

**OSTEOPATHIC MEDICAL
BOARD
OF CALIFORNIA**

**Board Meeting, Thursday, May 16, 2019
10:00 a.m.**

**City of Chino Police Department
5450 Guardian Way
Chino, CA 91710**

OMBC Phone (916) 928-8390

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- [AB 1076](#) (*Ting*) Criminal records: automatic relief
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Tab 1



OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
BOARD MEETING NOTICE AND AGENDA

Date: Thursday, May 16, 2019
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business)

Location(s): **City of Chino Police Department**
5450 Guardian Way
Chino CA 91710

AGENDA

Discussion and action may be taken on any items listed on the agenda. Items may be taken out of order, unless noticed for a certain time. The Board plans to webcast this meeting on its website at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limited resources or technical difficulties. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical meeting location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Open Session

1. Call to Order and Roll Call / Establishment of a Quorum – Dr. Zammuto/ Machiko Chong
2. 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)]
3. President's Report – Dr. Zammuto
 - Federation of State Medical Boards (FSMB) – Annual Meeting
4. Review and Possible Approval of Minutes – Dr. Zammuto
 - January 17, 2019 Board Meeting
5. 10:30 a.m. Petition for Early Termination of Probation, Scott Nelson, D.O., 20A 7316
6. 10:30 a.m. Petition for Early Termination of Probation, Warren Magnus, D.O., 20A 8731

7. **CLOSED SESSION**

Pursuant to Government Code section 11126, subdivision (c)(3), the Board will meet in closed session for discussion and to deliberate on a decision to be reached in the above Petitions.

RECONVENE IN OPEN SESSION

8. FSMB Presentation – Jerry Landau, J.D.
 - Physician Burnout
 - Guidelines for the Recommendation of Cannabis for Medical Purposes
 - Physicians on Medications
9. Review of Medical Board of California Guidelines for the Recommendation of Cannabis for Medical Purposes and FSMB Telehealth Guidelines: Discussion and Possible Action – Dr. Zammuto
10. Discussion and Possible Action to Initiate Rulemakings to Amend Board Regulations Impacted by [AB 2138](#) (Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction) – Mark Ito:
 - a) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1654 Substantial Relationship Criteria Under Title 16, California Code of Regulations
 - b) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1655 Rehabilitation Criteria for Denial, Suspension, or Revocation of Licensure Under Title 16, California Code of Regulations
 - c) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1657 Rehabilitation Criteria for Petition for Reinstatement or Modification of Penalty Under Title 16, California Code of Regulations
11. Pending Legislation: Discussion and Possible Action – Terri Thorfinnson:
 - [AB 149](#) (*Cooper*) Controlled substances: prescriptions
 - [AB 241](#) (*Kamlager-Dove* – Coauthors: Assembly Members Bonta, Gonzalez, Jones-Sawyer, Kalra, McCarty, Weber, Wicks, and Senator Wiener) Implicit bias: continuing education: requirements
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- [SB 697](#) (*Caballero*) Physician assistants: practice agreement: supervision

12. Executive Director's Report – Mark Ito

- Licensing
- Staffing
- Budget
- Student Survey
- CURES
- Enforcement Report / Discipline – Corey Sparks

13. Revision to OMBC Board Logo: Discussion and Possible Action – Mark Ito

14. Revisions to 2019 Strategic Plan: Discussion and Possible Action – Mark Ito

15. Agenda Items for Next Meeting – Machiko Chong

16. Future Meeting Dates – Machiko Chong

17. Adjournment

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

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can

neither discuss nor take official action on these items at the time of the same meeting. (Gov. Code, sections 11125, 11125.7(a).)

In accordance with the Bagley Keene Open Meeting Act, all meetings of the Board are open to the public and all meeting locations 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 via e-mail at Machiko.Chong@dca.ca.gov or may 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

BOARD MEETING MINUTES

Thursday, January 17, 2019

BOARD MEMBERS PRESENT: Joseph Zammuto, D.O., President
Cheryl Williams, Vice President, Board Member
Gor Adamyan, Board Member
Andrew Moreno, Board Member
Claudia Mercado, Board Member
Elizabeth Jensen, D.O., Board Member

STAFF PRESENT: Angelina Burton, Executive Director
Terri Thorfinnson, J.D., Asst. Executive Director
Sabina Knight, Esq., Legal Counsel, DCA
Machiko Chong, Executive Analyst
James Lally, D.O., Medical Consultant
Corey Sparks, Lead Enforcement Analyst

BOARD MEMBERS ABSENT: Cyrus Buhari, D.O., Secretary/Treasurer

The Board Meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Zammuto, D.O. at 10:15 a.m. at Department of Consumer Affairs (DCA) (HQ2) - 1747 North Market Blvd., Hearing Room, Sacramento, CA 95834.

1. Roll Call

Ms. Chong called roll and Dr. Zammuto determined that a quorum was present.

2. Public Comment for Items Not on the Agenda

No Public Comment was received by the Board.

3. Introduction of New Board Members

Dr. Zammuto made note that Dean R. Grafilo, Director, DCA, swore Mark Ito, DCA Budget Manager, in as the new Executive Director of the OMBC. Dr. Zammuto also welcomed Gor Adamyan, Board Member, to the Board as he was newly appointed by the Speaker's Office replacing Megan Blair as a public member and issued Mr. Adamyan's Oath of Office.

4. DCA Update – Dean R. Grafilo, Director, DCA

Director Grafilo introduced himself and thanked the Board for allowing him to speak and partake in the celebration of Angelina Burton, Executive Director, considering her impending retirement. Director Grafilo also welcomed the students from A.T. Still University who were in attendance and noted that he is always fond of staff and students who take time out of their busy schedules to attend meetings regarding their profession as he understands the time constraints they face being a former staffer for the California Medical Association.

He thanked Mrs. Burton for her 31 years of service to the Board as well as to DCA and read her final resolution presented by DCA.

Patrick Le, Assistant Deputy Director, Board and Bureau Services, DCA, also thanked Ms. Burton for her contributions to the Board and for all the assistance that she has afforded him since he began his tenure.

Mr. Le informed the Board that DCA, since the beginning of the fiscal year, has been able to convene nine (9) Licensing/Enforcement work groups, which is a committee consisting of staff across each Board/Bureau/Committee under DCA. At these meetings, attendees are able to share best practices as it relates to enforcement and licensing. DCA hosted four (4) Directors Quarterly Meetings, which allotted Executive Officers and Bureau Chiefs the ability to meet directly with Director Grafilo and members of the DCA executive team. DCA also hosted two (2) Director's Board Member and Advisory Committee Leadership teleconference calls, which consisted of board presidents, board vice presidents, and DCA Executive Team. DCA has published its 2018 Annual Report, which contains statistical and financial records for each board/bureau under DCA. On January 10, 2019, the Governor released the 2019 budget, which outlined his priorities for the state based on the driving idea of a "California for All." The Governor's Budget proposes to pay down debts and pension obligations. It would make a considerable difference in housing, daycare, higher education, etc. The fiscal operations team will follow up with each board/bureau/committee to answer any questions they may have.

DCA was also able to hold three (3) Substance Abuse Coordination Committee (Committee) meetings, which is comprised of all Executive Officers/Directors from each healing arts board/bureau/committee. In 2017, Senate Bill 796 required that the

Committee reconvene to reexamine the testing standards and protocol regarding licensees who are substance abusers particularly for those boards with a diversion program and/or a probation monitoring program. The work of the Committee was to determine whether the existing criteria for random testing standards needed to be updated and report back by January 1, 2019. The Committee met in April, June, and October (2018) to discuss whether the testing timeframes should have been adjusted. The Committee voted to make two (2) changes to the Uniform Standards, with the first giving boards/bureaus/committees the additional flexibility around testing standards if the licensee is traveling out of state or out of the country if the location being visited does not have a testing facility readily available. The second change allowed boards/bureaus/committees to lower the testing frequency if the licensee receives at least 50 percent supervision in the workplace. This decision was made because the current guidelines set the testing requirement between 50-104 times per year, which for some licensees can be expensive (approximately \$50 per test). This change would allow each board/bureau/committee the ability to lower the testing frequency while ensuring that the licensee still receives a certain amount of supervision.

Ms. Mercado inquired about DCA's standpoint on reaching out to consumers regarding cannabis and cannabis products and addressing any issues that may come from physicians prescribing products that could potentially harm patients. Mr. Le advised that DCA is more than happy to be the starting point for physician contact and inquiry regarding safe practices and can eventually point the physicians in the right direction if they are unable to assist.

5. Election of Officers

Board President

- Dr. Zammuto asked if there were any motions/nominations for election of Board President.
- **Joseph Zammuto, D.O. was nominated for President. Motion** - C. Williams, **Second** - A. Moreno
- Dr. Zammuto opened the floor to additional nominations, none were given.
- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Jensen, Ms. Mercado, Mr. Moreno, Ms. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – Dr. Buhari
- Dr. Zammuto was unanimously elected for Board President.

Vice President

- Dr. Zammuto asked if there were any motions/nominations for election of Board Vice President.

- **Mrs. Williams was nominated for Vice President. Motion** – Dr. Zammuto, **Second** – Dr. Jensen
- Dr. Zammuto opened the floor to additional nominations, none were given.
- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Jensen, Ms. Mercado, Mr. Moreno, Ms. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – Dr. Buhari
- Mrs. Williams was unanimously elected for Board Vice President.

Secretary/Treasurer

- Dr. Zammuto asked if there were any motions/nominations for election of Secretary/Treasurer
- **Cyrus Buhari, D.O. was nominated for Secretary/Treasurer. Motion** – Dr. Zammuto, **Second** – Mrs. Williams
- Dr. Zammuto opened the floor to any additional nominations, none were given.
- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Jensen, Ms. Mercado, Mr. Moreno, Ms. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None
 - **Absent** – Dr. Buhari
- Dr. Buhari was unanimously elected as Secretary/Treasurer.

6. Board President's Report

Dr. Zammuto informed the Board that he attended the annual meeting of the American Association of Osteopathic Examiners in Las Vegas, NV, which consists of representatives from all Osteopathic Medical Boards in the United States. During the meeting, the boards take time to review and address all commonalities and concerns of each board.

7. Review and Approval of Minutes

Dr. Zammuto called for a motion for approval of the Board meeting minutes of the September 27, 2018, October 15, 2018, and December 13, 2018 Board meetings.

- **Motion to approve the September 27, 2018, October 15, 2018, and December 13, 2018 Board meeting minutes with no corrections. Motion** – Dr. Zammuto, **Second** – Dr. Jensen
- Roll Call Vote was taken

- **Aye** – Mr. Adamyan, Dr. Jensen, Ms. Mercado, Mr. Moreno, Ms. Williams, Dr. Zammuto
- **Nay** – None
- **Abstention** – None
- **Absent** – Dr. Buhari

Motion carried to approve minutes with no corrections.

8. Administrative Hearings

10:30 a.m.

- John Wogec, D.O. (20A 6934) – Petition for Reinstatement of License
- David Orringer, D.O. (20A 15139) – Petition for Early Termination of Probation

The Office of Administrative Hearing (OAH) Administrative Law Judge (ALJ) Erin Koch-Goodman conducted the above hearings.

9. Closed Session

The Board met in closed session to deliberate on the Petitions for Early Termination of Probation and Reinstatement of Revoked License of the licensees listed above pursuant to Government Code section 11126(c)(3).

Return to Open Session

10. Budget Update – Mark Ito, DCA Budget Office

Mark Ito, DCA Budget Manager, and Sarah Hinkle, DCA Budget Analyst, provided the Board with a detailed overview of the Board's up to date fund condition for this fiscal year.

Dr. Zammuto inquired how many months the Board had in reserve and what the standard should be and was informed by Ms. Hinkle that the Board currently had 8.9 months in reserve and that the statutory limit is 24 months in reserve. Dr. Jensen asked if the months in reserve reflected the Board's funds prior or post the loan repayment. Mr. Ito indicated that it was after the repayment and there will be interest added to the loan repayment that will be accruing until the funds are repaid.

11. Strategic Plan Update

Mrs. Burton provided an update on the Board's Strategic Plan and highlighted the goals that still need to be accomplished.

Ms. Mercado inquired how many applicants the Board has licensed. She also brought up the importance of the Board's outreach. Mrs. Burton notified her that the number of licensees has increased by roughly 250 in four months since the last report in September 2018. Additionally, with an increase in the number of schools in California and the fact that post graduate trainees will become licensees, those numbers will increase. Ms. Mercado recommended that the Board reach out to current students to do a survey in terms of what information that they would like the Board to make available to them.

It was recommended that the Board make plans to reconvene later in the year to begin the process of reevaluating and updating the Board's Strategic Plan. The current version takes the Board through the end of 2019.

12. Discussion Regarding Guidelines for the Recommendation of Cannabis for Medical Purposes – Update

Dr. Zammuto recommended that the Board review the telemedicine guidelines implemented by Federation of State Medical Boards (FSMB) to see if any updates have been made. Action will be postponed until a future Board meeting.

13. Discussion of OMBC outreach and education efforts

Mrs. Burton informed the Board that staff sent out an email blast to all licensees regarding the new prescription pad requirements becoming effective January 1, 2019. Transmittal of the new requirements occurred later than desired on January 3, 2019, as the Board did not receive notification from Department of Justice regarding the changes until December 28, 2018. Since transmittal of these changes, staff has since received several inquiries from licensees as to why the notice went out so late. . Due to this short notice, the California State Board of Pharmacy has agreed to refrain from sanctioning any pharmacist who accepts the outdated prescription pads until roughly July 2019, which will allot additional time for prescribing physicians to obtain new prescription pads.

14. Executive Director's Report

Mrs. Burton updated the Board on licensing statistics, staffing, CURES statistics and the Postgraduate Training License, which were included in the Board packet.

Enforcement/Discipline - The Board's lead Enforcement Analyst, Corey Sparks, presented the enforcement report to the Board and provided written materials showing various enforcement data.

15. Agenda Items for Next Board Meeting

- Discussion and Possible Action Regarding Guidelines for the Recommendation of Cannabis for Medical Purposes and review of FSMB Telehealth Guidelines (*Dr. Zammuto*)
- Discussion and Possible Action Revision to OMBC Board Logo
- Discussion and Possible Action OMBC's stance on Board Certification from American Board of Cosmetic Surgery (ABCS)
- Critique of meeting from A.T. Still University students (*Dr. Zammuto*)

16. Future Meeting Dates

- Thursday, May 16, 2019 @ 10:00 am – Pomona, CA
- Thursday, September 5, 2019 @ 10:00 am – San Diego, CA
- Thursday, January 26, 2020 @ 10:00 am - Sacramento, CA

17. Adjournment

There being no further business, the meeting was adjourned at 4:13 p.m.

Tab 3

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Tab 4

Protecting
Advocating
Serving

The FSMB: At Your Service

Jerry G. Landau, JD
FSMB Board Treasurer

Lisa A. Robin
FSMB Chief Advocacy Officer

Osteopathic Medical Board of California
May 16, 2019



FSMB Vision and Mission 2015-2020

Vision

The FSMB is an innovative leader, helping state medical boards shape the future of medical regulation by protecting the public and promoting quality health care.

Mission

The FSMB serves as the voice for state medical boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices.



