergo and continue psychiatric treatment until further notice from the Board. Respondent shall have the treating psychiatrist submit quarterly status reports to the Board indicating whether the defendant is capable of practicing medicine safely.

(OPTIONAL)

Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is mentally fit to practice safely.

~~26.~~23. Psychotherapy -

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluation by a board appointed psychiatrist. Respondent shall pay all costs of the psychiatric evaluation.

NOTE: This condition is for those cases where the evidence ~~demonstrated~~ suggests that the respondent has had impairment (for example, impairment by mental illness, alcohol abuse and drug ~~self-~~abuse) that related to the violations ~~but is not at present a danger to his/her patients~~.

~~27.~~24. Medical E~~e~~valuation -

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board appointed physician who shall furnish a medical report to the Board or its designee. Respondent shall pay all costs of the medical evaluation.

In the event further treatment is recommended by evaluating physician to ensure public protection, ~~If~~ respondent ~~is~~ may required by the Board or its designee to undergo ~~medical~~ such further treatment~~,~~. R~~r~~espondent shall, within 30 days of ~~the requirement~~ written notice ~~submit to~~ by the Board, submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician, respondent shall undergo and continue medical treatment until further notice from the Board. ~~Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is medically fit to practice safely.~~ Respondent shall pay the costs of such medical treatments.

~~*NOTE:* This condition is for those cases where the evidence demonstrates drug or alcohol impairment or medical illness or disability was a contributing cause of the violations.~~

[OPTION]

Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is medically fit to practice safely.

~~28.~~25. Medical ~~T~~treatment -

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports of the periodic medical evaluations ~~by a Board-appointed physician~~. Respondent shall pay the costs of such medical treatments. Respondent shall comply with any treatment recommended by the physician that the physician determines is required to ensure that respondent may continue to practice safely.

~~29. Supervised structured environment~~

~~Respondent is prohibited from engaging in solo practice. Within 30 days of the effective date of this decision, respondent shall submit to the Board and receive its prior approval, for a plan of practice limited to a supervised structured environment in which respondent's activities will be overseen and supervised by another physician, who shall provide periodic reports to the Board.~~

~~30.~~26. Community ~~S~~services -

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a community service program in which respondent provides free medical services on a regular basis to a community or charitable facility or agency for at least__________ hours a month for the first__________ months of probation.

NOTE: Not for quality of care issues.

~~31.~~27. Restitution -

Respondent shall provide restitution to __________________in the amount of________________ prior to the completion of the first year of probation.

NOTE: Restitution should be issued to ~~For~~ patients only.

28. Monitoring – Practice/Billing

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee for approval a __________________ **[insert:** practice, billing or practice and billing] monitor(s), the name and qualifications of one or more licensed physicians (D.O. or M.D.) whose licenses are valid and in good standing. A monitor shall have no prior business relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to be neutral and objectively monitor the respondent. Respondent shall pay for all monitoring costs. The monitor shall be provided with copies of all Decision(s), Accusations(s) and other information deemed relevant by the Board or its designee. Failure to comply with this term and condition may result in an automatic order from the Board for the respondent to cease the practice of medicine until such a monitor has been approved by the Board.

29. Solo Practice Prohibition/ Supervised Structure

Respondent shall not engage in the solo practice of medicine, and shall be employed as a physician in which there is a supervised structure and environment, and wherein respondent reports to another licensed physician (D.O. or M.D.). Notice of changes to respondent's employment or nature of practice must be provided to the Board or its designee within five (5) days of such change. Respondent shall cease the practice of medicine if respondent is no longer in a supervised environment.

C. TERMS AND CONDITIONS OF THE UNIFORM STANDARDS FOR SUBSTANCE-ABUSING LICENSEES

(NOTE: These conditions must be included in any probationary order where the violation involved drugs or alcohol.)

30. Clinical Diagnostic Evaluation

Upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. The board or its designee shall select or approve evaluator(s) holding a valid, unrestricted license to practice, with a scope of practice that includes the conduct of clinical diagnostic evaluations and at least three (3) years' experience in providing evaluations of health professionals with substance abuse disorders. The evaluator shall not have any financial relationship, personal relationship, or business relationship with the licensee with the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion: whether the licensee has a substance abuse problem; whether the licensee is a threat to himself/herself or others; and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice. If the evaluator determines during the evaluation process that a licensee is a threat to himself/ herself or others, the evaluator shall notify the Board within 24 hours of such a determination. For all evaluations, respondent shall cause the evaluator to submit to the Board a final written report no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days. The cost of such evaluation shall be borne by the licensee.

Respondent shall cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board. While the results of the clinical diagnostic evaluation are pending, the licensee shall be randomly drug tested at least two (2) times per week.

The Board will review the results of the clinical diagnostic evaluation to determine whether or not respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on respondent after considering the following criteria: license type; licensee's history; documented length of sobriety; time that has elapsed since substance use; scope and pattern of use; treatment history; licensee's medical history and current medical condition; nature, duration, and severity of the substance abuse; and whether the licensee is a threat to himself/herself of others.

Respondent's license shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time, and has had at least 30 days of negative drug test results.

31. Diversion Program – Alcohol and Drugs

Within thirty (30) days of the effective date of this decision, respondent shall enroll and participate in the Board's Diversion Program until the Board determines that further treatment and rehabilitation is no longer necessary. Quitting the Diversion Program without permission or being expelled for cause shall constitute a violation of probation by respondent. Such diversion program shall utilize the Uniform Standards for Substance-Abusing Licensees, as set forth below:

A vendor that provides diversion services must report to the board any major violation, as defined in Uniform Standard #10 within one (1) business day. A vendor must report to the board any minor violation, as defined in Uniform Standard #10 within five (5) business days.

A vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors is as follows:

Specimen Collectors

- The provider or subcontractor shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which he or she is responsible on any day of the week.

- The provider or subcontractor shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances.
- The provider or subcontractor must provide collection sites that are located in areas throughout California.
- The provider or subcontractor must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the participant to check-in daily for drug testing.
- The provider or subcontractor must have or be subcontracted with operating collection sites that are engaged in the business of collecting urine, blood, and hair follicle specimens for the testing of drugs and alcohol within the State of California.
- The provider or subcontractor must have a secure, HIPAA compliant website or computer system to allow staff access to drug test results and compliance reporting information that is available 24 hours per day.
- The provider or subcontractor shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory drug test results, medical histories, and any other information relevant to biomedical information.
- A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
- Must undergo training as specified in Uniform Standard #4.

Group Meeting Facilitators

- A group meeting facilitator for any support group meeting:
  (1) Must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
  (2) Must be licensed or certified by the state or other nationally certified organization;
  (3) Must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year;
  (4) Shall report any unexcused absence within 24 hours to the board; and
  (5) Shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

Work Site Monitors

The worksite monitor must meet the following qualifications:

- The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the worksite monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
- The worksite monitor's licensure scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no worksite monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.
- Shall have an active, unrestricted license, with no disciplinary action within the last five (5) years.
- Shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, or at least once per week.
- Interview other staff in the office regarding the licensee's behavior, if applicable;
- Review the licensee's work attendance.

Any suspected substance abuse must be verbally reported to the contractor, the board, and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours, the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within forty-eight (48) hours of occurrence.
The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include the following:

- The licensee's name and license number;
- The worksite monitor's name and signature;
- The worksite monitor's license number;
- The worksite location(s);
- The dates licensee had face-to-face contact with the monitor

- Staff interviewed, if applicable;
- Attendance report;
- Any change in behavior and/or personal habits;
- Any indicators that can lead to suspected substance abuse.

Treatment Providers

Treatment facility staff and services must have the following:

- Licensure and/or accreditation by appropriate regulatory agencies;
- Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
- Professional staff who are competent and experienced members of the clinical staff;
- Treatment planning involving a multidisciplinary approach and specific aftercare plans;
- Means to provide treatment/progress documentation to the provider.

General Vendor Requirements

The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

- The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to subcontractors.
- If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within thirty (30) business days of notification of failure to provide adequate services.
- The vendor shall notify the appropriate board within five (5) business days of termination of said subcontractor.

External Independent Audits

If a board uses a private-sector vendor to provide monitoring services for its licensees, an external independent audit must be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the department with no real or apparent conflict of interest with the vendor providing the monitoring services. In addition, the reviewer shall not be a part of or under the control of the board. The independent reviewer or review team must consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs. The audit must assess the vendor's performance in adhering to the uniform standards established by the board. The reviewer must provide a report of their findings to the board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the board's mandate of public protection.

The board and the department shall respond to the findings in the audit report.

Disclosure

The board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a board referral:

- The licensee's name;
- Whether the licensee's practice is restricted, or the license is on inactive status;
- A detailed description of any restriction(s) imposed.

This disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.

32. Drugs – Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in the California Business and Professions Code, or any drugs requiring a prescription except for ordering or possessing medications lawfully prescribed to respondent by another practitioner, for a bona fide illness or condition.

33. Alcohol – Abstain from Use

Respondent shall abstain completely from the use of alcoholic beverages.

34. Notification to Employer

If a licensee whose license is on probation has an employer, the licensee shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board, the worksite monitor, and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

35. Biological Fluid Testing

Respondent shall submit to and pay for any random and directed biological fluid or hair sample, breath alcohol, or any other mode of testing required by the Board. Biological fluid testing may be required on any day, including weekends and holidays. The scheduling of biological fluid testing shall be done on a random basis, preferably by a computer program, so that respondent can make no reasonable assumption of when he/she will be tested. Respondent shall be required to make daily contact to determine if drug testing is required.

Respondent shall be subject to at least fifty-two (52) random tests per year within the first year of probation, and at least thirty-six (36) random tests per year for the duration of the probationary term, up to five (5) years. If there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, testing may be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests for any reason.

The board or its designee may require less frequent testing if any of the following apply:

- Previous Testing/Sobriety. In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing prior to being subject to testing by the Board, the Board may give consideration to that testing in altering the Board's own testing schedule so that the combined testing is equivalent to the requirements of this section.

- Violation(s) Outside of Employment. Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the board or its designee may skip the first-year testing frequency requirements.

- Not Employed in Health Care Field. Where respondent is not employed in any health care field, frequency of testing may be reduced to a minimum of twelve (12) tests per year. If respondent wishes to thereafter return to employment in the health care filed, respondent shall be required to test at least once a week for a period of sixty (6) days before commencing such employment, and shall thereafter be required to test at least once a week for a full year, before he/she may be reduced to a testing frequency of at least thirty-six (36) tests per year.

- Tolling. Respondent's testing requirement may be suspended during any period of tolling of the period of probation.

- Substance Use Disorder Not Diagnosed. Where respondent has a demonstrated period of sobriety and/or non-use, the board or its designee may reduce the testing frequency to no less than twenty-four (24) tests per year.

Any detection through testing of alcohol, or of a controlled substance, or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, may cause the board or its designee to increase the frequency of testing, in addition to any other action including but not limited to further disciplinary action.

Respondent shall have the test performed by a Board-approved laboratory certified and accredited by the U.S. Department of Health and Human Services on the same day that he or she is notified that a test is required. This shall ensure that the test results are sent immediately to the Board. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitutes a violation of probation. If a test results in a determination that the urine admission was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If an "out of range result" is obtained, the Board may require respondent to immediately undergo a physical examination and to complete laboratory or diagnostic testing to determine if any underlying physical condition has contributed to the diluted result and to cease practice. Any such examination or laboratory and testing costs shall be paid by respondent. An "out of range result" is one in which, based on scientific principles, indicates the respondent attempted to alter the test results in order to either render the test invalid or obtain a negative result when a positive result should have been the outcome. If it is determined that respondent altered the test results, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation and

respondent must cease practicing. Respondent shall not resume practice until notified by the board. If respondent tests positive for a banned substance, respondent shall be ordered by the Board to cease any practice, and may not practice unless and until notified by the board. If respondent tests positive for a banned substance, respondent shall be ordered by the Board to cease any practice, and may not practice unless and until notified by the Board. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

Nothing herein shall limit the Board's authority to reduce or eliminate the penalties herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522 or statutes applicable to the board that contains different provisions for reinstatement or reduction of penalty.

36. Group Support Meetings

[OPTIONAL – If the Board requires respondent to participate in group support meetings then the following applies:]

Respondent shall participate in group support meetings. When determining the frequency of group support meetings to be attended, the Board shall give consideration to the following: the licensee's history; the documented length of sobriety/time that has elapsed since substance use; the recommendation of the clinical evaluator; the scope and pattern of use; the licensee's treatment history; and the nature, duration, and severity of substance abuse.

The group meeting facilitator must have the following qualifications and meet the following requirements:

1. The meeting facilitator must have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year.
3. The meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The meeting facilitator shall report any unexcused absence within 24 hours.

Verified documentation of attendance shall be submitted by respondent with each quarterly report. Any costs associated with attending and reporting on group support meetings shall be paid by respondent.

37. Worksite Monitor

[OPTIONAL – If the Board requires respondent to use a worksite monitor then the following applies:]

Respondent shall obtain a worksite monitor. Respondent shall submit the name of the proposed worksite monitor within twenty (20) days of the effective date of the decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding respondent and the worksite monitor's requirements and reporting responsibilities. If the worksite monitor terminates the agreement with the Board and respondent, respondent shall not resume practice until another worksite monitor is obtained by respondent and approved by the Board.

The worksite monitor must meet the following criteria to be considered for approval by the Board:

1. The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
2. The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no monitor with like practice is available or as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If the worksite monitor is a licensed health care professional, he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
5. The worksite monitor must adhere to the following required methods of monitoring the licensee:
   a. Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
   b. Interview other staff in the office regarding the licensee's behavior, if applicable.
   c. Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall comply with the following:

1. Any suspected substance abuse must be verbally reported to the board and the licensee's employer or supervisor within one (1) business day of the occurrence. If the occurrence is not during the board's normal business hours, the verbal report must be made to the board within one (1) hour of the next business day. A written report must be submitted to the board within forty-eight (48) hours of the occurrence.
2. The worksite monitor must complete and submit a written report monthly or as directed by the Board. The report shall include:

   a. The licensee's name and license number;
   b. The worksite monitor's name and signature;
   c. The worksite monitor's license number, if applicable;
   d. The worksite location(s);
   e. The dates the licensee had face-to-face contact with the worksite monitor;
   f. The names of worksite staff interviewed, if applicable;
   g. An attendance report;
   h. Any change in behavior and/or personal habit; and
   i. Any indicators that can lead to suspected substance abuse.

38. Results of Biological Fluid Tests

If the results of a biological fluid test indicate that a licensee has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order the licensee to cease practice and contact the licensee and instruct him or her to leave work immediately. The Board shall also immediately notify the licensee's employer that the licensee may not work.

Thereafter, the board should determine whether the positive test result is in fact evidence of prohibited use by consulting the specimen collector and the laboratory, communicating with the licensee and/or any physician who is treating the licensee, and communicating with any treatment provider, including group facilitators. If the board confirms that a positive test result is evidence of use of a prohibited substance, the licensee has committed a major violation, and the Board shall impose any or all of the consequences of committing a major violation, in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance the rehabilitation of the licensee.

If no prohibited use exists, the board shall immediately lift the cease practice order. If the board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation.

39. Major and Minor Violations

Major Violations include, but are not limited to the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluations;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug of alcohol offense that is a violation of the California Business and Professions Code, or other state or federal law;
6. Failure to obtain biological fluid testing for substance abuse when ordered;
7. Testing positive for a prohibited substance;
8. Knowingly using, making, altering, or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

The consequences for committing a Major Violation include, but are not limited to the following:

1. A Board's order to cease practice. The Board may also order the licensee to undergo a new clinical diagnostic evaluation. The Board's order may state that the licensee must test negative for at least a month of continuous drug testing before being allowed to return to work.
2. The termination of a contract/agreement.
3. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

Minor Violations include, but are not limited to the following:

1. Untimely receipt of required documentation;
2. Unexcused non-attendance at group meetings;

3. Failure to contact a monitor when required;
4. Any other violation that does not present an immediate threat to the violator or to the public.

The consequences for committing a Minor Violation include, but are not limited to the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of a citation and fine or a warning notice;
6. Required re-evaluation or testing;
7. Other action as determined by the board.

40. Request by a Substance-Abusing Licensee to Return to Practice

Before determining whether to authorize the return to practice after the issuance of a cease-practice order, or after the imposition of practice restrictions following a clinical diagnostic evaluation, the Board in conjunction with the evaluator shall ensure that the licensee meets the following criteria:

1. Demonstrated sustained compliance with the current recovery program;
2. Demonstrated ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse;
3. Negative biological fluid tests for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

41. Request by a Substance-Abusing Licensee for Reinstatement of a full and unrestricted license – Petition for Reinstatement

"Petition for Reinstatement" as used here is an informal request ("petition") as opposed to a "Petition for Reinstatement" under the Administrative Procedure Act. The licensee must meet the following criteria to request ("petition") for a full and unrestricted license:

1. Demonstrated sustained compliance with the terms of the disciplinary order, if applicable;
2. Demonstrated successful completion of recovery program, if required;
3. Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated that he or she is able to practice safely;
5. Continued sobriety for three (3) to five (5) years.