Greetings from the FSMB Board of Directors



Greetings from the FSMB Board of Directors

OFFICERS

Scott A. Steingard, DO – Chair (AZ-O)

Cheryl L. Walker-McGill, MD, MBA – Chair-elect (NC)

Jerry G. Landau, JD – Treasurer (AZ-O)

Patricia A. King, MD, PhD – Immediate Past Chair (VT-M)

Humayun J. Chaudhry, DO, MACP – Secretary (FSMB President & CEO)

DIRECTORS

Mohammed A. Arsiwala, MD (MI-M)

Jeffrey D. Carter, MD (MO)

Jone Geimer-Flanders, DO (HI)

Anna Z. Hayden, DO (FL-O)

Shawn P. Parker, JD, MPA (NC)

Jean L. Rexford (CT)

Thomas P. Ryan, MPA, JD (WI)

Kathleen J. Selzler Lippert, JD (WI)

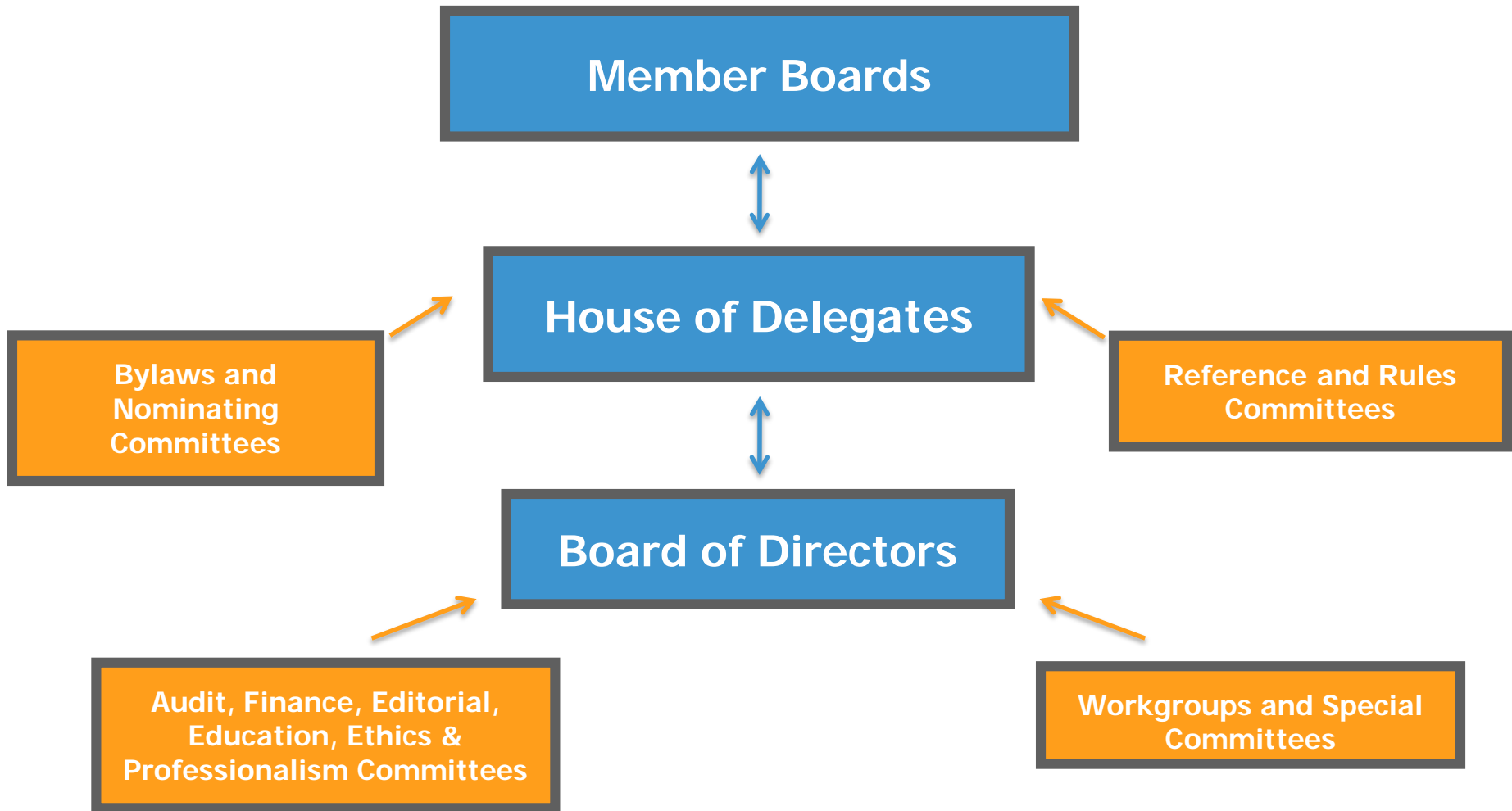
Kenneth B. Simons, MD (WI)

Sarvam P. TerKonda, MD (FL-M)

Joseph R. Willett, DO (MN)



FSMB Organizational Chart



Opportunities for Participation

- **Elected Positions for Board of Directors and Nominating Committee**
 - For more information, see “Become a Leader” and “Leadership FAQ” at <http://www.fsmb.org/about-fsmb>
- **2018 Bylaws creates “Staff Fellows” with unlimited Associate Member status for board staff**
- **Appointments to Other Committees/Workgroups**
 - For more information, see “FSMB Committees” at <http://www.fsmb.org/about-fsmb>

2019 Actions Adopted by House of Delegates

- **Bylaws Amendments – One additional non-physician member (two must be public members)**
- **Resolution 19-1: Correlation Between Licensee USMLE or COMLEX Passage Attempt Rate and Reports of State Medical Board Discipline**
 - Identify time and attempt limits
 - Research regarding any correlation with attempt limitations and future disciplinary actions/malpractice and long term research goal exploring correlation between exam performance and clinical outcomes/aptitude
- **Resolution 19-4: Emergency Licensure Following a Natural Disaster**
 - Evaluate the experiences and disaster readiness of boards and develop recommendations to facilitate the interstate mobility of physicians and other health care personnel in response to disasters, public health emergencies, and mass casualties

2019 Actions Adopted by House of Delegates

- **Resolution 19-6: Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office (2013)**
 - Review and update the *Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office*
- **Resolution 19-7: Policy on Physician Impairment**
 - Convene a workgroup, to include the Federation of State Physician Health Programs, to review and update the FSMB *Policy on Physician Impairment* (2011)
- **BRD RPT 19-1: Report of the Ethics and Professionalism Committee: Social Media and Electronic Communications**
 - Sets forth 16 guidelines and recommendations for physicians who use social media or electronic communication in their personal and professional lives

New Policy Initiatives 2019

- **FSMB Artificial Intelligence Task Force**
- **FSMB Strategic Planning Workgroup**
- **FSMB Workgroup on Impaired Physicians**
- **FSMB Workgroup on the Late Career Physician**

Continuing Initiatives 2019

- **Workgroup on Board Education, Service & Training (BEST)**
 - Creating online resources to support the roles and responsibilities associated with service on a state medical or osteopathic board
- **Workgroup on Sexual Boundary Violations**
 - Identify and evaluate barriers to reporting sexual boundary and harassment violations to state medical boards
 - Review and revise *Addressing Sexual Boundaries: Guidelines for State Medical Boards (2006)*
- **Board Action Content Evaluation (BACE) Task Force**
 - Conduct a comprehensive study of disciplinary data with a goal of creating a categorization system for the underlying reasons for board actions

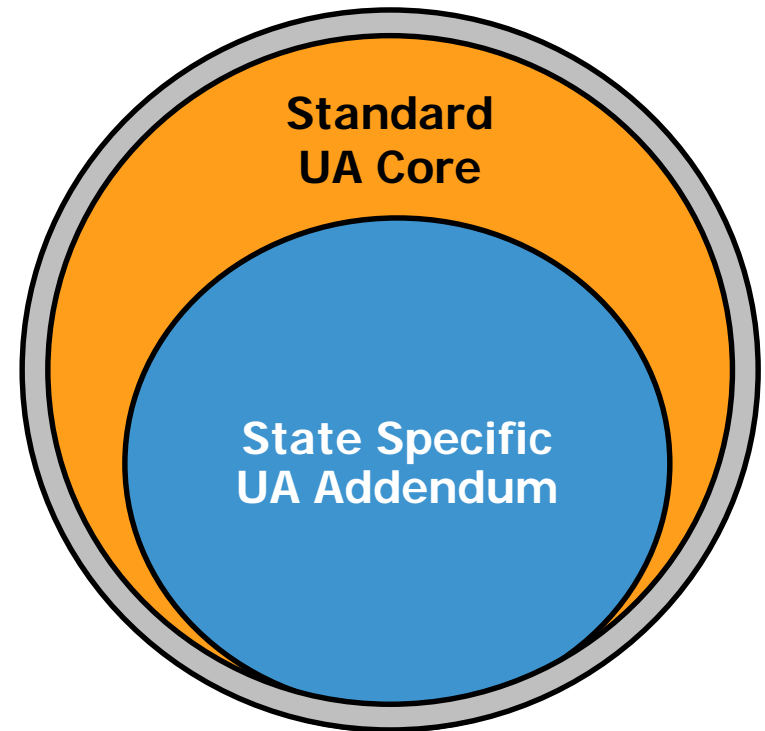
FSMB Services

- **Federation Credentials Verification Service**
 - **Primary Source and Physician Provided Information Verification**
 - **Processes Certified by NCQA**
 - **Permanent Credentials Repository for 220,000+ Physicians**
 - **Promotes License Portability**
 - **New Service for Boards: NPDB Query Now Available**

Uniform Application for State Licensure (UA)

Standardized online application for MDs and DOs is currently used by 27 State Medical Boards.

1. CORE: Basic questions of state's license application
2. Addendum: State-board specific questions which helps maintain autonomy
3. Uniform Application for PAs currently adopted by 6 SMBs with 2 more in process



Physician Data Center

- Central repository for disciplinary sanctions, licensure information and specialty board certification data for physicians and physician assistants
- Data Sources
 - FSMB Member Boards
 - Department of Defense (DOD)
 - Office of Inspector General (OIG)
 - International Licensing Authorities
 - American Board of Medical Specialties (ABMS)
 - American Osteopathic Association (AOA)
 - CMS - National Provider Identifier (NPI)
- NPDB Self Query in Development

PDC PHYSICIAN DATA CENTER			
PRACTITIONER PROFILE			
Prepared for:	National Wellness Hospital	As of Date:	06/15/2014
PRACTITIONER IDENTIFICATION			
Name:	Rebecca Lee Smith		
Alternate Name(s):	Rebecca Lee Campbell		
DOB:	04/05/1971		
Medical School:	University of Connecticut School of Medicine Farmington, Connecticut, USA		
Year of Grad:	2001		
Degree Type:	MD		
BOARD ACTIONS			
Reporting Entity:	District of Columbia Board of Medicine		
Date of Order:	11/16/2009		
Action(s):	Suspension of Medical License Term: 2 years		
Basis for Order:	Violation of Statute or Rule of the Board		
Reporting Entity:	Virginia Board of Medicine		
Date of Order:	08/31/2010		
Action(s):	Suspension of Medical License Based on action taken by the District of Columbia Medical Board Due to Action Taken by Another Board/Agency		
Basis for Order:			
Reporting Entity:	Department of Health and Human Services		
Date of Order:	10/25/2012		
Action(s):	Medicaid/Medicare Reinstatement		
Basis for Order:	Not Applicable		
<small>400 FULLER WISER ROAD EULESS, TX 76039 TEL (817) 868 4000 FAX (817) 868 4099</small>			
<small>© 2014 FEDERATION OF STATE MEDICAL BOARDS</small>			<small>Page 1 of 2</small>

New and Improved DocInfo



docinfo
DocInfo.org
Information you can
trust



- Docinfo.org relaunched in April, 2019
- Increased focus on providing public with information on where and how to file a complaint against a doctor
- New board action information including date and type of action

Educational Offerings

- **Annual Meeting**
 - April 30-May 2, 2020 in San Diego
- **Board Attorney Workshops**
 - November 7-8, 2019 in New Orleans
- **New Executives Orientation**
 - June 24, 2019 in Eules
- **Roundtable Webinars**
 - June 20, 2019: Single GME Accreditation System, William Mayo and Boyd Buser
 - July 25, 2019: ECFMG 2023 Accreditation, William Pinsky and Lisa Cover



Online Education

• Online Programs

- **For Medical Students and Residents**
 - The Role of State Medical Boards
 - Understanding and Navigating the Medical Licensing Process
 - Medical Disciplinary Process
 - Common Reasons Physicians Get Into Trouble
 - State Medical Boards and Physician Wellness
- **For Board Member Members**
 - Understanding Medical Regulation in the United States



NEW ONLINE SERIES ABOUT MEDICAL REGULATION

The FSMB has launched “**Understanding Medical Regulation in the United States**,” a series of online multi-media educational modules designed for new members of state medical boards to help prepare them for their roles and responsibilities in public service.

[Learn More](#)

Communications via Multiple Channels for Multiple Audiences

- *Journal of Medical Regulation*
- FSMB Annual Report
- *Newsline and eNews*
- Regulatory Trends and Actions
- Website – www.fsmb.org
- Advocacy Newsletter
- Twitter – @TheFSMB 



Online Resources for Quick Comparison

State by State Overview of Key topics/issues such as:

- CME requirements
- Opioid Related Policies
- Telemedicine
- Medical marijuana
- Expert witness
- Criminal background checks
- Prescription drug monitoring programs

Available at <http://www.fsmb.org/advocacy/key-issues/>



The Washington, DC Advocacy Office

The FSMB offers the state boards a variety of legislative and advocacy services:



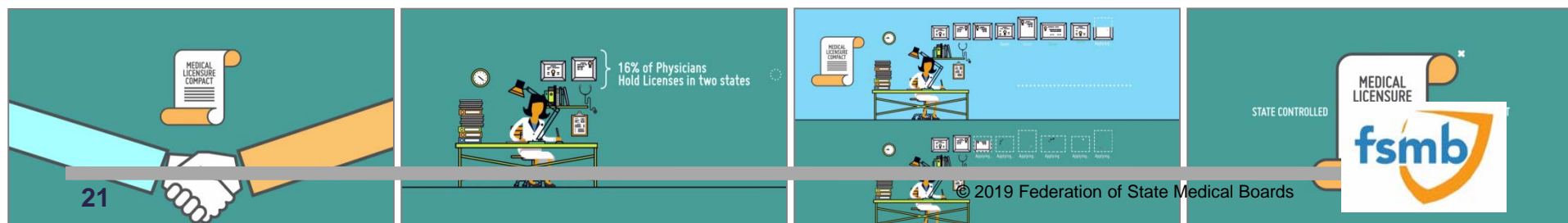
- State and Federal Legislation
 - Legislative Tracking and Summaries
 - Oral and Written Testimony
- Key Issue State Comparison
- Coordinating meetings with Congressional offices and Federal agencies

Topics of Interest to CA-Osteopathic

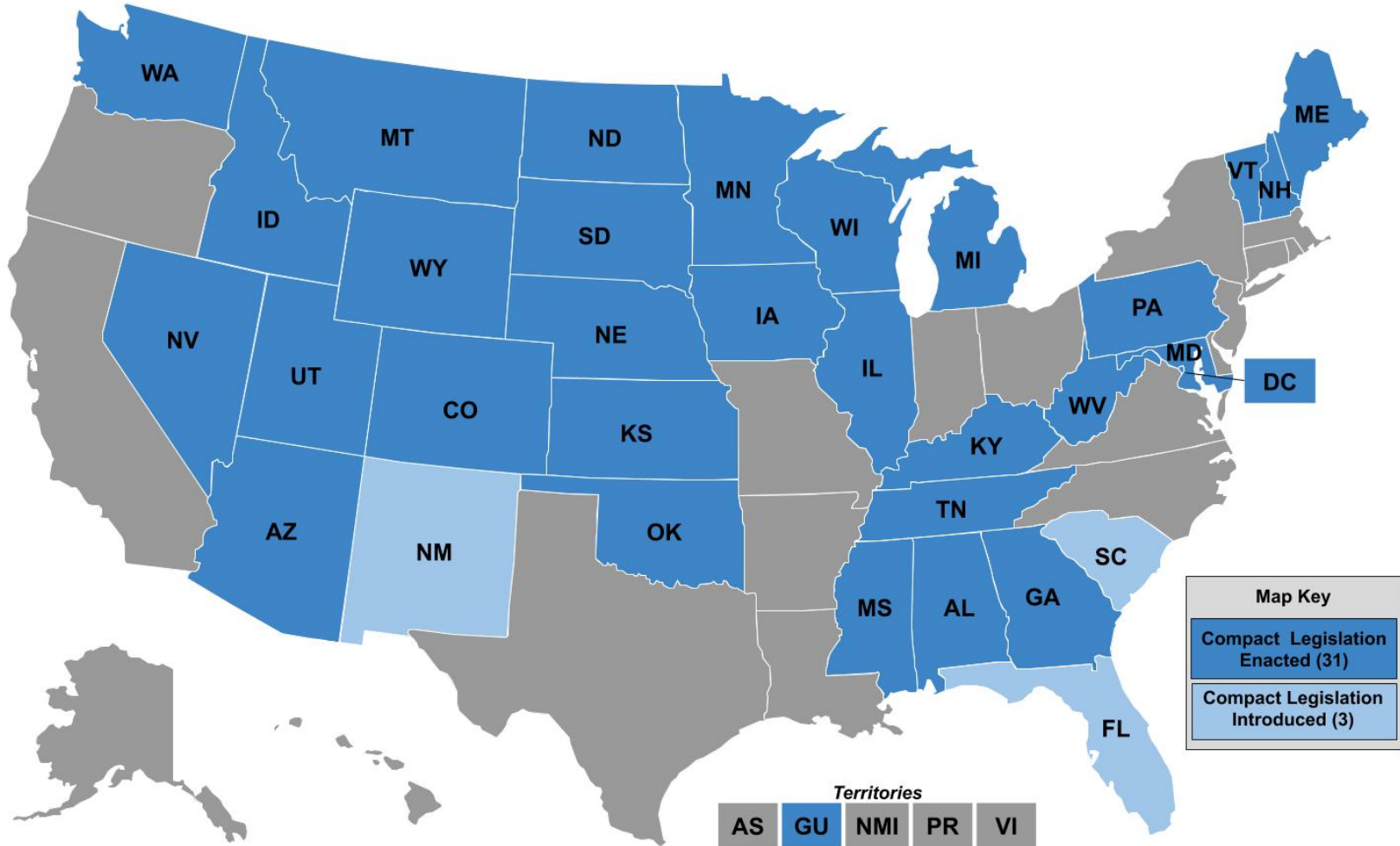
- **Interstate Medical Licensure Compact**
- **Medical Marijuana**
- **Physicians on Medications**
- **Physician Wellness**

Interstate Medical Licensure Compact

- A voluntary expedited pathway to facilitate multistate practice, increasing access to health care for patients in underserved and rural areas and allowing them to more easily connect with medical experts through the use of telemedicine technologies
 - 29 States, the District of Columbia, and Guam have enacted the model Compact language
 - Legislation also introduced in 2019 in Florida, New Mexico, and South Carolina



2019 State Legislative Status (as of 4/30/19)



www.imlcc.org



Interstate Medical Licensure Compact Commission (IMLC) www.imlcc.org

- Each Compact Member State has 2 Commissioners
 - Elected officers, appointed committees
- Legal and technical assistance provided from the Council of State Governments National Center for Interstate Compacts
- Full Commission began meeting in October 2015
- Executive Director: Marschall Smith, MPA
- Recently elected officers:
 - Wisconsin Commissioner Kenneth Simons, MD, Chair
 - Minnesota Commissioner Ruth Martinez, MA, Vice Chair
 - Nevada Commissioner Edward Cousineau, JD, Treasurer
 - West Virginia Commissioner Diana Shepard, CMBE, Past Chair