RECOMMENDED DISCIPLINE
(BY VIOLATION)

The following discipline, including conditions of probation, generally listed by statute order as set forth in the Business and Professions Code, is recommended by the Board for proven or stipulated violations. In all circumstances, the maximum penalty for any violation of the Business and Professions Code will be revocation. Additionally, violations of Business and Professions Code sections 2235 (obtaining license by fraud), 2288 (impersonation of an applicant in an examination), and 2306 (practice under suspension) shall all result in an order of revocation.

The following disciplinary penalties for selected Business and Professions Code violations are guidelines for use by administrative law judges at hearings as well as for use in settlement of cases. Individual penalties may vary depending upon the particular circumstances of the case resulting in aggravation or mitigation of the offenses alleged. If probation is imposed as part of a penalty, the probation should include: (1) standard terms and conditions, which will appear in all cases; (2) the conditions specific to violation, which will be tailored according to the nature of the offense; and, (3) if the violation involved the use of drugs or alcohol, terms and conditions of the Uniform Standards for Substance – Abusing Licensees.

B&P 725 - EXCESSIVE PRESCRIBING OR TREATMENTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Drugs - Total DEA restriction
   Surrender DEA permit

(or) - Partial DEA restriction
2. Pharmacology course
3. Education Course
4. Work-site Monitor
5. Written Examination
6. Clinical Assessment and Training Program
7. Monitor – Practice
8. If warranted, suspension – 30 days or more

B&P 726 - SEXUAL MISCONDUCT

Minimum discipline: Stayed revocation, 10 years probation, standard terms, and

1. Suspension – 90 days or more
2. Education course
3. Clinical Assessment and Training Program
4. Psychiatric Evaluation/ Psychotherapy
5. Third Party Presence
6. Worksite Monitor

Note: if the violation constitutes sexual contact, as defined in title 16, California Code of Regulations, section 1663, subsection (b), revocation must be ordered and not stayed.

B&P 729 – SEXUAL EXPLOITATION

Minimum discipline: Revocation

See Business and Professions Code section 2246. Revocation may not be stayed by the administrative law judge or the Board.

B&P 810 – INSURANCE FRAUD

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Education Course
3. Clinical Assessment and Training Program
4. Worksite Monitor
5. Monitor – Practice/Billing
6. Solo Practice Prohibition/Supervised Structure
7. Ethics Course
8. Restitution

Note: Suspension or revocation may be mandated by law's provisions. See Business and Professions Code section 810, subdivision (c).

B&P 820 - MENTAL OR PHYSICAL ILLNESS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Psychiatric Evaluation/ Psychotherapy
2. Written or Oral Examination
3. Worksite Monitor
4. Solo Practice Prohibition/ Supervised Environment
5. Prohibited Practice
6. Monitoring – Practice/ Billing

7. Clinical Assessment and Training Program

B&P 2234(b) - GROSS NEGLIGENCE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor
7. Monitor – Practice/ Billing
8. Solo Practice Prohibition/Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(c) - REPEATED NEGLIGENT ACTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor
7. Monitor – Practice/ Billing
8. Solo Practice Prohibition/Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(d) - INCOMPETENCE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor
7. Monitor – Practice/ Billing
8. Solo Practice Prohibition/ Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(e) - DISHONESTY

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Education Course
3. Clinical Assessment and Training Program
4. Worksite Monitor
5. Monitor – Practice/Billing

6. Solo Practice Prohibition/Supervised Structure
7. Ethics Course
8. Community Service
9. Restitution

B&P 2236 - CRIMINAL CONVICTION – FELONIES/ MULTIPLE MISDEMEANORS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more
2. Psychiatric Evaluation/ Psychotherapy
3. Education Course
4. Clinical Assessment and Training Program
5. Worksite Monitor
6. Monitor – Practice/Billing
7. Ethics Course
8. Community Service
9. Restitution

B&P 2236 - CRIMINAL CONVICTION – SINGLE MISDEMEANOR

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Education Course
2. Psychiatric Evaluation/ Psychotherapy
3. Worksite Monitor
4. Monitor – Practice/Billing
5. Ethics Course
6. Community Service
7. Restitution

B&P 2237 - DRUG RELATED CONVICTION

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 10 days or more
2. Psychiatric Evaluation/ Psychotherapy
3. Clinical Diagnostic Evaluation
4. Worksite Monitor
5. Monitor – Practice
6. Ethics Course
7. Conditions Applying the Uniform Standards, including:
    - ~~7~~.a. Substance Abuse and Addiction Evaluation
    - ~~8~~.b. Drugs – Abstain from Use
    - ~~9~~.c. Alcohol – Abstain from Use
    - ~~10~~.d. Random Bodily Fluid Testing
    - ~~11~~.e. Diversion Program

B&P 2238 - VIOLATION OF DRUG STATUTE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 90 days or more
2. Pharmacology Course
3. Clinical Assessment and Training Program
4. Ethics Course
5. Controlled Drugs – Total Restriction
6. DEA – Surrender of DEA Permit
7. Controlled Drugs – Partial Restriction
8. Controlled Drugs – Maintain Record
9. Psychiatric Evaluation/ Psychotherapy
10. Worksite Monitor
11. Monitor – Practice
12. Conditions Applying the Uniform Standards, including
    - ~~12~~.a. Substance Abuse and Addiction Evaluation
    - ~~13~~.b. Drugs – Abstain from Use
    - ~~14~~.c. Alcohol – Abstain from Use
    - ~~15~~.d. Random Bodily Fluid Testing
    - ~~16~~.e. Diversion

B&P 2239 - SELF-ABUSE OF DRUGS OR ALCOHOL

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 10 days or more
2. Controlled Drugs – Total Restriction
3. DEA – Surrender of DEA Permit
4. Controlled Drugs – Partial Restriction
5. Controlled Drugs – Maintain Record
6. Psychiatric Evaluation/ Psychotherapy
7. Worksite Monitor
8. Monitor – Practice
9. Ethics Course
10. Conditions Applying the Uniform Standards, including:
    - ~~10~~.a. Substance Abuse and Addiction Evaluation
    - ~~11~~.b. Drugs – Abstain from Use
    - ~~12~~.c. Alcohol – Abstain from Use
    - ~~13~~.d. Random Bodily Fluid Testing
    - ~~14~~.e. Diversion

B&P 2241 - FURNISHING DRUGS TO AN ADDICT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 10 days or more
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Controlled Drugs – Total Restriction
7. DEA – Surrender of DEA Permit
8. Controlled Drugs – Partial Restriction
9. Controlled Drugs – Maintain Record
10. Psychiatric Evaluation/ Psychotherapy
11. Worksite Monitor
12. Monitor – Practice

~~12.~~13 Conditions Applying the Uniform Standards, including

13.a. Substance Abuse and Addiction Evaluation
14.b. Drugs – Abstain from Use
15.c. Alcohol – Abstain from Use
16.d. Random Bodily Fluid Testing
17.e. Diversion

B&P 2242 - PRESCRIBING DRUGS WITHOUT PRIOR EXAMINATION

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 10 days or more
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Controlled Drugs – Total Restriction
7. DEA – Surrender of DEA Permit
8. Controlled Drugs – Partial Restriction
9. Controlled Drugs – Maintain Record
10. Psychiatric Evaluation/ Psychotherapy
11. Worksite Monitor
12. Monitor - Practice

B&P 2250 - FAILURE TO COMPLY WITH STERILIZATION CONSENT PROVISIONS

Minimum discipline: Stayed revocation, [X] years probation, standard terms, and

1. Education Course
2. Pharmacology Course [if warranted]
3. Written Examination
4. Clinical Assessment and Training Program
5. Worksite Monitor
6. Monitor – Practice / Billing
7. Solo Practice Prohibition/ Supervised Structure
8. Prohibited Practice
9. Ethics Course

B&P 2251 - USE OF SILICONE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Prohibited Practice [if warranted]

B&P 2252 - ILLEGAL CANCER TREATMENT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more
2. Pharmacology Course

3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Worksite Monitor
7. Monitor Billing/ Practice
8. Ethics Course
9. Prohibited Practice
10. Solo Practice Prohibition/ Supervised Structure

B&P 2261 – MAKING OR SIGNING FALSE DOCUMENT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more
2. Education Course
3. Ethics Course
4. Monitoring Billing/ Practice
5. Prohibited Practice
6. Solo Practice Prohibition/ Supervised Structure

B&P 2262 – ALTERATION OF MEDICAL RECORDS/ FALSE MEDICAL RECORDS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more
2. Education Course
3. Pharmacology Course
4. Ethics Course
5. Monitoring Billing/ Practice
6. Prohibited Practice
7. Solo Practice Prohibition/ Supervised Structure

B&P 2263 – VIOLATION OF PROFESSIONAL CONFIDENCE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more
2. Education Course
3. Ethics Course
4. Monitoring Billing/ Practice
5. Prohibited Practice
6. Solo Practice Prohibition/ Supervised Structure

B&P 2264 - AIDING AND ABETTING UNLICENSED PRACTICE

Minimum Discipline: Stayed revocation, 5 years probation, standard terms, and.

1. Actual Suspension – 90 days or more
2. Education Course
3. Ethics Course
4. Monitoring Billing/ Practice
5. Prohibited Practice
6. Solo Practice Prohibition/ Supervised Structure

B&P 2271, 651 - DECEPTIVE ADVERTISING

Minimum Discipline: Stayed revocation, 1 year probation

B&P 2272 - ANONYMOUS ADVERTISING

Minimum Discipline: Stayed revocation, 1 year probation

B&P 2273 - EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS

Minimum discipline: Stayed revocation, 3 years probation, standard terms, and

1. Actual Suspension – 90 days or more
2. Education Course
3. Ethics Course
4. Monitoring Billing/ Practice
5. Prohibited Practice
6. Solo Practice Prohibition/ Supervised Structure

B&P 2274 - MISUSE OF TITLE

Minimum Discipline: Stayed revocation, 1 year probation

B&P 2275 - USE OF "M.D."

Minimum Discipline: Stayed revocation, 1 year probation

B&P 2276 - MISUSE OF "D.O."

Minimum Discipline: Stayed revocation, 1 year probation

B&P 2280 - INTOXICATION WHILE TREATING PATIENTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, Uniform Standards for Substance Abuse, and

1. Actual Suspension – 10 days or more
2. Controlled Drugs – Total Restriction
3. DEA – Surrender of DEA Permit
4. Controlled Drugs – Partial Restriction
5. Controlled Drugs – Maintain Record
6. Psychiatric evaluation /Psychotherapy
7. Worksite Monitor
8. Monitor - Practice
9. Ethics Course
10. Conditions Applying the Uniform Standards, including
    - ~~10.~~a. Substance Abuse and Addiction Evaluation
    - ~~11.~~b. Drugs – Abstain from Use
    - ~~12.~~c. Alcohol – Abstain from Use
    - ~~13.~~d. Random Bodily Fluid Testing
    - ~~14.~~e. Diversion

B&P 2285 - USE OF FICTITIOUS NAME WITHOUT PERMIT

Minimum discipline: 90 days stayed suspension, 1 year probation

B&P 2288 – IMPERSONATION OF APPLICATION IN EXAM

Revocation

B&P 2306 – PRACTICE DURING SUSPENSION

Revocation

B&P 2305 - DISCIPLINE BY ANOTHER STATE OR FEDERAL AGENCY

Minimum discipline: add actual period of suspension

VIOLATION OF PROBATION – REPEATED VIOLATIONS

A repeated similar offense or a violation of probation evidencing an unreformed attitude should call for the maximum discipline. Other violations of probation should call for at least a meaningful period of actual suspension, preferably 90 days or more, as well as other appropriate terms.

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OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
Proposed Language
[7/24/14 DRAFT]

Proposed changes to division 16 of title 16, of the California Code of Regulations are shown by underlining for new text and strikethrough for deleted text.

1. Section 1661.2 is amended to read as follows:

§ 1661.2 Diversion Evaluation Committee Duties & Responsibilities

A diversion evaluation committee shall have the following duties and responsibilities in addition to those set forth in Section 2366 of the Code:

(a) To consider recommendations of the program manager and any consultants to the committee;

(b) To set forth in writing for each physician in a program a treatment and rehabilitation plan established for that physician with the requirement for supervision and surveillance.

(c) To use the uniform standards for substance-abusing licensees contained in "Uniform Standards Regarding to Substance-Abusing Healing Arts Licensees" (4/2011), which is hereby incorporated by reference.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p.xciii), Section1; and Section 3600-1, Business and Professions Code. Reference: Section 2366, Business and Professions Code.

HISTORY

1. New section filed 9-22-89; operative 10-22-89 (Register 89, No.39)

2. Section 1663 is amended to read as follows:

§ 1663. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Osteopathic Medical Board of California shall consider the disciplinary guidelines entitled "Osteopathic Medical Board of California Disciplinary Guidelines of ~~1996~~ 2014" ("Guidelines"), which are hereby incorporated by reference. Deviation from ~~these~~ ~~g~~Guidelines and orders, including the standard terms of probation, is appropriate where the Osteopathic Medical Board of California in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) (1) Notwithstanding the ~~disciplinary~~ gGuidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

(2) As used in this section, the term "sex offense" shall mean any of the following:
(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
(b) Any offense defined in Section 261.5, 313.1, 647b, or 647 subdivision (a) or (d) of the Penal Code or a finding that a person committed such an offense.
(c) Any attempt to commit any of the offenses specified in this section.
(d) Any offense committed or attempted in any other state or against the laws of the United State which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.

(c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation. The clinical diagnostic evaluator's report shall be submitted in its entirety to the board.

(1) Each of the "Terms and Conditions of the Uniform Standards for Substance-Abusing Licensees," as set forth in the Guidelines, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.
(2) The Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.

(d) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of prohibition in any order that the Board determines would provide greater public protection.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p.xciii), Section 1; Sections 2018, 2451, and 3600-1, Business and Professions Code;~~-*and Section 11400.21, Government Code.*~~ Reference: *Sections* 315, 726 and 729, Business and Professions Code; Sections ~~11400.21 and~~ 11425.50(e), Government Code; Sections 261.5, 290, 313.1, 647b, and 647 subdivision (a) or (d) of the Penal Code.

TAB 7

AB 809

California LEGISLATIVE INFORMATION

AB-809 Healing arts: telehealth. (2013-2014)

AMENDED IN SENATE AUGUST 04, 2014

AMENDED IN SENATE MAY 19, 2014

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 03, 2013

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 809**

Introduced by Assembly Member Logue
(Coauthor: Senator Galgiani)

February 21, 2013

An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would require the health care provider initiating the use of telehealth at the originating site to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the ~~consent in the patient's medical record~~ *consent*.

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

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

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

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

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

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

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

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth at the originating site shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public ~~health during a specified course of health care and treatment~~ *health*. The consent shall be ~~documented in the patient's medical record~~ *documented*.

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

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

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

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

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

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

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

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the public due to a lack of access to health care providers in rural and urban medically underserved areas of California, the increasing strain on existing providers that occurred with the implementation of the federal Patient Protection and Affordable Care Act, and the assistance that further implementation of telehealth can provide to help relieve these burdens, it is necessary for this act to take effect immediately.

AB 1838

California LEGISLATIVE INFORMATION

AB-1838 Healing arts: medical school accreditation. (2013-2014)

Assembly Bill No. 1838

CHAPTER 143

An act to add Section 2084.5 to the Business and Professions Code, relating to healing arts.

[Approved by Governor July 18, 2014. Filed with Secretary of State July 18, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1838, Bonilla. Healing arts: medical school accreditation.

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 each applicant for a physician's and surgeon's certificate to show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a specified medical curriculum that meets certain clinical instruction requirements extending over a period of at least 4 academic years, or 32 months of actual instruction, in a medical school, as specified.

This bill, notwithstanding any other law, would provide that a medical school or medical school program accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation is deemed to meet the requirements described above.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 2084.5 is added to the Business and Professions Code, to read:

2084.5. Notwithstanding any other law, a medical school or medical school program accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation shall be deemed to meet the requirements of Sections 2089 and 2089.5.

AB 1841

California LEGISLATIVE INFORMATION

AB-1841 Medical assistants. (2013-2014)

AMENDED IN SENATE JUNE 02, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 1841**

Introduced by Assembly Member Mullin
(Coauthor: Senator Hernandez)

February 18, 2014

An act to amend Section 2069 of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 1841, as amended, Mullin. Medical assistants.

Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California. The act authorizes a medical assistant to administer medication only by intradermal, subcutaneous, or intramuscular injections and to perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife. Existing law defines the term "technical supportive services" to mean simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife. Existing law, the Pharmacy Law, prohibits a prescriber, as defined, from dispensing drugs to patients in his or her office unless specified conditions are satisfied, and authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor who functions pursuant to a specified protocol or procedure to hand to a patient of his or her supervising physician a properly labeled and prepackaged prescription drug. *Existing law authorizes specified facilities licensed by the California State Board of Pharmacy to purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at those facilities.*

This bill would specify that the "technical supportive services" a medical assistant may perform *in those California State Board of Pharmacy licensed facilities* also includes handing to a patient a properly labeled and prepackaged prescription drug, other than a controlled substance, ordered by a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 2069 of the Business and Professions Code is amended to read:

2069. (a) (1) Notwithstanding any other law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all these tasks and services upon the specific authorization of a physician assistant, a nurse practitioner, or a certified nurse-midwife.