IMLC Successes

- April 2017 – First License Issued via IMLC Process
- As of March 31, 2019:
 - 3,314 applications processed
 - 5,450 licenses issued
 - 1,223 license renewals issued
- Physicians licensed through the IMLC represent 25 medical specialties
- A self-sustaining business model has been implemented based on user-fees

Physician Eligibility Requirements

- **Graduate of a medical school** accredited by LCME, COCA, or a medical school listed in the International Medical Education Directory or its equivalent
- **Passed USMLE or COMLEX within 3 attempts**, or any of its predecessors exams accepted by a state medical board
- **Completed GME** approved by ACGME or AOA
- **Holds specialty certification** or a time-unlimited specialty certificate recognized by ABMS or AOA's Bureau of Osteopathic Specialists
- **Possesses a full and unrestricted license** to practice medicine in a Member state
- Has **no criminal history**
- Has **no disciplinary action** by a licensing agency
- Has **never had a controlled substance license or permit suspended or revoked** by the US DEA
- Is **not under active investigation** by a licensing agency or law enforcement authority

State of Principal Licensure (SPL)

To **select an SPL**, you must meet the following qualifications:

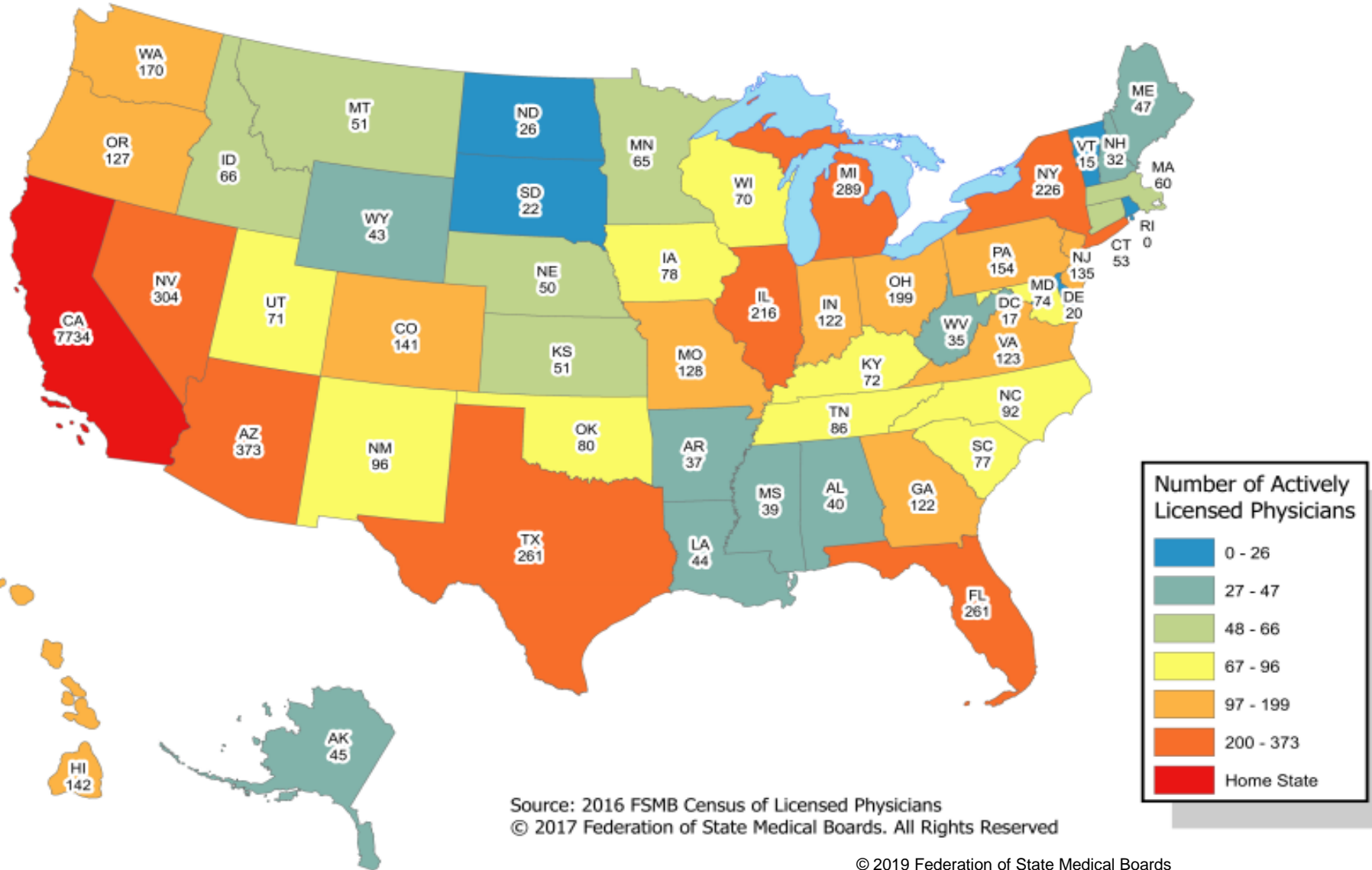
- **HOLD** a full, unrestricted medical license in a Compact Member state
- **MEET** at least one of the four following requirements:
 - Your principal residence is in the SPL
 - At least 25% of your practice of medicine occurs in the SPL
 - Your employer is located in the SPL
 - You use the SPL as your state of residence for U.S. federal income tax purposes

IMLC Data and Statistics

Sample review of 654 completed applications found

- Physicians obtain on **average 3 licenses per application**
- **68%** or 445 of the physicians **obtained 1 or 2 license**
- **32%** or 209 of the physicians **obtained 3 or more**
- **13%** or 85 of the physicians **obtained 7 or more licenses**
- **11%** or 72 of the physicians were **determined to not meet eligibility reqs.**
- **8%** or 52 of the physicians **applied for additional licenses after the initial application was completed**

Osteopathic Medical Board of California Actively Licensed Physicians with Licenses in Other States



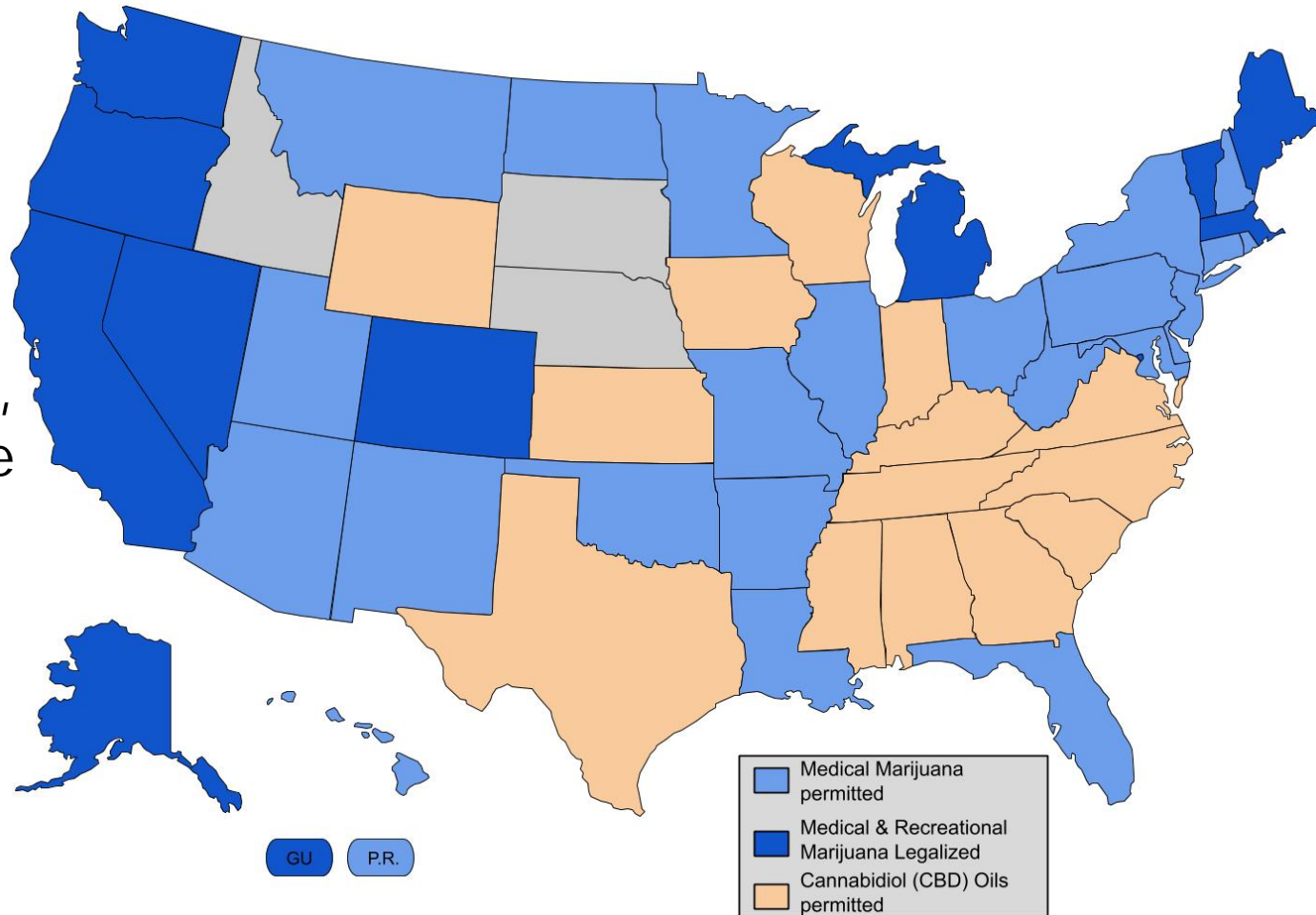
Source: 2016 FSMB Census of Licensed Physicians
© 2017 Federation of State Medical Boards. All Rights Reserved

Model Guidelines for the Recommendation of Marijuana in Patient Care (HoD 2016)

- Intended as a resource to state medical boards in regulating physicians and physician assistants (or other licensees regulated by the board) with a full and unrestricted license participating in marijuana programs
- May also be valuable in educating licensees as to the board's expectations when recommending marijuana to a patient for a particular medical condition
- The guidelines should in no way be construed as encouraging or endorsing physicians to recommend marijuana as a part of patient care

State Regulatory Landscape

- 23 States and Puerto Rico regulate medical marijuana only
- 10 States, D.C., and Guam have fully legalized marijuana
- 14 states allow “Low THC - High CBD” marijuana products



2019 State Legislation

- **More than 150 bills introduced this year**
- **Legislation covers a wide array of issues:**
 - Establishing Medical Marijuana Acts
 - Registration and regulation of dispensaries
 - Cultivation
 - Expansion of qualifying conditions
 - PTSD
 - Epilepsy
 - Fully legalizing the recreational use of marijuana

2019 Federal Legislation

- **25+ marijuana-related bills have been introduced**
- **Objectives of bills cover a range of topics, including:**
 - **Limiting federal laws relate to marijuana**
 - HR 1588 (Rep. Gabbard, D-HI) – *Ending Federal Marijuana Prohibition Act of 2019*
 - **“De-scheduling Marijuana”**
 - HR 1456/S 597 (Rep. Lee, D-CA; Sen. Booker, D-NJ) – *Marijuana Justice Act of 2019*
 - **Aligning federal policies with state and tribal laws to reduce banking, business, housing, drug-testing, and research barriers**
 - HR 1119/S 421 (Rep. Blumenauer, D-OR; Sen. Wyden, D-OR) – *Responsibly Addressing the Marijuana Policy Gap Act of 2019*

2019 Federal Legislation

- **Allowing healthcare providers within the VA to discuss federally approved cannabis clinical trials with veterans**
 - HR 601 (Rep. Gaetz, R-FL) – *Medical Cannabis Research Act of 2019*
- **Allowing veterans to use, possess, or transport medical marijuana and to discuss the use of medical marijuana with a physician of the Department of Veterans Affairs as authorized by a State or Indian Tribe**
 - HR 1151/S 445 (Rep. Lee, D-CA; Sen. Schatz, D-HI) – *Veterans Medical Marijuana Safe Harbor Act*
- **Collecting data and conducting research on marijuana and the impacts of state marijuana policies**
 - HR 1587 (Rep. Gabbard, D-HI) – *Marijuana Data Collection Act*

Physicians on Medications

- **Use of Marijuana (HoD 2016)**

- Given the lack of data supporting clinical efficacy and the difficulty of evaluating impairment, state medical boards should advise their licensees to abstain from the use of marijuana, for medical or recreational purposes, while actively engaged in the practice of medicine.

- **16.17.4.9 Physicians or Physician Assistants Treated with Opiates – New Mexico**

- Physicians or physician assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice."

Policy on Physician Wellness and Burnout

- **Adopted by FSMB House of Delegates in April 2018**
- **Longest policy ever issued by FSMB, with greatest number of recommendations (35)**
- **Emphasis on “Shared Accountability Approach” to physician wellness with recommendations to several partners, including:**
 - Medical Societies
 - Insurers
 - State Government, Legislatures, Health Departments
 - EHR Vendors
 - Medical Schools and Residency Programs
 - Hospitals/Employers

Goals of Recommendations

- Encourage physicians to seek help early
- Remove stigma associated with acknowledging a need for help
- Improve physician well-being
- Change perception of medical board role as always punitive
- Promote understanding of “Duty to Report” to assist earlier intervention
- Improve quality of care delivered to patients
- Support public protection efforts of state medical boards

Policy on Physician Wellness and Burnout

- **Key Recommendations:**

“Evaluate whether it is necessary to include probing questions about a physician applicant’s mental health, addiction, or substance use”

If questions are used, FSMB recommends the following phrasing:

*Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner?
(Yes/No)*

Key Recommendations (cont.)

“Consider offering the option of “safe haven non-reporting” to applicants for licensure who are receiving appropriate treatment for mental health or addiction”

“Work with state legislatures to ensure that the personal health information of licensees related to an illness or diagnosis is not publicly disclosed as part of a board’s processes”

- **Key Takeaway: State Medical Boards’ duty to protect the public includes a responsibility to support physician wellness**

Progress to date

- **Since April 2018**
 - At least 27 state medical boards have **discussed** physician wellness and/or the FSMB recommendations
 - At least 8 boards have discussed **potential revisions**
 - This includes 4 boards that are in the process of making changes
 - At least 8 boards have **made changes** to their applications

Licensing in the Literature

45 of 52 Licensure Applications reviewed contained questions about applicant mental health

Polfliet, S. *J AAPL* 2008; 36(3)

Presence of questions about mental health or substance use may cause physicians to avoid or delay treatment

Schroeder R, et al. *Acad Med* 2009; 84(6)

“Women physicians report substantial and persistent fear regarding stigma which inhibits both treatment and disclosure”

Gold K, Andrew L et al. *Gen Hosp Psychiatry* 2016; 43

Protecting
Advocating
Serving

Thank you!

Questions?



Tab 5

MBC - Guidelines for the Recommendation of Cannabis

April 2018



Guidelines for the Recommendation of Cannabis for Medical Purposes

MEDICAL BOARD OF CALIFORNIA

Edmund G. Brown, Jr., Governor
Dev GnanaDev, M.D., President, Medical Board of California
Kimberly Kirchmeyer, Executive Director, Medical Board of California

Medical Board of California's Guidelines for the Recommendation of Cannabis for Medical Purposes April 2018

Adopted October 27, 2017, revision adopted April 20, 2018.

PREAMBLE

The Medical Board of California (Board) developed these guidelines since cannabis is a permissible treatment modality in California under qualifying circumstances. The Board wants to assure physicians who choose to recommend cannabis for medical purposes to their patients, as part of their regular practice of medicine, that they will not be subject to investigation or disciplinary action by the Board if they arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility. The mere receipt of a complaint that the physician is recommending cannabis for medical purposes will not generate an investigation absent additional information indicating that the physician is not adhering to accepted medical standards.

These guidelines are not intended to mandate the standard of care. The Board recognizes that deviations from these guidelines may occur and may be appropriate depending upon the unique needs of individual patients. Medicine is practiced one patient at a time and each patient has individual needs and vulnerabilities. Physicians should document their rationale for each recommendation decision.

BACKGROUND

On November 5, 1996, the people of California passed Proposition 215. Through this Initiative Measure, Section 11362.5 was added to the Health and Safety Code, and is also known as the Compassionate Use Act of 1996 (Act). The purposes of the Act include, in part:

"To ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where the medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief; and

To ensure that patients and their primary caregivers who obtain and use cannabis for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction."

The Act provides that physicians will not be subject to investigation or disciplinary action by the Board if they arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility.

Although the Act allows the use of cannabis for medical purposes by a patient upon the recommendation of a physician, California physicians should bear in mind that cannabis is listed in Schedule I of the federal Controlled Substances Act. The use and recommendation of cannabis is an evolving issue and physicians should be aware of the current administration's policies.

GUIDELINES

The Board has adopted the following guidelines for the recommendation of cannabis for medical purposes.

Physician-Patient Relationship: The health and well-being of patients depends upon a collaborative effort between the physician and the patient. The relationship between a patient and a physician is complex and based on the mutual understanding of the shared responsibility for the patient's health care. The physician-patient relationship is fundamental to the provision of acceptable medical care. Therefore, physicians should document that an appropriate physician-patient relationship has been established, prior to providing a recommendation, attestation, or authorization for cannabis to the patient. Consistent with the prevailing standard of care, physicians should not recommend, attest, or otherwise authorize cannabis for themselves or family members.

Pursuant to Business and Professions (B&P) Code section 2525.2, a physician shall not recommend cannabis for medical purposes to a patient, unless the physician is the patient's attending physician. Health and Safety (H&S) Code section 11362.7(a) defines an "attending physician" as a physician who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient. The physician must also have conducted a medical examination of the patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the use of cannabis for medical purposes is appropriate.

Patient Evaluation: A documented medical examination and collection of relevant clinical history commensurate with the presentation of the patient must be obtained before a decision is made as to whether to recommend cannabis for a medical purpose. The examination must be an appropriate prior examination, and at minimum, should include the patient's history of present illness; social history; past medical and surgical history; alcohol and substance use history; family history with emphasis on addiction, psychotic disorders, or mental illness; documentation of therapies with inadequate response; and diagnosis requiring the cannabis recommendation. At this time, there is a paucity of evidence for the efficacy of cannabis in treating certain medical conditions. Recommending cannabis for any medical conditions, however, is at the professional discretion of the physician acting within the standard of care. The indication, appropriateness, and safety of the recommendation should be evaluated in accordance with standards of practice as they evolve over time.

The initial evaluation for the condition that cannabis is being recommended must meet the standard of care; accepted standards are the same as any reasonable and prudent physician would follow when recommending or approving any other medication.

It is important to note that B&P Code section 2525.3 states that physicians recommending cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. The use of telehealth in compliance with B&P Code section 2290.5, and used in a manner consistent with the standard of care is permissible.

Informed and Shared Decision Making: The decision to recommend cannabis should be a shared decision between the physician and the patient. The physician should discuss the risks and benefits of the use of cannabis with the patient. (See Decision Tree in [Appendix 1](#)) Patients should be advised of the variability and lack of standardization of cannabis preparations, as well as the issue that it affects individuals differently. Patients should be reminded that cannabis use may result in cognitive changes that affect function, including driving, and that they should not drive, operate heavy machinery, or engage in any hazardous activity while under the influence of cannabis. As with any medication, patients may be charged with driving under the influence of drugs if they drive while impaired by the substance. If the patient is a minor or without decision-making capacity, the physician should ensure that the patient's parent, guardian or surrogate is fully informed of the risks and benefits of cannabis use, is involved in the treatment plan, and consents to the patient's use of cannabis.

Treatment Agreement: Treatment plans with objectives should be established with the patient as early as possible in the treatment process and revisited regularly, so as to provide clear-cut, individualized objectives to guide the choice of therapies, both pharmacologic and non-pharmacologic. It also should specify measurable goals and objectives that will be used to evaluate treatment progress, such as relief of pain and improved physical and psychosocial function. The plan should document any further diagnostic evaluations, consultations or referrals, or additional therapies that have been considered. The treatment plan should also include an "exit strategy" for discontinuing cannabis use in the event tapering or termination of cannabis use becomes necessary.

A physician should document a written treatment plan that includes:

- Advice about other options for managing the terminal or debilitating medical condition (pursuant to the Act conditions include cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief).
- Determination that the patient with a terminal or debilitating medical condition may benefit from the recommendation of cannabis.
- Advice about the potential risks of the medical use of cannabis and reminders to safeguard the cannabis, including but not limited to, the following:
 - The variability of quality and concentration of cannabis;
 - Cannabis use disorder;
 - Potential adverse events, such as exacerbation of psychotic disorder, adverse cognitive effects for children and young adults, falls or fractures, and other risks;

- Using cannabis during pregnancy or breast feeding¹;
 - The need to safeguard all cannabis and cannabis-infused products from children, pets, or domestic animals; and
 - The reminder that the cannabis is for the patient's use only and the cannabis must not be sold, donated, or otherwise supplied to another individual.
- Additional diagnostic evaluations or other planned treatments.
 - A specific duration for the cannabis authorization for a period no longer than twelve months.
 - A specific ongoing treatment plan as medically appropriate.

Qualifying Conditions: At this time, there is a lack of evidence for the efficacy of cannabis in treating certain medical conditions. Recommending cannabis for medical purposes is at the professional discretion of the physician. The indication, appropriateness, and safety of the recommendation should be evaluated in accordance with current standards of practice and in compliance with state laws, rules and regulations which specify qualifying conditions for which a patient may qualify for cannabis for medical purposes.

The Compassionate Use Act names certain medical conditions for which cannabis may be useful, although physicians are not limited in their recommendations to those specific conditions (cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, and migraine). In all cases, the physician should base his or her determination on the results of clinical trials, if available, medical literature and reports, or on experience of that physician or other physicians, or on credible patient reports. In all cases, the physician must determine that the risk/benefit ratio of cannabis is as good, or better, than other treatment options that could be used for that individual patient. A patient need not have failed on all standard medications in order for a physician to recommend or approve the use of cannabis for medical purposes.

Ongoing Monitoring and Adapting the Treatment Plan: The physician should regularly assess the patient's response to the use of cannabis and overall health and level of function. This assessment should include any change in the overall medical condition, any change in the physical and psychosocial function, the efficacy of the treatment to the patient, the goals of the treatment, and the progress of those goals. Recommendations should be limited to the time necessary to appropriately monitor the patient. There should be a periodic review documented at least annually or more frequently as warranted.

When a trial of cannabis for medical use is successful and the physician and patient decide to continue the use of cannabis, regular review and monitoring should be undertaken for the duration of treatment. Continuation, modification or termination of cannabis for medical use should be contingent on the physician's evaluation of (1) evidence or the patient's progress toward treatment objectives and (2) the absence of substantial risks or adverse events, such as diversion. A satisfactory response to treatment would be indicated by an increased level of

¹ Please be aware that the risks of cannabis use on a fetus or breast-feeding infant are unknown. The American College of Obstetricians and Gynecologists (ACOG) Committee Opinion (Number 722 - October 2017) states physicians should be discouraged from recommending cannabis for medicinal purposes during pregnancy and lactation.

function and/or improved quality of life. The physician should regularly assess the patient's response to the use of cannabis.

Consultation and Referral: A patient who has a history of substance use disorder or a co-occurring mental health disorder may require specialized assessment and treatment. The physician should seek a consultation with, or refer the patient to, a pain management physician, psychiatrist, psychologist, and/or addiction or mental health specialist, as needed. The physician should determine that cannabis use is not masking symptoms of another condition requiring further assessment and treatment (e.g., substance use disorder, or other psychiatric or medical condition) or that such use will lead to a worsening of the patient's condition.

Medical Records: Proper record keeping and maintenance should support the decision to recommend the use of cannabis for medical purposes. B&P Code section 2266 requires a physician to maintain adequate and accurate medical records. Medical records need to be complete and legible. In addition, each entry should be dated and signed. Any changes, additions, and/or removal to the medical record made at a later date should also be dated and either signed or initialed.

Information that should appear in the medical record includes, but is not limited to the following:

- The patient's medical history, including a review of health risk factors and prior medical records as appropriate;
- Results of the appropriate prior examination, patient evaluation, diagnostic, therapeutic, and laboratory results;
- Other treatments and prescribed medications, including a review of the Controlled Substance Utilization Review and Evaluation System (CURES);
- Authorization, attestation or recommendation for cannabis, to include date, expiration, and any additional information required by state statute;
- Instructions to the patient, including discussions of risks and benefits, side effects and variable effects;
- Results of ongoing assessment and monitoring of patient's response to the use of cannabis;
- A copy of a signed treatment agreement, including instructions on safekeeping and instructions on not sharing cannabis.

Physician Conflicts of Interest: B&P Code section 2525 includes a provision that makes it unlawful for a physician who recommends cannabis for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility, as defined, if the physician or his or her immediate family have a financial interest in that facility. A violation of this law is a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars or by civil penalties of up to five thousand dollars and constitutes unprofessional conduct.

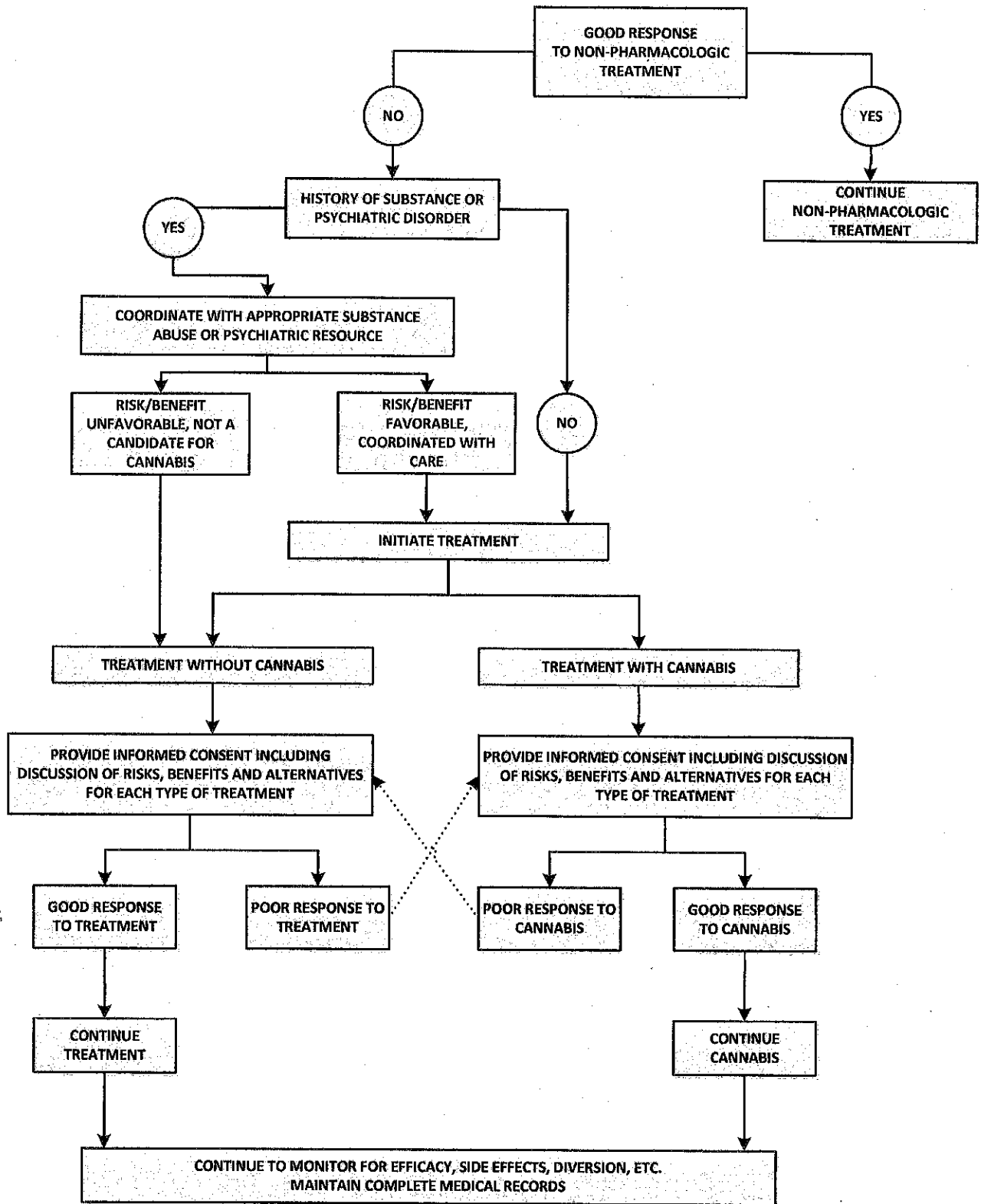
"Financial Interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and

a person or entity to whom the licensee refers a person for a good or service. For further information on the full definition of "financial interest" see B&P Code section 650.01.

Additionally, B&P Code section 2525.4 indicates that it is unprofessional conduct for any attending physician recommending cannabis for medical purposes to be employed by, or enter into any other agreement with any person or entity dispensing cannabis for medical purposes.

Accordingly, a physician who recommends cannabis should not have a professional office located at a dispensary or cultivation center or receive financial compensation from or hold a financial interest in a dispensary or cultivation center. Nor should the physician be a director, officer, member, incorporator, agent, employee, or retailer of a dispensary or cultivation center. A cannabis clinic or dispensary may not directly or indirectly employ physicians to provide cannabis recommendations.

Appendix 1 – Decision Tree



**(FSMB) Model Guidelines for the Recommendation
of Marijuana in Patient Care**

Model Guidelines for the Recommendation of Marijuana in Patient Care

Report of the FSMB Workgroup on Marijuana and Medical Regulation

*Adopted as policy by the Federation of State Medical Boards
April 2016*

INTRODUCTION

Over the past two decades, the attitudes and laws in the United States have become more tolerant towards marijuana, with the proportion of adults using the substance doubling between 2001 and 2013. Due to the increasing number of state governments authorizing the use of marijuana and marijuana infused product for “medicinal purposes,” state medical and osteopathic boards now have the added responsibility for the regulatory oversight of physicians choosing to incorporate the recommendation of marijuana in patient care and management.

The Federation of State Medical Boards (FSMB) Chair, J. Daniel Gifford, MD, FACP, appointed the Workgroup on Marijuana and Medical Regulation to develop model policy guidelines regarding the recommendation of marijuana in patient care, including conditions, diseases, or indications for which marijuana may be recommended. The Workgroup was further tasked with the development of a position statement or white paper regarding the regulation of licensees who use marijuana, which will be addressed in a separate document.

In order to accomplish this charge, the Workgroup reviewed existing laws and medical and osteopathic board rules, regulations and policies related to marijuana; reviewed current literature and policies related to the incorporation of marijuana by health care professionals in their professional practice and related research; and reviewed cases of board disciplinary actions related to the recommendation of marijuana in patient care and/or use and abuse of marijuana by licensees.

This policy document is intended as a resource to state medical boards in regulating physicians and physician assistants (or other licensees regulated by the board) with a full and unrestricted license participating in marijuana programs and may also be valuable in educating licensees as to the board’s expectations when recommending marijuana to a patient for a particular medical condition. The guidelines should in no way be construed as encouraging or endorsing physicians to recommend marijuana as a part of patient care.

In developing the model guidelines that follow, the Workgroup conducted a comprehensive review of marijuana statutes, rules, and state medical board policies currently enacted across the country, and considered research reports, peer-reviewed articles, and policy statements regarding the recommendation of marijuana in patient care. In addition, a survey of FSMB member boards was conducted to determine which issues related to marijuana and medical regulation are of high priority to state boards. Fifty-one out of 70 state boards completed the survey, yielding a 72.9% response rate. Many boards reported several issues being most important to their board about

marijuana and medical regulation, including guidance on handling recreational use by physicians (31.4%), guidance on handling marijuana for medical use by physicians (47.1%), and model guidelines for recommending marijuana for medical purposes to patients (49.0%).

Although states have enacted laws permitting the use of both medical and recreational marijuana, the prescribing of marijuana remains illegal under federal law, as marijuana has not been subject to the U.S. Food and Drug Administration’s evaluation and approval process. Marijuana is classified in federal law as a Schedule 1 substance under the Controlled Substance Act.³ As a Schedule 1 substance, the federal government classifies marijuana as a substance with high potential for dependency or addiction, with no accepted medical use. Federal law prohibits knowingly or intentionally distributing, dispensing, or possessing marijuana.⁴ Additionally, a person who aids and abets another in violating federal law or engages in a conspiracy to purchase, cultivate, or possess marijuana may be punished to the same extent as the individual who commits the crime.⁵

Providers and state regulators should continue to monitor usage and adverse effects of marijuana. See Figure 2. Based on the increasing number of states permitting the recommendation of marijuana in patient care, the U.S. Department of Justice updated its marijuana enforcement policy in August 2013. The updated policy reiterates marijuana’s classification as an illegal substance under federal law, but advises states and local governments that authorize marijuana-related conduct to implement strong and effective regulatory and enforcement systems to address any threat state laws could pose to public safety, public health, and other interests. Should these state efforts be insufficient, the federal government may seek to challenge the regulatory structure itself and bring forward individual enforcement actions.⁶

The Guidelines that follow are designed to communicate to state medical board licensees that if marijuana is recommended, these recommendations should be consistent with accepted professional and ethical practices.

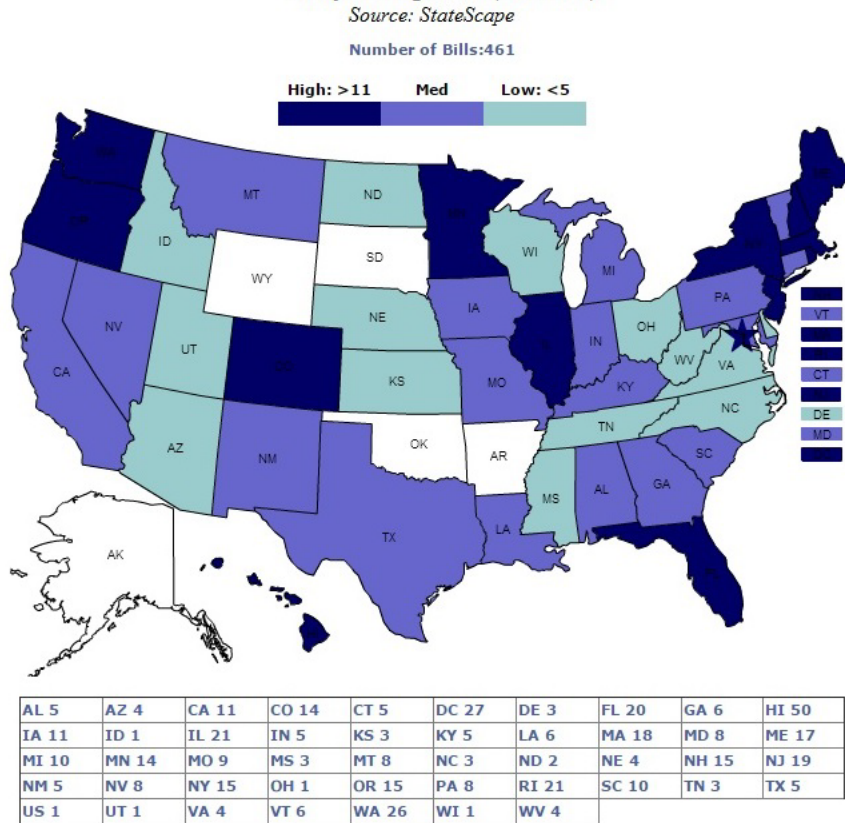
³ 21 U.S.C. §812.