(2) The supervising physician and surgeon may, at his or her discretion, in consultation with the nurse practitioner, certified nurse-midwife, or physician assistant, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, certified nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the supervising physician and surgeon is not onsite, if either of the following apply:

(A) The nurse practitioner or certified nurse-midwife is functioning pursuant to standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or protocol, including instructions for specific authorizations, shall be developed and approved by the supervising physician and surgeon and the nurse practitioner or certified nurse-midwife.

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502, including instructions for specific authorizations, and is approved to do so by the supervising physician and surgeon.

(b) As used in this section and Sections 2070 and 2071, the following definitions apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the board. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

(A) A licensed physician and surgeon.

(B) A licensed podiatrist.

(C) A physician assistant, nurse practitioner, or certified nurse-midwife as provided in subdivision (a).

(4) (A) "Technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a).

(B) Notwithstanding any other law, *in a facility licensed by the California State Board of Pharmacy under Section 4180 or 4190, other than a facility operated by the state,* "technical supportive services" *also* includes handing to a patient a ~~properly labeled and~~ prepackaged prescription drug, excluding a controlled substance, *that is labeled in compliance with Section 4170 and all other applicable state and federal laws and* ordered by a

licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife in accordance with subdivision (a). In every instance, prior to handing the medication to a patient *pursuant to this subparagraph*, the properly labeled and prepackaged prescription drug shall have the patient's name affixed to the package and a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife shall verify that it is the correct medication and dosage for that specific patient *and shall provide the appropriate patient consultation regarding use of the drug*.

(c) Nothing in this section shall be construed as authorizing any of the following:

(1) The licensure of medical assistants.

(2) The administration of local anesthetic agents by a medical assistant.

(3) The board to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(4) A medical assistant to perform any clinical laboratory test or examination for which he or she is not authorized by Chapter 3 (commencing with Section 1200).

(5) A nurse practitioner, certified nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory, as those terms are defined in paragraph (8) of subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

(d) A nurse practitioner, certified nurse-midwife, or physician assistant shall not authorize a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized by Chapter 3 (commencing with Section 1200). A violation of this subdivision constitutes unprofessional conduct.

(e) Notwithstanding any other law, a medical assistant shall not be employed for inpatient care in a licensed general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

AB 1868

California LEGISLATIVE INFORMATION

AB-1868 Medi-Cal: optional benefits: podiatric medicine. (2013-2014)

AMENDED IN SENATE JUNE 10, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL No. 1868

Introduced by Assembly Member Gomez
(Coauthors: Assembly Members Brown and Wilk)

February 19, 2014

An act to amend Section 14131.10 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, as amended, Gomez. Medi-Cal: optional benefits: podiatric medicine.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law provides that optional podiatric services are excluded from coverage under the Medi-Cal program.

This bill would cover medical and surgical services provided by a doctor of podiatric medicine *within his or her scope of practice* that, if provided by a physician, would be considered physician services, and which services may be provided by either a physician or a podiatrist in the state.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 14131.10 of the Welfare and Institutions Code is amended to read:

14131.10. (a) Notwithstanding any other provision of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591), in order to implement changes in the level of funding for health care services, specific optional benefits are excluded from coverage under the Medi-Cal program.

(b) (1) The following optional benefits are excluded from coverage under the Medi-Cal program:

(A) Adult dental services, except as specified in paragraph (2).

(B) Acupuncture services.

(C) Audiology services and speech therapy services.

(D) Chiropractic services.

(E) Optometric and optician services, including services provided by a fabricating optical laboratory.

(F) Podiatric services, except as specified in paragraph (2).

(G) Psychology services.

(H) Incontinence creams and washes.

(2) (A) (i) Medical and surgical services provided by a doctor of dental medicine or dental surgery~~,~~ that, if provided by a physician, would be considered physician services, and which services may be provided by either a physician or a dentist in this state, are covered.

(ii) Medical and surgical services provided by a doctor of podiatric medicine~~,~~ *within his or her scope of practice* that, if provided by a physician, would be considered physician services, and which services may be provided by either a physician or a doctor of podiatric medicine in this state, are covered.

(B) Emergency procedures are also covered in the categories of service specified in subparagraph (A). The director may adopt regulations for any of the services specified in subparagraph (A).

(C) Effective May 1, 2014, or the effective date of any necessary federal approvals as required by subdivision (f), whichever is later, for persons 21 years of age or older, adult dental benefits, subject to utilization controls, are limited to all the following medically necessary services:

(i) Examinations, radiographs/photographic images, prophylaxis, and fluoride treatments.

(ii) Amalgam and composite restorations.

(iii) Stainless steel, resin, and resin window crowns.

(iv) Anterior root canal therapy.

(v) Complete dentures, including immediate dentures.

(vi) Complete denture adjustments, repairs, and relines.

(D) Services specified in this paragraph shall be included as a covered medical benefit under the Medi-Cal program pursuant to Section 14132.89.

(3) Pregnancy-related services and services for the treatment of other conditions that might complicate the pregnancy are not excluded from coverage under this section.

(c) The optional benefit exclusions do not apply to either of the following:

(1) Beneficiaries under the Early and Periodic Screening Diagnosis and Treatment Program.

(2) Beneficiaries receiving long-term care in a nursing facility that is both:

(A) A skilled nursing facility or intermediate care facility as defined in subdivisions (c) and (d) of Section 1250 of the Health and Safety Code.

(B) Licensed pursuant to subdivision (k) of Section 1250 of the Health and Safety Code.

(d) This section shall only be implemented to the extent permitted by federal law.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.

(f) The department shall seek approval for federal financial participation and coverage of services specified in subparagraph (C) of paragraph (2) of subdivision (b) under the Medi-Cal program.

(g) This section, except as specified in subparagraph (C) of paragraph (2) of subdivision (b), shall be implemented on the first day of the month following 90 days after the operative date of this section.

AB 2139

California LEGISLATIVE INFORMATION

AB-2139 End-of-life care: patient notification. (2013-2014)

AMENDED IN ASSEMBLY MAY 13, 2014

AMENDED IN ASSEMBLY APRIL 02, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 2139**

Introduced by Assembly Member Eggman

February 20, 2014

An act to amend Sections ~~442, 442.5,~~ *442.5* and 442.7 of the Health and Safety Code, relating to terminal illness.

LEGISLATIVE COUNSEL'S DIGEST

AB 2139, as amended, Eggman. End-of-life care: patient notification.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including hospice facilities, and the provision of hospice services. Existing law establishes the Medical Practice Act, which provides for the regulation and licensure of physicians and surgeons by the Medical Board of California. ~~Existing law authorizes an adult to give an individual, known as an agent, authority to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.~~

When a health care provider, as defined, makes a diagnosis that a patient has a terminal illness, existing law requires the health care provider to provide the patient, upon the patient's request, with comprehensive information and counseling regarding legal end-of-life options, as specified, and provide for the referral or transfer of a patient, as provided, if the patient's health care provider does not wish to comply with the patient's request for information on end-of-life options.

This bill would apply these provisions to ~~an agent under a power of attorney for health care~~ *another person authorized to make health care decisions, as defined,* for a patient with a terminal illness diagnosis. The bill would additionally require the health care provider to notify*, except as specified,* the patient or, when applicable, the ~~agent,~~ *other person authorized to make health care decisions,* when the health care provider makes a diagnosis that a patient has a terminal illness, of the patient's *and the other authorized person's* right to comprehensive information and counseling regarding legal end-of-life care options. ~~The bill would define the term "terminal illness" for these purposes.~~

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

~~SECTION 1.Section 442 of the Health and Safety Code is amended to read:~~

~~442.For the purposes of this part, the following definitions shall apply:~~

~~(a)"Actively dying" means the phase of terminal illness when death is imminent.~~

~~(b)"Agent" means an individual designated in a power of attorney for health care, as provided in Article 1 (commencing with Section 4670) and Article 2 (commencing with Section 4680) of Chapter 1 of Part 2 of Division 4.7 of the Probate Code, to make a health care decision for the patient who has been diagnosed with a terminal illness, regardless of whether the person is known as an agent or attorney in fact, or by some other term.~~

~~(c)"Disease-targeted treatment" means treatment directed at the underlying disease or condition that is intended to alter its natural history or progression, irrespective of whether or not a cure is a possibility.~~

~~(d)"Health care provider" means an attending physician and surgeon. It also means a nurse practitioner or physician assistant practicing in accordance with standardized procedures or protocols developed and approved by the supervising physician and surgeon and the nurse practitioner or physician assistant.~~