⁴ 21 U.S.C. §841-44.

⁵ 18 U.S.C. §2; 21 U.S.C. §846.

⁶ James M. Cole, “Guidance Regarding Marijuana Enforcement [Memorandum],” Washington, DC: Department of Justice. (August 19, 2013).

Figure 2: Marijuana Legislation (2013-2015)



Section Two. Definitions.

For the purposes of these guidelines, the following definitions apply:

“Marijuana” means the leaves, stems, flowers, and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

“Medical Marijuana Program” is the term used in some state statutes, rules, and regulations that provide for the medical use, cultivation and dispensing of marijuana for medical purposes, which may or may not include specific medical conditions for which a physician (or other licensed health care provider) may issue a recommendation, attestation, or authorization for a patient to obtain and use marijuana.

“Cannabidiol (CBD) Oil” means processed cannabis plant extract, oil, or resin that contains a high percentage of cannabidiol, but a low percentage of tetrahydrocannabinol.

“Tetrahydrocannabinol (THC)” means the primary psychoactive compound in cannabis, delta-9-tetrahydrocannabinol (THC), which is a partial agonist at cannabinoid receptors in the body.

Section Three. Guidelines.

The [Name of Board] has adopted the following guidelines for the recommendation of marijuana in patient care:

Physician-Patient Relationship: The health and well-being of patients depends upon a collaborative effort between the physician and the patient. The relationship between a patient and a physician is complex and based on the mutual understanding of the shared responsibility for the patient’s health care. The physician-patient relationship is fundamental to the provision of acceptable medical care. Therefore, physicians must have documented that an appropriate physician-patient relationship has been established,⁷ prior to providing a recommendation, attestation, or authorization for marijuana to the patient. Consistent with the prevailing standard of care, physicians should not recommend, attest, or otherwise authorize marijuana for themselves or family member.

Patient Evaluation: A documented in-person medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient must be obtained before a decision is made as to whether to recommend marijuana for medical use. At minimum, the evaluation should include the patient’s history of present illness, social history, past medical and surgical history, alcohol and substance use history, family history with emphasis on addiction or mental illness/ psychotic disorders, physical exam, documentation of therapies with inadequate response, and diagnosis requiring the marijuana recommendation.

Informed and Shared Decision Making: The decision to recommend marijuana should be a shared decision between the physician and the patient. The physician should discuss the risks and benefits of the use of marijuana with the patient. Patients should be advised of the variability and lack of standardization of marijuana preparations and the effect of marijuana. Patients should be reminded not to drive or operate heavy machinery while under the influence of marijuana. If the patient is a minor or without decision-making capacity, the physician should ensure that the patient’s parent, guardian or surrogate is involved in the treatment plan and consents to the patient’s use of marijuana.

⁷ The health and well-being of patients depends upon a collaborative effort between the physician and patient. The relationship between the physician and patient is complex and is based on the mutual understanding of the shared responsibility for the patient’s health care. Although the Board recognizes that it may be difficult in some circumstances to precisely define the beginning of the physician-patient relationship, particularly when the physician and patient are in separate locations, it tends to begin when an individual with a health-related matter seeks assistance from a physician who may provide assistance. However, the relationship is clearly established when the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the physician (or other appropriately supervised health care practitioner) and patient. FSMB *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* (HOD 2014).

Treatment Agreement: A health care professional should document a written treatment plan that includes:

- Review of other measures attempted to ease the suffering caused by the terminal or debilitating medical condition that do not involve the recommendation of marijuana.
- Advice about other options for managing the terminal or debilitating medical condition.
- Determination that the patient with a terminal or debilitating medical condition may benefit from the recommendation of marijuana.
- Advice about the potential risks of the medical use of marijuana to include:
 - The variability of quality and concentration of marijuana;
 - The risk of cannabis use disorder;
 - Exacerbation of psychotic disorders and adverse cognitive effects for children and young adults;
 - Adverse events, exacerbation of psychotic disorder, adverse cognitive effects for children and young adults, and other risks, including falls or fractures;
 - Use of marijuana during pregnancy or breast feeding;
 - The need to safeguard all marijuana and marijuana-infused products from children and pets or domestic animals; and
 - The need to notify the patient that the marijuana is for the patient's use only and the marijuana should not be donated or otherwise supplied to another individual.
- Additional diagnostic evaluations or other planned treatments.
- A specific duration for the marijuana authorization for a period no longer than twelve months.
- A specific ongoing treatment plan as medically appropriate.

Qualifying Conditions: At this time, there is a paucity of evidence for the efficacy of marijuana in treating certain medical conditions. Recommending marijuana for certain medical conditions is at the professional discretion of the physician. The indication, appropriateness, and safety of the recommendation should be evaluated in accordance with current standards of practice and in compliance with state laws, rules and regulations which specify qualifying conditions for which a patient may qualify for marijuana.

Ongoing Monitoring and Adapting the Treatment Plan: Where available, the physician recommending marijuana should register with the appropriate oversight agency and provide the registry with information each time a recommendation, attestation, authorization, or reauthorization is issued [see Appendix 1]. Where available, the physician recommending marijuana should check the state Prescription Drug Monitoring Program (PDMP) each time a recommendation, attestation, authorization, or reauthorization is issued.

The physician should regularly assess the patient's response to the use of marijuana and overall health and level of function. This assessment should include the efficacy of the treatment to the patient, the goals of the treatment, and the progress of those goals.

Consultation and Referral: A patient who has a history of substance use disorder or a co-occurring mental health disorder may require specialized assessment and treatment. The physician should seek a consultation with, or refer the patient to, a pain management, psychiatric, addiction or mental health specialist, as needed.

Medical Records: The physician should keep accurate and complete medical records. Information that should appear in the medical record includes, but is not necessarily limited to the following:

- The patient's medical history, including a review of prior medical records as appropriate;
- Results of the physical examination, patient evaluation, diagnostic, therapeutic, and laboratory results;
- Other treatments and prescribed medications;
- Authorization, attestation or recommendation for marijuana, to include date, expiration, and any additional information required by state statute;
- Instructions to the patient, including discussions of risks and benefits, side effects and variable effects;
- Results of ongoing assessment and monitoring of patient's response to the use of marijuana;
- A copy of the signed Treatment Agreement, including instructions on safekeeping and instructions on not sharing.

Physician Conflicts of Interest: A physician who recommends marijuana should not have a professional office located at a dispensary or cultivation center or receive financial compensation from or hold a financial interest in a dispensary or cultivation center. Nor should the physician be a director, officer, member, incorporator, agent, employee, or retailer of a dispensary or cultivation center.

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Appendix 1: Registration

Many states that permit the recommendation of marijuana to patients for the treatment of serious medical conditions have laws establishing a registry to track and monitor the utilization of marijuana in patient care.⁸

In these states, physicians recommending marijuana to patients for the treatment of conditions are required to register with the regulatory agency overseeing the marijuana program, and must provide the registry with information each time a recommendation is issued.

The state's registry is required by law to regularly perform analyses of the number of recommendations issued. With the statistical review of physician recommendations, the regulating agency periodically determines whether a physician should be referred to the state medical or osteopathic board for review and possible sanction.

The following are common factors oversight agencies rely on in referring physicians to the state board for possible abuse of marijuana recommendations:

1. Physician caseload as determined by the number of patients for whom marijuana is recommended. A high caseload is calculated as 3,521 or more patient recommendations in one year for a general practitioner. This reflects the recommendation of patients equal to or greater than the national average of patient visits per year for a generalist physician as reported by the Centers for Disease Control and Prevention (Co. Registry Policy # 2014-04_001);
2. The plant and ounce recommendations by the physician. Physicians recommending an amount of marijuana above the standard set within a state's statutes will be referred to the state medical board for review;
3. Age demographics of the patient caseload. According to the CDC, older adults have a significantly higher prevalence of chronic conditions than younger adults. Physicians for whom more than one-third of the patient caseload is under the age of 30 may be recommended for referral; and
4. Other circumstances determined by the overseeing agency. The oversight agency may also refer physicians to the state medical board if there is evidence of potential violation of the constitution, statutes, state medical board regulations or any violation of the Medical Practice Act.

If evidence supports a referral, the overseeing agency will issue a formal referral to the state medical board with the physician's identifying information, the reason for the referral, and any statistical data supporting the referral. Once the referral is received, the state medical board typically reviews the documentation and conducts an investigation as deemed appropriate.

⁸ See e.g. Colorado Medical Marijuana Registry; See e.g. Minnesota Medical Cannabis Registry

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Tab 6



MEMORANDUM

DATE	May 5, 2019
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Discussion and Possible Action to Initiate Rulemakings to Amend Board Regulations Impacted by AB 2138 – Agenda Item 10

Background:

Assembly Bill (AB) 2138 was signed by Governor Edmund G. Brown on September 30, 2018, and will become operative July 1, 2020. This legislation amends various provisions of the Business and Professions Code relating to a board's ability to deny a license or take disciplinary action in relation to criminal convictions based on various factors related to the crime, and revises requirements related to the criteria of rehabilitation that boards must consider when evaluating the denial of an application, a petition for reinstatement, or a petition for early termination of probation.

Summary of Changes:

Applicants

- This bill prohibits the Board from denying an application for licensure based on a conviction of a crime unless the conviction meets the following criteria:
 - The conviction is for a crime substantially related to the qualifications, functions, or duties of the practice of a physician or surgeon and was within seven years from the date of application to the Board, regardless of whether the applicant is presently incarcerated or was released from incarceration within the preceding seven years from the date of application.
 - The seven-year limitation does not apply, and the Board may deny the application if the applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code, or convicted of a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.
 - The Board may not deny an application on the basis of a conviction if the applicant obtained a certificate of rehabilitation, had been granted clemency or a pardon by a state or federal executive, or the conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement.
- The Board may deny the application if the applicant was subjected to formal discipline by a licensing board in or outside of California within the last seven years from the date of application, the discipline was based on professional misconduct that would be cause for discipline before the Board, and the professional misconduct was substantially related to the qualifications, functions, or duties of the practice of a physician or surgeon. This would not apply to prior disciplinary action where the basis of the disciplinary action was a conviction that has been

dismissed pursuant to Sections 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement.

- This bill continues to allow the Board to deny an application for licensure if the applicant knowingly made false statements of fact in his or her application, but an applicant's failure to disclose a fact cannot be the sole basis for application denial.
- This bill prohibits the Board from denying an application for licensure based on an arrest that resulted in a disposition other than a conviction.
- This bill allows the Board to request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relationship or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information is not a factor in the Board's decision to grant or deny an application for licensure.
- This bill requires the Board to notify an applicant who is being denied licensure due to their conviction history of the following:
 - The denial or disqualification of licensure
 - Any existing procedure the Board has for the applicant to challenge the decision or to request reconsideration.
 - That the applicant has the right to appeal the Board's decision.
 - The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.
- This bill defines a conviction as "a judgement following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence."

Applicants and Licensees:

- This bill requires boards to develop criteria and, in doing so, to use particular criteria to define whether a crime is substantially related to the qualifications, functions, or duties of the profession it regulates. These substantial relationship criteria are used to determine whether a board may deny, revoke, or discipline a license for conviction of a crime.
 - The new criteria that a board must include in its substantial relationship regulations are:
 - The nature and gravity of the offense.
 - The number of years elapsed since the date of the offense.
 - The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

The Board's current regulation that defines substantial relationship to the profession of osteopathic physicians and surgeons is Title 16 California Code of Regulations (CCR) section 1654.

- This bill requires boards to include new criteria to their regulations regarding rehabilitation that are used to determine whether to deny, revoke, or discipline a license.
 - This bill requires the Board to add to its rehabilitation criteria the consideration of whether the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation.

The Board's current rehabilitation criteria for the purposes of license denial, suspension or revocation are in 16 CCR 1655.

Implementation:

In order to have the regulations in place by the July 1, 2020 operative date of the bill, the Board needs to adopt regulatory language as soon as possible to meet the expedited regulations review process proposed by the Department of Consumer Affairs (DCA). The attached regulatory language is what Board staff in coordination with DCA and a healing arts profession working group have developed for the Board to consider.

Action Requested:

Staff recommends the Board move to approve the proposed text for a 45 day public comment period and delegate to the Executive Director the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Director the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file.

Proposed Language

§1654. SUBSTANTIAL RELATIONSHIP CRITERIA

(a) For purposes of denial, suspension, or revocation of a certificate pursuant to Section 141 or Code Division 1.5 (commencing with Code Section 475), a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a certificate under the Osteopathic Act, if to a substantial degree, it evidences present or potential unfitness of a person holding the certificate to perform the functions of a physician and surgeon in a manner consistent with the public health, safety or welfare. ~~Such crimes or acts shall include but not be limited to those involving the violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision of term of the Osteopathic Act or the Medical Practice Act or the conviction of a crime involving fiscal dishonesty.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

1. The nature and gravity of the offense;
2. The number of years that have elapsed since the date of the offense;
3. How the offense relates to the nature and duties of a physician and surgeon.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

1. Any violation of Article 6, Chapter 1, Division 2 of the Code;
2. Any violation of the provisions of the Osteopathic Act or the Medical Practice Act.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats.1923, p. xciii), Section 1; and Sections 481, 493, 2018, and 3600-1, Business and Professions Code. Reference: Sections 480, 481, 490, and 493, Business and Professions Code.

§1655. REHABILITATION CRITERIA FOR DENIAL, SUSPENSION OR REVOCATION.

(a) When considering the denial of a certificate on the grounds recommended by Section 480 or the suspension or revocation of a certificate on the grounds that the person has been convicted of a crime, ~~the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:~~ the board, in evaluating the rehabilitation of such person and the eligibility for a certificate or permit, will consider the following criteria:

- (1) ~~The N~~nature and ~~severity~~gravity of the act(s) or offense(s).
- (2) ~~Total criminal record~~The length(s) of the applicable parole or probation period(s);
- (3) ~~Time elapsed since commission of the act(s) or offense(s)~~The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified;

- ~~(4) Whether the certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person. The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation;~~
- ~~(5) If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4. The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.~~
- ~~(6) Evidence, if any, of rehabilitation submitted by the certificate or permit holder.~~

(b) If subdivision (a) is inapplicable, or the board determines that the certificate or permit holder did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating the certificate or permit holder's rehabilitation. The board shall find that the certificate or permit holder made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the certificate or permit holder is rehabilitated:

- (1) The nature and gravity of the act(s) or crime(s) under consideration as grounds for denial;
- (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code;
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2);
- (4) Whether the certificate or permit holder has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the certificate or permit holder;
- (5) The criteria in subdivision (a)(1)-(5), as applicable;
- (6) Evidence, if any, of rehabilitation submitted by the certificate or permit holder.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats, 1923, p. xciii), Section 1; Sections 482, 2018, and 3600-1, Business and Professions Code. Reference: Sections 141, 475, 480, 481, 482, 488, 490, 493 and 3600-2, Business and Professions Code.

§1657. REHABILITATION CRITERIA FOR PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY.

When considering a petition for reinstatement or a petition for modification of penalty, the Board, in evaluating the rehabilitation of the applicant and his present eligibility for a certificate or permit, may consider all activities of the petitioner since the disciplinary action was taken and shall also consider the following criteria:

- (1) The nature and ~~gravity~~ severity of the act(s) or crime(s) for which the petitioner was disciplined;
- (2) Evidence of any act(s) or crime(s) committed subsequent to act(s) or crime(s) for which the petitioner was disciplined which also could be considered as grounds for denial under Code Section 480 of the Business and Professions Code;
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2) above;
- (4) Whether ~~The extent to which~~ the petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed;
- (5) Petitioner's activity during the time the certificate was in good standing;
- (6) Evidence, if any, of the rehabilitation submitted by the petitioner;
- (7) Petitioner's professional ability and general reputation for truth.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats, 1923, p. xciii), Section 1; and Sections 482, 2018 and 3600-1, Business and Professions Code. Reference: Sections 141, 481, 482, 488, 490, 493 and 2307, Business and Professions Code.

Tab 7



MEMORANDUM

DATE	May 5, 2019
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Pending Legislation – Agenda Item 11

Listed below are the key bills that the Board has been following:

AB 149 **Controlled Substances: Prescriptions
Cooper (D)**

SUMMARY: This bill would delay the requirement for those prescription forms to include a uniquely serialized number until a date determined by the Department of Justice that is no later than January 1, 2020. The bill would require, among other things, the serialized number to be utilizable as a barcode that may be scanned by dispensers. The bill would additionally make any prescription written on a prescription form that was otherwise valid prior to January 1, 2019, but that does not include a uniquely serialized number, or any prescription written on a form approved by the Department of Justice as of January 1, 2019, a valid prescription that may be filled, compounded, or dispensed until January 1, 2021. The bill would authorize the Department of Justice to extend this time period for a period no longer than an additional 6 months, if there is an inadequate availability of compliant prescription forms.