~~(e)"Hospice" means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets all of the criteria specified in subdivision (b) of Section 1746.~~

~~(f)"Palliative care" means medical treatment, interdisciplinary care, or consultation provided to a patient or family members, or both, that has as its primary purpose the prevention of, or relief from, suffering and the enhancement of the quality of life, rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life as described in subdivision (b) of Section 1339.31. In some cases, disease-targeted treatment may be used in palliative care.~~

~~(g)"Refusal or withdrawal of life-sustaining treatment" means forgoing treatment or medical procedures that replace or support an essential bodily function, including, but not limited to, cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and any other treatment or discontinuing any or all of those treatments after they have been used for a reasonable time.~~

~~(h)"Terminal illness" means a medical condition resulting in a prognosis of a life expectancy of one year or less, if the disease follows its normal course.~~

~~SEC. 2.~~*SECTION 1.* Section 442.5 of the Health and Safety Code is amended to read:

442.5. *(a)* When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall ~~notify~~ *do both of the following:*

(1) Notify the patient of his or her right to, or when applicable, the ~~agent of the patient's right to, comprehensive information and counseling regarding legal end-of-life options and, upon the patient or agent's request, provide the patient or agent~~ *right of another person authorized to make health care decisions for the patient to, comprehensive information and counseling regarding legal end-of-life options. This notification maybe provided at the time of diagnosis or at a subsequent visit in which the provider discusses treatment options with the patient or the other authorized person.*

(2) Upon the request of the patient or another person authorized to make health care decisions for the patient, provide the patient or other authorized person with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility if the patient's health care provider is not available, may refer the patient or ~~agent~~ *other authorized person* to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

~~(a)~~

(b) If ~~the patient or agent indicates a desire to receive the information and counseling,~~ *a patient or another person authorized to make health care decisions for the patient, requests information and counseling pursuant to paragraph (2) of subdivision (a),* the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) ~~If the patient has not appointed an agent under a power of attorney for health care, the~~ *The* patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decisionmaker.

~~(b)~~

(c) The information described in subdivision ~~(a)~~ *(b)* may, but is not required to, be in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision ~~(a).~~ *(b).*

~~(c)~~

(d) Counseling may include, but is not limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling, as described in subdivision ~~(a),~~ *(b),* may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

~~(d)~~

(e) The information and counseling sessions may include a discussion of treatment options in a *culturally sensitive* manner that the patient and his or her family, or, when applicable, ~~the agent,~~ *another person authorized to make health care decisions for the patient,* can easily understand. If the patient or ~~agent~~ *other authorized person* requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient or ~~agent~~ *other authorized person* shall be referred to the appropriate entity for that information.

(f) The notification in paragraph (1) of subdivision (a) shall not be required if the patient or other person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient has already received the notification.

(g) For purposes of this section, "health care decisions" has the meaning set fourth in Section 4617 of the Probate Code.

~~**SEC. 3.**~~ ***SEC. 2.*** Section 442.7 of the Health and Safety Code is amended to read:

442.7. If a health care provider does not wish to comply with his or her patient's request or, when applicable, the ~~agent's~~ request *of another person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient* for information on end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to another health care provider that shall provide the requested information.

(b) Provide the patient or ~~agent~~ *other person authorized to make health care decisions for the patient* with information on procedures to transfer to another health care provider that shall provide the requested information.

AB 2214

California LEGISLATIVE INFORMATION

AB-2214 Emergency room physicians and surgeons: continuing medical education: geriatric care. (2013-2014)

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 2214**

Introduced by Assembly Member Fox

February 20, 2014

An act to amend Section 2191 of the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as amended, Fox. Emergency room physicians and surgeons: continuing medical education: geriatric care.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the Division of Licensing of the Medical Board of California to establish continuing education requirements for physicians and surgeons. *Existing law abolishes the division, provides for the board to handle the responsibilities of the division, and deems a reference to the division to refer to the board.*

This bill would require the ~~division,~~ *board* in determining continuing education requirements, to consider including a course in geriatric care for emergency room physicians and surgeons. *The bill would make nonsubstantive, technical, and conforming changes.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. This act shall be known and may be cited as the Dolores H. Fox Act.

SEC. 2. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the ~~Division of Licensing~~ *board* shall consider including a course in human sexuality as defined in Section 2090 and nutrition to be taken by those licensees whose practices may require knowledge in those areas.

(b) The ~~division~~ *board* shall consider including a course in child abuse detection and treatment to be taken by

those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected children.

(c) The ~~division~~ *board* shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

(d) The ~~division~~ *board* shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

(e) The ~~division~~ *board* shall consider including a course in elder abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected persons 65 years of age and older.

(f) In determining its continuing education requirements, the ~~division~~ *board* shall consider including a course in the early detection and treatment of substance abusing pregnant women to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these women.

(g) In determining its continuing education requirements, the ~~division~~ *board* shall consider including a course in the special care needs of drug addicted infants to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these infants.

(h) In determining its continuing education requirements, the ~~division~~ *board* shall consider including a course providing training and guidelines on how to routinely screen for signs exhibited by abused women, particularly for physicians and surgeons in emergency, surgical, primary care, pediatric, prenatal, and mental health settings. In the event the ~~division~~ *board* establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(i) In determining its continuing education requirements, the ~~division~~ *board* shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

(1) Pain and symptom management.

(2) The psycho-social dynamics of death.

(3) Dying and bereavement.

(4) Hospice care.

(j) In determining its continuing education requirements, the ~~division~~ *board* shall give its highest priority to considering a course on pain management.

(k) In determining its continuing education requirements, the ~~division~~ *board* shall consider including a course in geriatric care for emergency room physicians and surgeons.

AB 2346

California LEGISLATIVE INFORMATION

AB-2346 Physician and surgeon assistance program. (2013-2014)

AMENDED IN ASSEMBLY MAY 05, 2014

AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 2346**

Introduced by Assembly Member Gonzalez

February 21, 2014

An act to add Article 15.1 (commencing with Section 2372) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2346, as amended, Gonzalez. Physician and surgeon assistance program.

Existing law, the Attorney Diversion and Assistance Act requires the establishment and administration of an Attorney Diversion and Assistance Program to provide services for the treatment and recovery of attorneys for the abuse of drugs or alcohol or mental illness, and who may be enrolled as inactive members of the State Bar.

This bill would authorize establishment of a similar assistance program for physicians and surgeons. The bill would authorize the Medical Board of California to make available the means to rehabilitate a physician and surgeon with impairment due to abuse of dangerous drugs or alcohol, or mental or physical illness, that affects his or her competency so that a physician and surgeon may be treated in a manner that will not endanger the public health and safety. *The bill would require the board, if the program is established, to contract with another entity for provision of the administrative services for the program.* The bill would make participants in the program responsible for all expenses relating to treatment and recovery, and would authorize the board to charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program. The bill would require the board, if the program is established, to engage in outreach to make physicians and surgeons and others aware of the existence and availability of the program.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Article 15.1 (commencing with Section 2372) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 15.1. Physician and Surgeon Assistance Program

2372. The board is authorized to establish a program as a voluntary and confidential program to support a physician and surgeon in his or her rehabilitation and competent practice of medicine, enhance public protection, and maintain the integrity of the medical profession. Confidentiality pursuant to this article shall be absolute unless waived by a physician and surgeon, except as specified in Section 2373. The program shall, if established, aid a physician and surgeon struggling with substance abuse, mental health concerns, stress, burnout, and other issues impacting his or her productivity. This program shall be modeled after the State Bar's Lawyer Assistance Program.

2373. *If the board establishes a program, the board shall contract for the program's administration with an entity competent to provide the necessary administrative services.*

~~2373.~~***2374.*** The board may refer a physician and surgeon to the program, but neither acceptance into or participation in the program shall relieve the physician or surgeon of any lawful duties and obligations under this chapter or otherwise under any disciplinary action. Participation in the program shall be disclosed if required as a condition of probation, pursuant to Section 2228.

~~2374.~~***2375.*** Participants in the program shall be responsible for all expenses relating to treatment and recovery. In addition, the board may charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program.

~~2375.~~***2376.*** If a program is established, the board shall actively engage in outreach activities to make physicians and surgeons, the medical community, and the general public aware of the existence and availability of the program. Outreach may include, but not be limited to, the development and certification of minimum continuing education courses relating to the prevention, detection, and treatment of substance abuse, including no-cost and low-cost programs and materials.

SB 500

California LEGISLATIVE INFORMATION

SB-500 Medical practice: pain management. (2013-2014)

AMENDED IN ASSEMBLY MAY 29, 2014

AMENDED IN SENATE JANUARY 09, 2014

AMENDED IN SENATE JANUARY 06, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 500**

Introduced by Senator Lieu

February 21, 2013

An act to amend Section 2241.6 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 500, as amended, Lieu. Medical practice: pain management.