INTRODUCED: December 14, 2018
DISPOSITION: Chaptered
LOCATION: N/A
STATUS: Approved by Governor

AB 241 **Implicit Bias: Continuing Education: Requirements
Kamlager-Dove (D)**

SUMMARY: The bill, by January 1, 2022, would require all continuing education courses for a physician and surgeon to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment.

INTRODUCED: January 18, 2019
LAST AMENDED: April 30, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 1, 2019 – Re-referred to the Committee on Appropriations.

AB 370 Physicians and Surgeon: Forms: Fee Limitations
Voepel (R)

SUMMARY: This bill would limit the amount that a physician and surgeon licensee may charge a patient for filling out medical form, including applications for state disability insurance, to a reasonable fee, based on the actual time and cost for filling out the form.

INTRODUCED: February 5, 2019
LAST AMENDED: April 22, 2019
DISPOSITION: Pending
LOCATION: Committee on Health
STATUS: April 23, 2019 – In Committee: Set, first hearing. Hearing cancelled at the request of the author.

AB 387 Physician and Surgeons: Pharmacists: Prescriptions
Gabriel (D)

SUMMARY: This bill would require a physician and surgeon to indicate the purpose for a drug or device on the prescription for that drug or device when providing a prescription to a patient unless the patient chooses to opt out of having the purpose for the drug or device included on the prescription.

INTRODUCED: February 5, 2019
LAST AMENDED: April 22, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 1, 2019 – In Committee: Set, first hearing. Suspense file.

AB 407 Fluoroscopy Permit or Certification and Continuing Education: Exceptions
Santiago (D)

SUMMARY: This bill would authorize a physician and surgeon, or a doctor of podiatric medicine, who works in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation safety, to provide fluoroscopy services without a fluoroscopy permit or certification.

INTRODUCED: February 7, 2019
LAST AMENDED: April 11, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 24, 2019 – Do pass and re-referred to Committee on Appropriations.

AB 521 Physician and surgeons: Firearms: Training
Berman (D)

SUMMARY: This bill would require the Firearm Violence Research Center to develop multifaceted education and training programs for medical and mental health providers on the prevention of firearm-related injury and death.

INTRODUCED: February 13, 2019
LAST AMENDED: April 10, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 24, 2019 – Do pass and re-referred on the Committee on Appropriations.

AB 528 **Controlled Substances: CURES Database**
Low (D)

SUMMARY: This bill would require a dispensing pharmacy, clinic, or other dispenser to report the information required by the CURES database no more than one working day after a controlled substance is dispensed.

INTRODUCED: February 13, 2019
DISPOSITION: Pending
LOCATION: Committee on Rules
STATUS: May 2, 2019 – In Senate. Read first time. To the Committee on Rules for Assignment.

AB 544 **Professions and Vocations: Inactive License Fees and Accrued and Unpaid Renewal Fees**
Brough (R)

SUMMARY: This bill would limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license. The would also prohibit a Board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration

INTRODUCED: February 13, 2019
LAST AMENDED: March 21, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 1, 2019 – In Committee: Set, first hearing. Referred to the Committee on Appropriations. Suspense File.

AB 613 **Professions and Vocations: Regulatory Fees**
Low (D)

SUMMARY: This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances.

INTRODUCED: February 14, 2019
DISPOSITION: Pending
LOCATION: Committee on Rules
STATUS: April 25, 2019 – In Senate. Read first time. To Committee on Rules for assignment.

AB 617 **Stem Cell and Regenerative Therapy Regulation Advisory Group**
Mullin (D)

SUMMARY: This bill will establish the “Stem Cell and Regenerative Therapy Regulation Advisory Group” which will contain three members from the Medical Board of California, two members from Osteopathic Medical Board of California, and one member from the Board of Registered Nursing. The purpose of the group is to discuss current laws regarding stem cell therapies and make recommendations to the legislature.

INTRODUCED: February 14, 2019
LAST AMENDED: May 1, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 2, 2019 – Re-referred to the Committee on Appropriations

**AB 714 Opioid Prescription Drugs: Prescribers
Wood (D)**

SUMMARY: This bill would make those provisions applicable only to a patient receiving a prescription for an opioid or benzodiazepine medication, and would make the provisions specific to opioid-induced respiratory depression, opioid overdose, opioid use disorder, and opioid overdose prevention, as specified. The bill, among other exclusions, would exclude from the above-specified provisions requiring prescribers to offer a prescription and provide education prescribers when ordering medications to be administered to a patient in an inpatient or outpatient setting. The bill would define terms for purposes of those provisions.

INTRODUCED: February 19, 2019
LAST AMENDED: April 4, 2019
DISPOSITION: Pending
LOCATION: Committee on Rules
STATUS: May 2, 2019 – Read third time. Urgency clause adopted. Passed. Ordered to the Senate. To the Committee on Rules for assignment.

**AB 845 Continuing education: physicians and surgeons: maternal mental health
Maienschein (D)**

SUMMARY: This bill would require the Board, in determining the continuing education requirements for physicians and surgeon, to consider including a course in maternal health.

INTRODUCED: February 20, 2019
LAST AMENDED: April 1, 2019
DISPOSITION: Pending
LOCATION: Committee on Rules
STATUS: April 25, 2019 – Ordered to the Senate. Read first time. To the Committee on Rules for assignment.

**AB 888 Opioid Prescriptions: Information: Nonpharmacological Treatments for Pain
Low (D)**

SUMMARY: This bill would require, before directly dispensing or issuing the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss specified information. This bill extends this requirement to any patient, not just for minors. This bill also requires the prescriber to offer a referral for a provider of nonpharmacological treatments for pain.

INTRODUCED: February 20, 2019
LAST AMENDED: April 11, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 2, 2019 – Read second time. Ordered to third reading.

**AB 1030 Gynecological examinations: Informational pamphlet
Calderon (D) and Petrie-Norris (D)**

SUMMARY: This bill, on or before July 1, 2020, would require the Board, in coordination with the American College of Obstetricians and Gynecologists, to develop an informational pamphlet for patients undergoing gynecological examinations that includes specified information, including what pelvic exams and Pap smears are and how they are performed and privacy expectations for patients. The bill would require the board to make the information sheet available for the use of licensees that perform gynecological examinations, as specified. The bill, commencing one month after the board makes the informational pamphlet available, would require a physician and surgeon primarily responsible for providing a patient an annual gynecological examination, to provide a patient with the informational pamphlet before a patient's first gynecological examination with that practitioner. The bill would require the practitioner to have the patient sign and date a form attesting

that the patient has received the informational pamphlet and understood the contents before the first gynecological examination with that practitioner. The bill would make a violation of these provisions punishable by citation and an administrative fine.

INTRODUCED: February 21, 2019
LAST AMENDED: March 26, 2019
DISPOSITION: Pending
LOCATION: Committee on Rules
STATUS: April 29, 2019 – In Senate. Read first time. To Committee on Rules for assignment.

AB 1038 Health Data: Rates for Health Care Services: Physicians and Surgeons Muratsuchi (D)

SUMMARY: This bill would require the Medical Board of California to provide to the Office of Statewide Health Planning and Development (OSHPD), no less than annually, a comprehensive list of all physicians practicing in California, including prescribed information. The bill would require a board-licensed physician and surgeon to provide to OSHPD specified information relating to negotiated rates and charges imposed for services provided.

INTRODUCED: February 21, 2019
LAST AMENDED: April 3, 2019
DISPOSITION: Pending
LOCATION: Committee on Health
STATUS: April 23, 2019 – In the Committee on Health. Hearing cancelled at the request of author.

AB 1076 Criminal Records: Automatic Relief Ting (D)

SUMMARY: This bill would, commencing January 1, 2021, require the Department of Justice, on a weekly basis to review the records in the statewide criminal justice databases and to identify person who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure. The bill would require DOJ to grant relief to an eligible person, without requiring a petition or motion.

INTRODUCED: February 21, 2019
LAST AMENDED: March 27, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 10, 2019 – Set, first hearing. Referred to the Committee on Appropriations. Suspense file.

AB 1264 Healing Arts Licensees: Self-Administered Hormonal Contraceptives Petrie-Norris (D)

SUMMARY: This bill specify that “appropriate prior examination” does not require a synchronous interaction between the patient and the healing arts license. This bill would declare that it is to take effect immediately as an urgency statute.

INTRODUCED: February 21, 2019
LAST AMENDED: April 22, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 2, 2019 – Read second time. Ordered to third reading.

AB 1444 **Physicians and Surgeons and Registered Nurses: Loan Repayment Grants
Flora (R)**

SUMMARY: This bill would establish within the Office of Statewide Health Planning and Development the Primary Care Student Loan Repayment Program to provide loan repayment awards of up to \$50,000 to physicians and surgeons and registered nurses who provide 32 hours a week or more of direct care service for a period of 2 years in either a federally designated health professional shortage area or primary care shortage area in California. The bill would establish in the State Treasury the Primary Care Student Loan Repayment Program Fund, to be used, upon appropriation by the Legislature, by the office to administer the program.

INTRODUCED: February 22, 2019
LAST AMENDED: March 25, 2019
DISPOSITION: Pending
LOCATION: Committee on Health
STATUS: April 23, 2019 – In Committee on Health. Hearing cancelled at the request of author.

AB 1467 **Optometrists: Scope of Practice: Delegation of Services Agreement
Salas (D) and Low (D)**

SUMMARY: This bill would authorize an optometrist to provide services set forth in a delegation of services agreement, as defined, between an optometrist and an ophthalmologist.

INTRODUCED: February 22, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: May 2, 2019 – Read second time. Ordered to Consent Calendar.

AB 1490 **Medical Assistants
Carrillo (D)**

SUMMARY: 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. This bill would define “technical supportive services” to also include drawing up a local anesthetic provided specified conditions are met.

INTRODUCED: February 22, 2019
DISPOSITION: Pending
LOCATION: Committee on Business, Professions and Consumer Protection
STATUS: March 14, 2019 – Referred to Committee on Business, Professions and Consumer Protection.

SB 53 **Open Meetings
Wilk (R)**

SUMMARY: This bill would specify that the definition of “state body” includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in their official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

INTRODUCED: December 10, 2018
LAST AMENDED: March 5, 2019
DISPOSITION: Pending

LOCATION: Assembly
STATUS: April 22, 2019 – In Assembly. Read first time. Held at Desk.

SB 159 HIV: Pre-exposure and Post-exposure Prophylaxis
Wiener (D)

SUMMARY: This bill would authorize a pharmacist to furnish pre-exposure prophylaxis and post-exposure prophylaxis, in specified amounts, if the pharmacist completes a training program approved by the Board of Pharmacy and complies with specified requirements, such as assessing a patient and providing a patient with counseling and tests. This bill would additionally prohibit plans and insurers from subjecting those drug treatments, including pre-exposure prophylaxis or post-exposure prophylaxis, to prior authorization or step therapy. The bill would also prohibit plans and insurers from prohibiting, or allowing a pharmacy benefit manager to prohibit, a pharmacy provider from providing pre-exposure prophylaxis or post-exposure prophylaxis.

INTRODUCED: January 23, 2019
LAST AMENDED: April 30, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 30, 2019 – Read second time and amended. Re-referred to the Committee on Appropriations.

SB 201 Medical Procedures: Treatment or Intervention: Sex Characteristics of a Minor
Wiener (D)

SUMMARY: This bill would, absent a medical necessity, prohibit a physician and surgeon from performing any treatment or intervention on the sex characteristics of an intersex minor without the informed consent of the intersex minor, as described. The bill would, among other things, require a physician and surgeon, prior to performing the treatment or intervention, to provide a written and oral disclosure and to obtain the informed consent of the intersex minor to the treatment or intervention, as specified. The bill would authorize a physician and surgeon to perform the medical procedure without the minor's consent if it is medically necessary and the physician and surgeon provides the written and oral disclosure to the parent or guardian and obtains their informed consent, as specified. The bill would authorize the Medical Board of California to develop and adopt medical guidelines to implement these requirements.

INTRODUCED: January 31, 2019
LAST AMENDED: March 25, 2019
DISPOSITION: Pending
LOCATION: Committee on Business, Professions and Consumer Protection
STATUS: April 1, 2019 – Set for first hearing. Testimony taken.

SB 276 Immunizations: Medical Exemptions
Pan (D)

SUMMARY: This bill would instead require the State Department of Public Health, by July 1, 2020, to develop and make available for use by licensed physicians and surgeons a statewide standardized medical exemption request form, which, commencing January 1, 2021, would be the only medical exemption documentation that a governing authority may accept. The bill would require the State Public Health Officer or the public health officer's designee to approve or deny a medical exemption request, upon determining that the request provides sufficient medical evidence that the immunization is contraindicated or that a specific precaution regarding a particular immunization exists, based on guidelines of the federal Centers for Disease Control and Prevention (CDC). The bill would specify the information to be included in the medical exemption form. The bill would, commencing January 1, 2021, require a physician and surgeon to inform a parent or guardian of the bill's requirements and to examine the child and submit a completed medical exemption request form to the department, as specified. The bill would require the State

Public Health Officer or designee to review the completed exemption request form and notify the physician and surgeon of the approval or denial of the request. The bill would require the reason for denial of a request to be included in the notification, and would authorize the physician and surgeon to submit additional information to the department for further review for purposes of filing an appeal if an exemption request is denied.

INTRODUCED: February 13, 2019
LAST AMENDED: April 30, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 30, 2019 – Read second time and amended. Re-referred to the Committee on Appropriations.

SB 377 Juveniles: Psychotropic Medications: Medical Records
Mcguire (D)

SUMMARY: This bill would, upon the approval by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, require the juvenile court judicial officer to also authorize the Medical Board of California to review the patient medical record of the child authorized to receive psychotropic medication. The bill would require the patient medical record to be limited to the diagnosis for the authorized prescription of psychotropic medication in order to ascertain whether there is excessive prescribing of psychotropic medication inconsistent with a specified standard of care.

INTRODUCED: February 20, 2019
LAST AMENDED: April 11, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 26, 2019 – Set for hearing May 6.

SB 425 Health Care Practitioners: Licensee's File: Probationary Physician's and Surgeon's Certificate: Unprofessional Conduct
Hill (D)

SUMMARY: This bill would require any health facility or clinic or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients to report any allegation of sexual abuse or sexual misconduct made against a healing arts licensee to the relevant state licensing agency within 15 days of receiving the allegation and would require the relevant agency to investigate the circumstances underlying a received report. The bill would also require an employee or healing arts licensee that works in a health facility or clinic or other entity with knowledge of any allegation of sexual abuse or sexual misconduct by a healing arts licensee to report to the relevant state agency having jurisdiction over the healing arts licensee and the administration of the health facility or clinic or other entity within 15 days of knowing about the allegation of sexual abuse or sexual misconduct. The bill would make a willful failure to file the report by a health facility or clinic or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation, as specified. The bill would also prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health facility or clinic or other entity from incurring civil or criminal liability as a result of making a report if made in good faith.

INTRODUCED: February 21, 2019
LAST AMENDED: April 30, 2019
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: April 30, 2019 – Read second time and amended. Re-referred to the Committee on Appropriations.

SUMMARY: This bill would remove the requirement that the Physician Assistant Board make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians and surgeons to supervise physician assistants. The bill, except as described below, would remove the limit on the number of physician assistants that a physician and surgeon may supervise. The bill would remove the requirements that the medical record identify the responsible supervising physician and surgeon and that those written guidelines for adequate supervision be established. The bill would instead authorize a physician assistant to perform various medical services if certain requirements are met including that the medical services are rendered pursuant to a practice agreement, as defined, and the physician assistant is competent to perform the medical services. The bill would also require a practice agreement between a physician assistant and a physician and surgeon to meet specified requirements.

INTRODUCED: February 22, 2019

LAST AMENDED: April 24, 2019

DISPOSITION: Pending

LOCATION: Committee on Appropriations

STATUS: April 24, 2019 – Read second time and amended. Re-referred to Committee on Appropriations.

**AB 149 (*Cooper*) Controlled substances:
prescriptions**

Assembly Bill No. 149

CHAPTER 4

An act to amend Sections 11162.1 and 11164 of, and to add Section 11162.2 to, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 11, 2019. Filed with Secretary of State March 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 149, Cooper. Controlled substances: prescriptions.

Existing law classifies certain controlled substances into designated schedules. Existing law requires prescription forms for controlled substance prescriptions to be obtained from security printers approved by the department, as specified. Existing law requires those prescription forms to be printed with specified features, including a uniquely serialized number.

This bill would delay the requirement for those prescription forms to include a uniquely serialized number until a date determined by the Department of Justice that is no later than January 1, 2020. The bill would require, among other things, the serialized number to be utilizable as a barcode that may be scanned by dispensers. The bill would additionally make any prescription written on a prescription form that was otherwise valid prior to January 1, 2019, but that does not include a uniquely serialized number, or any prescription written on a form approved by the Department of Justice as of January 1, 2019, a valid prescription that may be filled, compounded, or dispensed until January 1, 2021. The bill would authorize the Department of Justice to extend this time period for a period no longer than an additional 6 months, if there is an inadequate availability of compliant prescription forms.

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

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

SECTION 1. Section 11162.1 of the Health and Safety Code is amended to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words “California Security Prescription.”

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1–24

25–49

50–74

75–100

101–150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the “Prescription is void if the number of drugs prescribed is not noted.”

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber’s order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify themselves as the prescriber by checking the box by the prescriber’s name.

(15) A uniquely serialized number, in a manner prescribed by the Department of Justice in accordance with Section 11162.2.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients

in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3).

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and quantity of controlled substance prescription forms issued to each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) Within the next working day following delivery, a security printer shall submit via web-based application, as specified by the Department of Justice, all of the following information for all prescription forms delivered:

(1) Serial numbers of all prescription forms delivered.

(2) All prescriber names and Drug Enforcement Administration Controlled Substance Registration Certificate numbers displayed on the prescription forms.

(3) The delivery shipment recipient names.

(4) The date of delivery.

SEC. 2. Section 11162.2 is added to the Health and Safety Code, to read:

11162.2. (a) Notwithstanding any other law, the uniquely serialized number described in paragraph (15) of subdivision (a) of Section 11162.1 shall not be a required feature in the printing of new prescription forms produced by approved security printers until a date determined by the Department of Justice, which shall be no later than January 1, 2020.

(b) Specifications for the serialized number shall be prescribed by the Department of Justice and shall meet the following minimum requirements:

(1) The serialized number shall be compliant with all state and federal requirements.

(2) The serialized number shall be utilizable as a barcode that may be scanned by dispensers.

(3) The serialized number shall be compliant with current National Council for Prescription Drug Program Standards.

SEC. 3. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) (1) Notwithstanding any other law, a prescription written on a prescription form that was otherwise valid prior to January 1, 2019, but that does not comply with paragraph (15) of subdivision (a) of Section 11162.1, or a valid controlled substance prescription form approved by the Department of Justice as of January 1, 2019, is a valid prescription that may be filled, compounded, or dispensed until January 1, 2021.

(2) If the Department of Justice determines that there is an inadequate availability of compliant prescription forms to meet demand on or before the date described in paragraph (1), the department may extend the period during which prescriptions written on noncompliant prescription forms remain valid for a period no longer than an additional six months.

SEC. 4. 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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To immediately confirm the validity of prescriptions for medication written on prescription forms issued, filled, compounded, or dispensed following the enactment of Chapter 479 of the Statutes of 2018 and clarify a timeline for implementation that preserves the continuity of treatment for patients.

***AB 241 (Kamlager-Dove – Coauthors:
Assembly Members Bonta, Gonzalez, Jones-
Sawyer, Kalra, McCarty, Weber, Wicks, and
Senator Wiener) Implicit bias: continuing
education: requirements***

AMENDED IN ASSEMBLY APRIL 30, 2019

AMENDED IN ASSEMBLY APRIL 4, 2019

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 241

Introduced by Assembly Member Kamlager-Dove
(Coauthors: Assembly Members Bonta, Gonzalez, Jones-Sawyer,
Kalra, McCarty, Weber, and Wicks)
(Coauthor: Senator Wiener)

January 18, 2019

An act to amend Sections 2190.1 and 3524.5 of, and to add Section 2736.5 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as amended, Kamlager-Dove. Implicit bias: continuing education: requirements.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under the act, a physician and surgeon is required to demonstrate satisfaction of continuing education requirements, including cultural and linguistic competency in the practice of medicine, as specified.

This bill, by January 1, 2022, would require ~~the curriculum for~~ *all* continuing education *courses* for a physician and surgeon to ~~include~~ *contain curriculum that includes* specified instruction in the understanding of implicit bias in medical treatment.

Existing law, the Nursing Practice Act, regulates the practice of nursing by the Board of Registered Nursing. The act requires persons

licensed by the board to complete specified courses of instruction, including instruction regarding alcoholism and substance dependency and spousal abuse.

This bill would require the Board of Registered Nursing, by January 1, 2022, to adopt regulations requiring ~~the curriculum for~~ *all* continuing education *courses* for its licensees to ~~include~~ *contain curriculum that includes* specified instruction in the understanding of implicit bias in treatment.

Existing law, the Physician Assistant Practice Act, authorizes the Physician Assistant Board to require a licensee to complete not more than 50 hours of continuing education every two years as a condition of license renewal.

This bill would require the Physician Assistant Board, by January 1, 2022, to adopt regulations requiring ~~the curriculum for~~ *all* continuing education *courses* for its licensees to ~~include~~ *contain curriculum that includes* specified instruction in the understanding of implicit bias in treatment.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Implicit bias, meaning the attitudes or internalized
- 4 stereotypes that affect our perceptions, ~~actions~~ *actions*, and
- 5 decisions in an unconscious manner, exists, and often contributes
- 6 to unequal treatment of people based on race, ethnicity, gender
- 7 identity, sexual orientation, ~~ability~~, *disability*, and other
- 8 characteristics.
- 9 (b) Implicit bias contributes to health disparities by affecting
- 10 the behavior of physicians and surgeons, nurses, physician
- 11 assistants, and other healing arts licensees.
- 12 (c) Evidence of racial and ethnic disparities in health care is
- 13 remarkably consistent across a range of illnesses and health care
- 14 services. Racial and ethnic disparities remain even after adjusting
- 15 for socioeconomic differences, insurance status, and other factors
- 16 influencing access to health care.
- 17 (d) African American women are three to four times more likely
- 18 than white women to die from pregnancy-related causes

1 nationwide. African American patients often are prescribed less
2 pain medication than white patients who present the same
3 complaints, and African American patients with signs of heart
4 problems are not referred for advanced cardiovascular procedures
5 as often as white patients with the same symptoms.

6 (e) Implicit gender bias also impacts treatment decisions and
7 outcomes. Women are less likely to survive a heart attack when
8 they are treated by a male physician and surgeon. LGBTQ and
9 gender-nonconforming patients are less likely to seek timely
10 medical care because they experience disrespect and discrimination
11 from health care staff, with one out of five transgender patients
12 nationwide reporting that they were outright denied medical care
13 due to bias.

14 (f) The Legislature intends to provide specified healing arts
15 licensees with strategies for understanding and reducing the impact
16 of their biases in order to reduce disparate outcomes and ensure
17 that all patients receive fair treatment and quality health care.

18 SEC. 2. Section 2190.1 of the Business and Professions Code
19 is amended to read:

20 2190.1. (a) The continuing medical education standards of
21 Section 2190 may be met by educational activities that meet the
22 standards of the board and that serve to maintain, develop, or
23 increase the knowledge, skills, and professional performance that
24 a physician and surgeon uses to provide care, or to improve the
25 quality of care provided to patients. These may include, but are
26 not limited to, educational activities that meet any of the following
27 criteria:

28 (1) Have a scientific or clinical content with a direct bearing on
29 the quality or cost-effective provision of patient care, community
30 or public health, or preventive medicine.

31 (2) Concern quality assurance or improvement, risk
32 management, health facility standards, or the legal aspects of
33 clinical medicine.

34 (3) Concern bioethics or professional ethics.

35 (4) Are designed to improve the physician-patient relationship.

36 (b) (1) On and after July 1, 2006, all continuing medical
37 education courses shall contain curriculum that includes cultural
38 and linguistic competency in the practice of medicine.

39 (2) Notwithstanding the provisions of paragraph (1), a
40 continuing medical education course dedicated solely to research

1 or other issues that does not include a direct patient care component
2 or a course offered by a continuing medical education provider
3 that is not located in this state is not required to contain curriculum
4 that includes cultural and linguistic competency in the practice of
5 medicine.

6 (3) Associations that accredit continuing medical education
7 courses shall develop standards before July 1, 2006, for compliance
8 with the requirements of paragraph (1). The associations may
9 update these standards, as needed, in conjunction with an advisory
10 group that has expertise in cultural and linguistic competency
11 issues.

12 (4) A physician and surgeon who completes a continuing
13 education course meeting the standards developed pursuant to
14 paragraph (3) satisfies the continuing education requirement for
15 cultural and linguistic competency.

16 (c) In order to satisfy the requirements of subdivision (b),
17 continuing medical education courses shall address at least one or
18 a combination of the following:

19 (1) Cultural competency. For the purposes of this section,
20 “cultural competency” means a set of integrated attitudes,
21 knowledge, and skills that enables a health care professional or
22 organization to care effectively for patients from diverse cultures,
23 groups, and communities. At a minimum, cultural competency is
24 recommended to include the following:

25 (A) Applying linguistic skills to communicate effectively with
26 the target population.

27 (B) Utilizing cultural information to establish therapeutic
28 relationships.

29 (C) Eliciting and incorporating pertinent cultural data in
30 diagnosis and treatment.

31 (D) Understanding and applying cultural and ethnic data to the
32 process of clinical care, including, as appropriate, information
33 pertinent to the appropriate treatment of, and provision of care to,
34 the lesbian, gay, bisexual, transgender, and intersex communities.

35 (2) Linguistic competency. For the purposes of this section,
36 “linguistic competency” means the ability of a physician and
37 surgeon to provide patients who do not speak English or who have
38 limited ability to speak English, direct communication in the
39 patient’s primary language.

1 (3) A review and explanation of relevant federal and state laws
2 and regulations regarding linguistic access, including, but not
3 limited to, the federal Civil Rights Act (42 U.S.C. Sec. ~~1981~~, 1981
4 et seq.), Executive Order 13166 of August 11, 2000, of the
5 President of the United States, and the Dymally-Alatorre Bilingual
6 Services Act (Chapter 17.5 (commencing with Section 7290) of
7 Division 7 of Title 1 of the Government Code).

8 (d) On and after January 1, 2022, all continuing medical
9 education courses shall contain curriculum that includes the
10 understanding of implicit bias and the promotion of bias-reducing
11 strategies to address how unintended biases in decisionmaking
12 may contribute to health care disparities by shaping behavior and
13 producing differences in medical treatment along lines of race,
14 ethnicity, gender identity, sexual orientation, socioeconomic status,
15 or other characteristics. ~~A physician and surgeon shall meet the~~
16 ~~requirements of this subdivision by the physician and surgeon's~~
17 ~~next license renewal date and each subsequent renewal date~~
18 ~~thereafter.~~

19 (e) Notwithstanding subdivision (a), educational activities that
20 are not directed toward the practice of medicine, or are directed
21 primarily toward the business aspects of medical practice,
22 including, but not limited to, medical office management, billing
23 and coding, and marketing shall not be deemed to meet the
24 continuing medical education standards for licensed physicians
25 and surgeons.

26 (f) Educational activities that meet the content standards set
27 forth in this section and are accredited by the California Medical
28 Association or the Accreditation Council for Continuing Medical
29 Education may be deemed by the Division of Licensing to meet
30 its continuing medical education standards.

31 SEC. 3. Section 2736.5 is added to the Business and Professions
32 Code, to read:

33 2736.5. The board shall adopt regulations to require that, on
34 and after January 1, 2022, ~~the all~~ continuing education ~~curriculum~~
35 ~~courses~~ for all licensees under this chapter *contain curriculum that*
36 *includes the understanding of implicit bias and the promotion of*
37 *bias-reducing strategies to address how unintended biases in*
38 *decisionmaking may contribute to health care disparities by shaping*
39 *behavior and producing differences in treatment along lines of*
40 *race, ethnicity, gender identity, sexual orientation, socioeconomic*

1 status, or other characteristics. ~~A licensee shall meet the~~
2 ~~requirements of this section by the licensee's next license renewal~~
3 ~~date and each subsequent renewal date thereafter.~~

4 SEC. 4. Section 3524.5 of the Business and Professions Code
5 is amended to read:

6 3524.5. (a) The board may require a licensee to complete
7 continuing education as a condition of license renewal under
8 Section 3523 or 3524. The board shall not require more than 50
9 hours of continuing education every two years. The board shall,
10 as it deems appropriate, accept certification by the National
11 Commission on Certification of Physician Assistants (NCCPA),
12 or another qualified certifying body, as determined by the board,
13 as evidence of compliance with continuing education requirements.

14 (b) The board shall adopt regulations to require that, on and
15 after January 1, 2022, ~~the all~~ continuing education ~~curriculum~~
16 ~~courses~~ for all licensees under this chapter *contain curriculum that*
17 includes the understanding of implicit bias and the promotion of
18 bias-reducing strategies to address how unintended biases in
19 decisionmaking may contribute to health care disparities by shaping
20 behavior and producing differences in treatment along lines of
21 race, ethnicity, gender identity, sexual orientation, socioeconomic
22 status, or other characteristics. ~~A licensee shall meet the~~
23 ~~requirements of this subdivision by the licensee's next license~~
24 ~~renewal date and each subsequent renewal date thereafter.~~

**AB 370 (*Voepel*) Physicians and surgeons:
forms: fee limitations**

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY MARCH 12, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 370

Introduced by Assembly Member Voepel

February 5, 2019

An act to add Article 16 (commencing with Section 2380) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 370, as amended, Voepel. Physicians and surgeons: forms: fee limitations.

Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by physicians and surgeons. Existing law establishes the Medical Board of California within the Department of Consumer Affairs to enforce the licensing and regulatory provisions in the act. *Existing law provides that a violation of specified provisions of the act is a crime.*

This bill would limit the amount that a physician and surgeon licensee may charge a patient for filling out medical forms, including applications for state disability insurance, ~~as specified. The bill would authorize the Medical Board of California to annually increase the fee amount permitted by an amount equal to the increase in the California Consumer Price Index.~~ *to a reasonable fee, based on the actual time and cost for filling out the form, as specified. The bill would provide that a violation of these provisions is not a crime.*

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

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

1 SECTION 1. Article 16 (commencing with Section 2380) is
2 added to Chapter 5 of Division 2 of the Business and Professions
3 Code, to read:

4
5 Article 16. Medical Forms
6

7 2380. (a) Subject to subdivision (b), a physician and surgeon
8 ~~shall not may charge a fee to~~ a patient for filling out medical forms,
9 *no more than a reasonable fee based on the actual time and cost*
10 *for filling out the forms*, including forms to apply for state disability
11 ~~insurance, that exceeds twenty-five dollars (\$25) for each form.~~
12 *insurance.*

13 (b) The limitation on fees applies only to forms subsequently
14 filled out by the licensee after the initial form is completed.

15 ~~(e) Subject to Section 2001.1, the Medical Board of California~~
16 ~~may annually increase the amount of fees permitted to be charged~~
17 ~~under this section by an amount equal to the increase in the~~
18 ~~California Consumer Price Index.~~

19 (c) *It is the intent of the Legislature that completed medical*
20 *forms be made available at the lowest possible cost to the patient.*

21 (d) *Section 2314 shall not apply to a violation of this section.*

**AB 387 (*Gabriel*) Physician and surgeons:
pharmacists: prescriptions**

AMENDED IN ASSEMBLY APRIL 22, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 387

Introduced by Assembly Member Gabriel

February 5, 2019

An act to add Section 2051.1 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 387, as amended, Gabriel. Physician and surgeons: *pharmacists*: prescriptions.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and authorizes a licensed physician and surgeon to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.

This bill would require a physician and surgeon to indicate the purpose for a drug or device on the prescription for that drug or device when providing a prescription to a patient unless the patient chooses to opt out of having the purpose for the drug or device included on the prescription.

The Pharmacy Law provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy. Existing law requires the California State Board of Pharmacy to promulgate regulations that require, on or before January 1, 2011, a standardized, patient-centered, prescription drug label on all prescription medication dispensed to patients in California.

Under the bill, if the purpose of a drug or device is not indicated on a prescription for that drug or device as required by the bill, a dispensing pharmacist would not be responsible for ascertaining the purpose or determining whether the patient opted out of its inclusion on the prescription. The bill would require the California State Board of Pharmacy to adopt revised regulations providing additional technical guidance regarding the format and manner in which a pharmacist is to incorporate drug or device purpose indications on the standardized, patient-centered, prescription drug label.

The provisions of the bill would not become operative until the operative date of the regulations. The bill would require the California State Board of Pharmacy to notify the Secretary of State when regulations have been adopted.

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

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

- 1 SECTION 1. Section 2051.1 is added to the Business and
- 2 Professions Code, to read:
- 3 2051.1. (a) A physician and surgeon shall indicate the purpose
- 4 for a drug or device on the prescription for that drug or device
- 5 when providing a prescription to a patient, unless the patient
- 6 chooses to opt out of having the purpose for the drug or device
- 7 included on the prescription.
- 8 (b) Prior to indicating the purpose for a drug or device on a
- 9 prescription pursuant to subdivision (a), a physician and surgeon
- 10 shall give the patient the option to opt out of having the purpose
- 11 for a drug or device included on the prescription.
- 12 (c) *If the purpose of a drug or device is not indicated on a*
- 13 *prescription for that drug or device pursuant to subdivision (a),*
- 14 *a dispensing pharmacist shall not be responsible for ascertaining*
- 15 *the purpose or determining whether the patient opted out of its*
- 16 *inclusion on the prescription pursuant to subdivision (b).*
- 17 (d) *The California State Board of Pharmacy shall adopt revised*
- 18 *regulations providing additional technical guidance regarding*
- 19 *the format and manner in which a pharmacist is to incorporate*
- 20 *drug or device purpose indications on the standardized,*
- 21 *patient-centered, prescription drug label pursuant to Section*
- 22 *4076.5.*

1 *(e) This section shall become operative on the operative date*
2 *of the regulations adopted pursuant to subdivision (d). The*
3 *California State Board of Pharmacy shall notify the Secretary of*
4 *State when regulations have been adopted.*

O

**AB 407 (*Santiago*) Fluoroscopy permit or
certification and continuing education:
exceptions**

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 407

Introduced by Assembly Member Santiago

February 7, 2019

An act to amend Sections 107110 and 114870 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 407, as amended, Santiago. Fluoroscopy permit or certification and continuing education: exceptions.