Existing law establishes the Medical Board of California within the Department of Consumer Affairs. Existing law, among other things, required the board to develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

This bill would require the board, on or before July 1, 2015, to update those standards. The bill would require the board to convene a task force to develop and recommend the updated standards to the board. The bill would also require the board to update those standards on or before July 1 each 5th year thereafter.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 2241.6 of the Business and Professions Code is amended to read:

2241.6. (a) (1) The board shall develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

(2) The board may consult with entities such as the American Pain Society, the American Academy of Pain Medicine, the California Society of Anesthesiologists, the California Chapter of the American College of Emergency Physicians, *the Osteopathic Medical Board of California,* and any other medical entity specializing in pain control therapies to develop the standards utilizing, to the extent they are applicable, current authoritative clinical practice guidelines.

(b) The board shall update the standards adopted pursuant to subdivision (a) on or before July 1, 2015, and on or before July 1 each fifth year thereafter.

(c) The board shall convene a task force to develop and recommend the updated standards to the board. The task force, in developing the updated standards, may consult with the entities specified in paragraph (2) of subdivision (a), the American Cancer Society, a physician who treats or evaluates patients as part of the workers' compensation system, *an osteopathic physician, a physician assistant,* and specialists in pharmacology and addiction medicine.

SB 1083

California LEGISLATIVE INFORMATION

SB-1083 Physician assistants: disability certifications. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL No. 1083

Introduced by Senator Pavley

February 19, 2014

An act to amend Section 3502.3 of the Business and Professions Code, and to amend Section 2708 of the Unemployment Insurance Code, relating to physician assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1083, as introduced, Pavley. Physician assistants: disability certifications.

The Physician Assistant Practice Act authorizes a delegation of services agreement to authorize a physician assistant to engage in specified activities.

Existing law requires a claimant for unemployment compensation disability benefits to establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. Existing law defines the term "practitioner" to mean a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner, as prescribed.

This bill would amend the Physician Assistant Practice Act to authorize a physician assistant to certify disability, after performance of a physical examination by the physician assistant under the supervision of a physician and surgeon consistent with the act. The bill would correspondingly expand the definition of practitioner to include a physician assistant.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 3502.3 of the Business and Professions Code is amended to read:

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

(1) Order durable medical equipment, subject to any limitations set forth in Section 3502 or the delegation of

services agreement. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payer to require prior approval.

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

(3) After performance of a physical examination by the physician assistant under the supervision of a physician and surgeon consistent with this chapter, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

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

SEC. 2. Section 2708 of the Unemployment Insurance Code, as added by Section 2 of Chapter 350 of the Statutes of 2013, is amended to read:

2708. (a) (1) In accordance with the director's authorized regulations, and except as provided in subdivision (c) and Sections 2708.1 and 2709, a claimant shall establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. For subsequent periods of uninterrupted disability after the period covered by the initial certificate or any preceding continued claim, a claimant shall file a continued claim for those benefits supported by the certificate of a treating physician or practitioner. A certificate filed to establish medical eligibility for the employee's own sickness, injury, or pregnancy shall contain a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms.

(2) A certificate filed to establish medical eligibility of the employee's own sickness, injury, or pregnancy shall also contain a statement of medical facts, including secondary diagnoses when applicable, within the physician's or practitioner's knowledge, based on a physical examination and a documented medical history of the claimant by the physician or practitioner, indicating the physician's or practitioner's conclusion as to the claimant's disability, and a statement of the physician's or practitioner's opinion as to the expected duration of the disability.

(b) An employee shall be required to file a certificate to establish eligibility when taking leave to care for a family member with a serious health condition. The certificate shall be developed by the department. In order to establish medical eligibility of the serious health condition of the family member that warrants the care of the employee, the information shall be within the physician's or practitioner's knowledge and shall be based on a physical examination and documented medical history of the family member and shall contain all of the following:

(1) A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms.

(2) The date, if known, on which the condition commenced.

(3) The probable duration of the condition.

(4) An estimate of the amount of time that the physician or practitioner believes the employee needs to care for the child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.

(5) (A) A statement that the serious health condition warrants the participation of the employee to provide care for his or her child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.

(B) "Warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging "third party" care for the child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as well as directly providing, or participating in, the medical care.

(c) The department shall develop a certification form for bonding that is separate and distinct from the certificate required in subdivision (a) for an employee taking leave to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption.

(d) The first and any continuing claim of an individual who obtains care and treatment outside this state shall be supported by a certificate of a treating physician or practitioner duly licensed or certified by the state or foreign

country in which the claimant is receiving the care and treatment. If a physician or practitioner licensed by and practicing in a foreign country is under investigation by the department for filing false claims and the department does not have legal remedies to conduct a criminal investigation or prosecution in that country, the department may suspend the processing of all further certifications until the physician or practitioner fully cooperates, and continues to cooperate, with the investigation. A physician or practitioner licensed by, and practicing in, a foreign country who has been convicted of filing false claims with the department may not file a certificate in support of a claim for disability benefits for a period of five years.

(e) For purposes of this part:

(1) "Physician" has the same meaning as defined in Section 3209.3 of the Labor Code.

(2) "Practitioner" means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, *physician assistant who has performed a physical examination under the supervision of a physician and surgeon,* or a nurse practitioner, and in the case of a nurse practitioner, after performance of a physical examination by a nurse practitioner and collaboration with a physician and surgeon, or as to normal pregnancy or childbirth, a midwife or nurse midwife, or nurse practitioner.

(f) For a claimant who is hospitalized in or under the authority of a county hospital in this state, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by the hospital's registrar. For a claimant hospitalized in or under the care of a medical facility of the United States government, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by a medical officer of the facility duly authorized to do so.

(g) Nothing in this section shall be construed to preclude the department from requesting additional medical evidence to supplement the first or any continued claim if the additional evidence can be procured without additional cost to the claimant. The department may require that the additional evidence include any or all of the following:

(1) Identification of diagnoses.

(2) Identification of symptoms.

(3) A statement setting forth the facts of the claimant's disability. The statement shall be completed by any of the following individuals:

(A) The physician or practitioner treating the claimant.

(B) The registrar, authorized medical officer, or other duly authorized official of the hospital or health facility treating the claimant.

(C) An examining physician or other representative of the department.

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

SB 1116

California LEGISLATIVE INFORMATION

SB-1116 Physicians and surgeons. (2013-2014)

AMENDED IN ASSEMBLY JUNE 19, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL No. 1116

Introduced by Senator Torres
(Coauthor: Senator Lara)

February 19, 2014

An act to amend Sections 2436.5 and 2455.1 of the Business and Professions Code, relating to physicians and ~~surgeons, and making an appropriation therefor.~~ *surgeons.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1116, as amended, Torres. Physicians and surgeons.

Under existing law, the Medical Board of California licenses and regulates physicians and surgeons and imposes various fees on those licensees. Under existing law, the Osteopathic Medical Board of California licenses and regulates osteopathic physicians and surgeons and imposes various fees on those licensees. 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~~ *that* provides for the repayment of educational loans, as specified, obtained by a physician and surgeon who practices in a medically underserved area of the state, as defined. Under existing law, funds placed in the account for those purposes are continuously appropriated for the repayment of loans and may be used for any other authorized purpose. Physicians and surgeons and osteopathic physicians and surgeons are eligible for the loan repayment program and the board assesses an additional $25 license fee for purposes of the loan repayment program.

This bill would ~~authorize~~ *require each of those boards, on or before July 1, 2015, to develop a mechanism for* a physician and surgeon ~~and~~ *or* an osteopathic physician and surgeon*, respectively,* to pay ~~an additional $75 to the board~~ *a voluntary contribution, at the time of application for initial licensure or biennial renewal,* for those purposes. ~~By increasing the amount of revenue in a continuously appropriated fund, the bill would make an appropriation.~~

Vote: majority Appropriation: ~~yes~~*no* Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 2436.5 of the Business and Professions Code is amended to read:

2436.5. (a) (1) In addition to the fees charged for the initial issuance or biennial renewal of a physician and surgeon's certificate pursuant to Section 2435, and at the time those fees are charged, the board shall charge each applicant or renewing licensee an additional twenty-five-dollar ($25) fee for the purposes of this section.

(2) The twenty-five-dollar ($25) fee shall be paid at the time of application for initial licensure or biennial renewal and shall be due and payable along with the fee for the initial certificate or biennial renewal.

(3) ~~A~~ *On or before July 1, 2015, the board shall develop a mechanism for a* physician and surgeon ~~may pay an additional seventy-five dollars ($75) to the board~~ *to pay a voluntary contribution, at the time of application for initial licensure or biennial renewal,* for the purposes of this section.

(b) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the Steven M. Thompson Physician Corps Loan Repayment Program. Notwithstanding Section 128555 of the Health and Safety Code, these funds shall not be used to provide funding for the Physician Volunteer Program.

(c) Up to 15 percent of the funds collected pursuant to this section shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over ~~the age of~~ 65 years *of age* or adults with disabilities. Priority consideration shall be given to those physicians and surgeons who are trained in, and practice, geriatrics and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

SEC. 2. Section 2455.1 of the Business and Professions Code is amended to read:

2455.1. (a) In addition to the fees charged pursuant to Section 2455, and at the time those fees are charged, the board shall charge each applicant for an original or reciprocity certificate or for a biennial license an additional twenty-five-dollar ($25) fee for the purposes of this section. This twenty-five-dollar ($25) fee shall be due and payable along with the fee for the original or reciprocity certificate or the biennial license.

(b) ~~An~~ *On or before July 1, 2015, the board shall develop a mechanism for an* osteopathic physician and surgeon ~~may~~ *to* pay ~~an additional seventy-five dollars ($75) to the board~~ *a voluntary contribution, at the time of initial application for licensure or biennial renewal,* for the purposes of this section.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. Notwithstanding Section 128555 of the Health and Safety Code, these funds shall not be used to provide funding for the Physician Volunteer Program.

SB 1256

California LEGISLATIVE INFORMATION

SB-1256 Medical services: credit. (2013-2014)

AMENDED IN ASSEMBLY JUNE 25, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE APRIL 29, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 1256**

Introduced by Senator Mitchell
(Coauthor: Assembly Member Skinner)

February 21, 2014

An act to repeal and add Section 654.3 of the Business and Professions Code, relating to health care services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1256, as amended, Mitchell. Medical services: credit.

Existing law prohibits a healing arts licensee, including physicians and surgeons, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners, from referring a person for certain health care services if the licensee has a financial interest, as defined, with the person or entity that receives the referral. Existing law provides specified exemptions from this prohibition. Under existing law, a violation of the provisions governing referrals is a crime.

Existing law prohibits a dentist, or an employee or agent of that dentist, from arranging for or establishing credit extended by a 3rd party for a patient without first providing a written notice and a written treatment plan, as specified. Existing law prohibits a dentist, or employee or agent of a dentist, from charging treatment not yet rendered or costs not yet incurred to an open-end credit extended by a 3rd party that is arranged for or established in the dental office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient's receipt of the treatment plan. A person who willfully violates these provisions is subject to specified civil liability.

This bill would delete those provisions pertaining to a dentist or an employee or agent of a dentist, and instead would prohibit a healing arts licensee, *including a dentist,* or an employee or agent of that licensee, ~~including a dentist,~~ from arranging for or establishing credit or a loan extended by a 3rd party for a patient without first providing a written ~~printed~~ notice or electronic notice, as specified, and a written treatment plan, and would prohibit that arrangement or establishment of credit or a loan with regard to a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide. The bill would prohibit a healing arts licensee, or employee or agent of a licensee, from charging treatment not yet rendered or

costs not yet incurred to an open-end credit extended *or a loan* by a 3rd party that is arranged for or established in the licensee's office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient's receipt of the treatment plan. The bill would require a healing arts licensee to refund to the lender any payment received for treatment that has not been rendered or costs that have not been incurred, as specified, within 15 business days upon the patient's request. The bill would provide that a person who willfully violates these provisions is subject to specified civil liability.

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

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 654.3 of the Business and Professions Code is repealed.

SEC. 2. Section 654.3 is added to the Business and Professions Code, to read:

654.3. (a) For purposes of this section, the following definitions shall apply:

(1) "Licensee" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association licensed under this division or under any initiative act or division referred to in this division.

(2) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(3) "Open-end credit" means credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

(4) "Patient" includes, but is not limited to, the patient's parent or other legal representative.

(b) It is unlawful for a licensee, or employee or agent of that licensee, to charge treatment or costs to an open-end credit or loan, that is extended by a third party and that is arranged for, or established in, that licensee's office, before the date upon which the treatment is rendered or costs are incurred, without first providing the patient with a treatment plan, as required by subdivision (e) and a list of which treatment and services are being charged in advance of rendering or incurring of costs.

(c) A licensee shall, within 15 business days of a patient's request, refund to the lender any payment received through credit or a loan extended by a third party that is arranged for, or established in, that licensee's office for treatment that has not been rendered or costs that have not been incurred.

(d) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient without first providing the following written or electronic notice, on one page or screen, respectively, in at least 14-point type, and obtaining a signature from the patient:

"Credit or Loan for ~~Medical~~ *Health Care* Services

The attached application and information is for a credit card/line of credit or loan to help you finance your ~~medical~~ *health care* treatment. You should know that:

You are applying for a ____credit card/line of credit or a ____loan for $____.

You do not have to apply for the credit card/line of credit or loan. You may pay your ~~medical~~ *health care* provider for treatment in another manner.

This credit card/line of credit or loan is not a payment plan with the provider's office; it is credit with, or a loan made by, [name of company issuing the credit card/line of credit or loan]. Your ~~medical~~ *health care* provider does not work for this company.

Before applying for this credit card/line of credit or loan, you have the right to a written treatment plan from your ~~medical~~ *health care* provider that includes the anticipated treatment to be provided and the estimated costs of each service.

If you are approved for a credit card/line of credit or loan, your ~~medical~~ *health care* provider can only charge treatment and laboratory costs to that credit card/line of credit or loan when you get the treatment or the ~~medical~~ *health care* provider incurs costs unless your ~~medical~~ *health care* provider has first given you a list of treatments that you are paying for in advance and the cost for each treatment or service.

You have the right to receive a credit to your credit card/line of credit or loan account refunded for any costs charged to the credit card/line of credit or loan for treatment that has not been rendered or costs that your ~~medical~~ *health care* provider has not incurred. Your ~~medical~~ *health care* provider must refund the amount of the charges to the lender within 15 business days of your request, after which the lender will credit your account.

Please read carefully the terms and conditions of this credit card/line of credit or loan, including any promotional offers.

You may be required to pay interest rates on the amount charged to the credit card/line of credit or the amount of the loan. If you miss a payment or do not pay on time, you may have to pay a penalty on the entire cost of your procedure and a higher interest rate.

You may use this credit card/line of credit or loan for payments toward subsequent ~~medical~~ *health care* services.

If you do not pay the money that you owe the company that provides you with a credit card/line of credit or loan, your missed payments can appear on your credit report and could hurt your credit rating. You could also be sued.

[Patient's Signature]"

(e) Prior to arranging for or establishing credit or a loan extended by a third party, a licensee shall give a patient a written treatment plan. The treatment plan shall include each anticipated service to be provided and the estimated cost of each service. If a patient is covered by a private or government medical benefit plan or medical insurance, from which the licensee takes assignment of benefits, the treatment plan shall indicate the patient's private or government-estimated share of cost for each service. If the licensee does not take assignment of benefits from a patient's medical benefit plan or insurance, the treatment plan shall indicate that the treatment may or may not be covered by a patient's medical benefit or insurance plan, and that the patient has the right to confirm medical benefit or insurance information from the patient's plan, insurer, or employer before beginning treatment.

(f) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient with whom the licensee, or an employee or agent of that licensee, communicates primarily in a language other than English that is one of the Medi-Cal threshold languages, unless the written notice information required by subdivision (d) is also provided in that language.

(g) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan that is extended by a third party for a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide.

(h) A patient who suffers any damage as a result of the use or employment by any person of a method, act, or practice that willfully violates this section may seek the relief provided by Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4 of Division 3 of the Civil Code.

(i) The rights, remedies, and penalties established by this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.

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.

TAB 8

Osteopathic Medical Board

Future Agenda Items

Agenda Item	Requestor

TAB 9

Osteopathic Medical Board

Future Meeting Dates

Date	Place	Time
October 2, 2014 (Tentative)	Teleconference (Tentative)	
January 22, 2015 (Tentative)	Sacramento, CA	10:00 a.m. – 5:00 p.m.

**Please note that all meetings should be held in the best interest of the Board. Meetings in resorts or vacation areas should not be made. Using Conference areas that do not require contracts and or payment is the best option for the Board. No overnight travel. If an employee chooses a mode of transportation which is more costly than another mode, a Cost Comparison form must be completed. Reimbursement by the State will be made at the lesser of the two costs. Taxi Service should be used for trips within but not over a 10-mile radius. Receipts are required for taxi expenses of $10.00 and over. Tips are not reimbursable.*