The Radiologic Technology Act makes it unlawful for any licentiate of the healing arts to administer or use diagnostic, mammographic, or therapeutic X-ray on human beings in this state, unless that person is certified by the State Department of Public Health and acting within the scope of that certification. The act requires the department to prescribe minimum qualifications for granting a fluoroscopy permit and continuing education requirements for the holders of that permit. A person who violates a provision of the Radiologic Technology Act or regulation of the department adopted pursuant to that act is guilty of a misdemeanor.

This bill ~~would, notwithstanding any other law, would~~ authorize a physician and surgeon, or a doctor of podiatric medicine, ~~to provide fluoroscopy services who works~~ in a setting that is in compliance with the Centers for Medicare and Medicaid Services' Conditions for Coverage relating to radiation ~~safety safety, to provide fluoroscopy services~~ without a fluoroscopy permit or certification. The bill would

require the department to provide that working in a setting that is in compliance with the Centers for Medicare and Medicaid Services’ Conditions for Coverage relating to radiation safety satisfies a requirement for fluoroscopy continuing education set forth in a specific regulation.

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

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

1 SECTION 1. Section 107110 of the Health and Safety Code
2 is amended to read:

3 107110. (a) It shall be unlawful for any licentiate of the healing
4 arts to administer or use diagnostic, mammographic, or therapeutic
5 X-ray on human beings in this state after January 1, 1972, unless
6 that person is certified pursuant to subdivision (e) of Section
7 114870, Section 114872, or Section 114885, and is acting within
8 the scope of that certification.

9 (b) Notwithstanding ~~any other law, including~~ subdivision (a),
10 a physician and surgeon, or a doctor of podiatric medicine, ~~may~~
11 ~~provide fluoroscopy services who works~~ in a setting that is in
12 compliance with the Centers for Medicare and Medicaid Services’
13 Conditions for Coverage relating to radiation ~~safety~~ *safety*, ~~may~~
14 ~~provide fluoroscopy services~~ without a fluoroscopy permit or
15 certification.

16 SEC. 2. Section 114870 of the Health and Safety Code is
17 amended to read:

18 114870. The department shall do all of the following:

19 (a) Upon recommendation of the committee, adopt regulations
20 as may be necessary to accomplish the purposes of this chapter.

21 (b) (1) Provide for certification of radiologic technologists,
22 without limitation as to procedures or areas of application, except
23 as provided in Section 106980. Separate certificates shall be
24 provided for diagnostic radiologic technology, for mammographic
25 radiologic technology, and for therapeutic radiologic technology.
26 If a person has received accreditation to perform mammography
27 from a private accreditation organization, the department shall
28 consider this accreditation when deciding to issue a mammographic
29 radiologic technology certificate.

1 (2) Provide, upon recommendation of the committee, that a
2 radiologic technologist who operates digital radiography equipment
3 devote a portion of their continuing education credit hours to
4 continuing education in digital radiologic technology.

5 (c) (1) (A) Provide, as may be deemed appropriate, for granting
6 limited permits to persons to conduct radiologic technology limited
7 to the performance of certain procedures or the application of
8 X-rays to specific areas of the human body, except for
9 mammography, prescribe minimum standards of training and
10 experience for these persons, and prescribe procedures for
11 examining applicants for limited permits. The minimum standards
12 shall include a requirement that persons granted limited permits
13 under this subdivision shall meet those fundamental requirements
14 in basic radiological health training and knowledge similar to those
15 required for persons certified under subdivision (b) as the
16 department determines are reasonably necessary for the protection
17 of the health and safety of the public.

18 (B) Provide that an applicant for approval as a limited permit
19 X-ray technician in the categories of chest radiography, extremities
20 radiography, gastrointestinal radiography, genitourinary
21 radiography, leg-podiatric radiography, skull radiography, and
22 torso-skeletal radiography, as these categories are defined in
23 Section 30443 of Title 17 of the California Code of Regulations,
24 shall have at least 50 hours of education in radiological protection
25 and safety. The department may allocate these hours as it deems
26 appropriate.

27 (2) Provide that a limited permit X-ray technician in the
28 categories of chest radiography, extremities radiography,
29 gastrointestinal radiography, genitourinary radiography,
30 leg-podiatric radiography, skull radiography, and torso-skeletal
31 radiography, as these categories are defined in Section 30443 of
32 Title 17 of the California Code of Regulations, may perform digital
33 radiography within their respective scopes of practice after
34 completion of 20 hours or more of instruction in digital radiologic
35 technology approved by the department. This requirement ~~shall~~
36 ~~not be construed to~~ *does not* preclude limited permit X-ray
37 technicians in the categories of dental laboratory radiography and
38 X-ray bone densitometry from performing digital radiography
39 upon meeting the educational requirements determined by the
40 department.

1 (3) Provide, upon recommendation of the committee, that a
2 limited permit X-ray technician who has completed the initial
3 instruction described in paragraph (2) devote a portion of their
4 required continuing education credit hours to additional continuing
5 instruction in digital radiologic technology.

6 (d) Provide for the approval of schools for radiologic
7 technologists. Schools for radiologic technologists shall include
8 20 hours of approved instruction in digital radiography. The
9 department may exempt a school from this requirement as it deems
10 appropriate.

11 (e) Provide, upon recommendation of the committee, for
12 certification of licentiates of the healing arts to supervise the
13 operation of X-ray machines or to operate X-ray machines, or both,
14 prescribe minimum standards of training and experience for these
15 licentiates of the healing arts, and prescribe procedures for
16 examining applicants for certification. This certification may limit
17 the use of X-rays to certain X-ray procedures and the application
18 of X-rays to specific areas of the human body.

19 (f) (1) Provide for certification of any physician and surgeon
20 to operate, and supervise the operation of, a bone densitometer, if
21 that physician and surgeon provides the department a certificate
22 that evidences training in the use of a bone densitometer by a
23 representative of a bone densitometer machine manufacturer, or
24 through any radiologic technology school. The certification shall
25 be valid for the particular bone densitometer the physician and
26 surgeon was trained to use, and for any other bone densitometer
27 that meets all of the criteria specified in subparagraphs (A) to (C),
28 inclusive, if the physician and surgeon has completed training, as
29 specified in subparagraph (A) of paragraph (2), for the use of that
30 bone densitometer. The physician and surgeon shall, upon request
31 of the department, provide evidence of training, pursuant to
32 subparagraph (A) of paragraph (2), for the use of any bone
33 densitometer used by the physician and surgeon. The activity
34 covered by the certificate shall be limited to the use of an X-ray
35 bone densitometer to which all of the following is applicable:

36 (A) The bone densitometer does not require user intervention
37 for calibration.

38 (B) The bone densitometer does not provide an image for
39 diagnosis.

- 1 (C) The bone densitometer is used only to estimate bone density
2 of the heel, wrist, or finger of the patient.
- 3 (2) The certificate shall be accompanied by a copy of the
4 curriculum covered by the manufacturer's representative or
5 radiologic technology school. The curriculum shall include, at a
6 minimum, instruction in all of the following areas:
- 7 (A) Procedures for operation of the bone densitometer by the
8 physician and surgeon, and for the supervision of the operation of
9 the bone densitometer by other persons, including procedures for
10 quality assurance of the bone densitometer.
- 11 (B) Proper radiation protection of the operator, the patient, and
12 third parties in proximity to the bone densitometer.
- 13 (C) Provisions of Article 5 (commencing with Section 106955)
14 of Chapter 4 of Part 1 of Division 104.
- 15 (D) Provisions of Chapter 6 (commencing with Section 114840)
16 of Part 9 of Division 104.
- 17 (E) Provisions of Group 1 (commencing with Section 30100)
18 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the
19 California Code of Regulations.
- 20 (F) Provisions of Group 1.5 (commencing with Section 30108)
21 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the
22 California Code of Regulations.
- 23 (G) Provisions of Article 1 (commencing with Section 30252)
24 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
25 of the California Code of Regulations.
- 26 (H) Provisions of Article 2 (commencing with Section 30254)
27 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
28 of the California Code of Regulations.
- 29 (I) Provisions of Article 3 (commencing with Section 30275)
30 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
31 of the California Code of Regulations.
- 32 (J) Provisions of Article 4 (commencing with Section 30305)
33 of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17
34 of the California Code of Regulations.
- 35 (K) Provisions of Subchapter 4.5 (commencing with Section
36 30400) of Chapter 5 of Division 1 of Title 17 of the California
37 Code of Regulations.
- 38 (3) (A) Notwithstanding any other ~~provision~~ of law, this
39 subdivision shall constitute all the requirements that must be met
40 by a physician and surgeon in order to operate, and supervise the

1 operation of, a bone densitometer. The department may adopt
2 regulations consistent with this section in order to administer the
3 certification requirements.

4 (B) No person may be supervised by a physician and surgeon
5 in the use of a bone densitometer unless that person possesses the
6 necessary license or permit required by the department.

7 (C) Nothing in this subdivision shall affect the requirements
8 imposed by the committee or the department for the registration
9 of a bone densitometer machine, or for the inspection of facilities
10 in which any bone densitometer machine is operated.

11 (D) This subdivision shall not apply to a licentiate of the healing
12 arts who is certified pursuant to subdivision (e) or pursuant to
13 Section 107111.

14 (E) The department shall charge a fee for a certificate issued
15 pursuant to this subdivision to the extent necessary to administer
16 certification. The fee shall be in an amount sufficient to cover the
17 department's costs of implementing this subdivision and shall not
18 exceed the fee for certification to operate or supervise the operation
19 of an X-ray machine pursuant to subdivision (e). The fees collected
20 pursuant to this subparagraph shall be deposited into the Radiation
21 Control Fund established pursuant to Section 114980.

22 (g) Upon recommendation of the committee, exempt from
23 certification requirements those licentiates of the healing arts who
24 have successfully completed formal courses in schools certified
25 by the department and who have successfully passed a
26 roentgenology technology and radiation protection examination
27 approved by the department and administered by the board that
28 issued their license.

29 (h) (1) No later than July 1, 2019, the department shall require
30 an applicant to provide either the individual taxpayer identification
31 number or social security number for purposes of applying for or
32 the renewal of a certificate, license, or permit issued under this
33 section or regulations promulgated pursuant thereto.

34 (2) The individual taxpayer identification or the social security
35 number shall serve to establish the identification of persons affected
36 by state tax laws and for purposes of establishing compliance with
37 subsection (a) of Section 666 of Title 42 of the United States Code,
38 Section 60.15 of Title 45 of the Code of Federal Regulations,
39 Section 17520 of the Family Code, and Section 11105 of the Penal

1 Code, and to that end, the information furnished pursuant to this
2 section shall be used exclusively for those purposes.

3 (3) The department shall not do either of the following:

4 (A) Require an applicant to disclose citizenship status or
5 immigration status for purposes of the application or renewal of a
6 certificate, license, or permit issued under this section or
7 regulations promulgated pursuant thereto.

8 (B) Deny certification to an otherwise qualified and eligible
9 applicant based solely on citizenship status or immigration status.

10 (4) If the department utilizes a national examination to issue a
11 certificate, and if a reciprocity agreement or comity exists between
12 the State of California and the state requesting release of the
13 individual taxpayer identification number or social security number,
14 any deputy, agent, clerk, officer, or employee of the department
15 may release an individual's taxpayer identification number or
16 social security number to an examination or certifying entity, only
17 for the purpose of verification of certification or examination status.

18 (i) ~~Provide that working~~ *A physician and surgeon, or a doctor*
19 *of podiatric medicine, who works in a setting that is in compliance*
20 *with the Centers for Medicare and Medicaid Services' Conditions*
21 *for Coverage relating to radiation—safety safety, satisfies the*
22 *requirement for fluoroscopy continuing education as set forth in*
23 *subdivision (b) of Section 30403 of Title 17 of the California Code*
24 *of Regulations.*

**AB 521 (*Berman*) Physician and surgeons:
firearms: training**

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 521

Introduced by Assembly Member Berman
*(Coauthors: Assembly Members Aguiar-Curry, Chiu, Gabriel, Gloria,
Levine, and Mark Stone)*
(Coauthors: Senators Portantino and Wiener)

February 13, 2019

An act to amend Section 14232 of, to add the heading of Chapter 1 (commencing with Section 14230) to Title 12.2 of Part 4 of, and to add Chapter 2 (commencing with Section 14235) of Title 12.2 of Part 4 of, the Penal Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 521, as amended, Berman. Physician and surgeons: firearms: training.

Existing law establishes and funds various research centers and programs in conjunction with the University of California. Under existing law the University of California has the authority to establish and administer a Firearm Violence Research Center to research firearm violence.

The bill would, upon adoption of a specified resolution by the Regents of the University of California, require the center to develop multifaceted education and training programs for medical and mental health providers on the prevention of firearm-related injury and death, as specified. The bill would, upon adoption of that resolution, require the university to report, on or before December 31, 2020, and annually thereafter, specified information regarding the activities of, and financial

details relating to, the program. The bill would also make conforming changes.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California.

Existing law requires an applicant for a firearm safety certificate, which a person is generally required to have in order to purchase or receive a firearm, to successfully pass an objective test that covers various topics related to firearms, including what constitutes safe firearm storage.

This bill would state the intent of the Legislature to enact legislation to provide physician and surgeons with training regarding firearm safety.

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

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

1 SECTION 1. The heading of Chapter 1 (commencing with
2 Section 14230) is added to Title 12.2 of Part 4 of the Penal Code,
3 to read:

4
5 CHAPTER 1. CALIFORNIA FIREARM VIOLENCE RESEARCH
6 CENTER
7

8 SEC. 2. Section 14232 of the Penal Code is amended to read:
9 14232. This ~~article~~ chapter shall apply to the University of
10 California only to the extent that the Regents of the University of
11 California, by resolution, make any of these provisions applicable
12 to the university.

13 SEC. 3. Chapter 2 (commencing with Section 14235) is added
14 to Title 12.2 of Part 4 of the Penal Code, to read:

15
16 CHAPTER 2. MEDICAL AND HEALTH PROVIDER EDUCATION
17 AND TRAINING PROGRAM
18

19 14235. The Legislature finds and declares all of the following:
20 (a) California experiences unacceptably high rates of
21 firearm-related death and injury. The Centers for Disease Control
22 and Prevention reported 3,184 gun-related deaths in California
23 in 2017: 1,610 suicides, 1,435 homicides, 86 deaths by legal

1 *intervention, 38 unintentional deaths, and 15 deaths of*
2 *undetermined type.*

3 *(b) Mass shootings are changing the character of public life in*
4 *the state. Since 1982, California has experienced 19 mass*
5 *shootings, resulting in 137 total deaths. On November 11, 2018,*
6 *a mass shooting at a nightclub in Thousand Oaks, California,*
7 *resulted in 12 deaths.*

8 *(c) In 2010, the estimated cost of hospital and emergency*
9 *department care for firearm-related injuries in California was one*
10 *hundred twelve million dollars (\$112,000,000), with Medi-Cal*
11 *and other government payors responsible for 64 percent of those*
12 *costs. These high costs occur even though most people who die*
13 *from firearm-related injuries do so at the scene of the shooting*
14 *and receive no medical care for their injuries.*

15 *(d) Medical costs are only a small proportion (approximately*
16 *2 percent) of total societal costs, which are driven primarily by*
17 *losses in productivity and quality of life.*

18 *(e) Medical and mental health care providers are uniquely*
19 *positioned to help prevent all forms of firearm-related harm.*
20 *Through the course of their regular patient care, they have*
21 *opportunities to identify people at risk for such harm, provide*
22 *evidence-based counseling on risk reduction, and intervene in*
23 *situations of imminent risk.*

24 *(f) On October 30, 2018, the American College of Physicians*
25 *published an updated position paper with recommendations for*
26 *reducing firearm injuries and deaths in the United States that*
27 *“recommends a public health approach to firearms-related*
28 *violence and the prevention of firearm injuries and deaths” and*
29 *encourages physicians to “discuss with their patients the risks that*
30 *may be associated with having a firearm in the home and*
31 *recommend ways to mitigate such risks.”*

32 *(g) Other organizations that have published statements*
33 *identifying firearm-related harm as a health problem and*
34 *recommending that medical and mental health professionals*
35 *engage in efforts to prevent firearm-related harm as an element*
36 *of their professional practice include the American Medical*
37 *Association, the American Academy of Pediatrics, the American*
38 *Academy of Family Physicians, the American College of*
39 *Emergency Physicians, the American College of Surgeons, and*
40 *the American Association of Suicidology.*

1 (h) While many medical and mental health care providers
2 recognize their responsibility to help prevent firearm-related injury
3 and death, many cite lack of knowledge regarding when and how
4 to counsel patients as a principal barrier to action. A position
5 statement adopted by the California Medical Association Board
6 of Trustees on July 28, 2017, states that “expanded education and
7 training are needed to improve clinician familiarity with the
8 benefits and risks of firearm ownership, safety practices, and
9 communication with patients about firearm violence.” The position
10 statement further states that “medical schools and residency
11 programs should incorporate firearm violence prevention into
12 their academic curricula” and “California-specific resources such
13 as continuing medical education modules, toolkits, patient
14 education handouts, and clinical intervention information would
15 help to address this practice gap.”

16 (i) Having assembled a team of experts in firearm-related death
17 and injury, and specifically in provider and patient education to
18 prevent firearm-related harm, the University of California Firearm
19 Violence Research Center at UC Davis is uniquely qualified to
20 research, develop, implement, and evaluate education and training
21 programs for medical and mental health care providers on
22 preventing firearm-related death and injury.

23 14236. (a) The University of California Firearm Violence
24 Research Center at UC Davis shall develop multifaceted education
25 and training programs for medical and mental health providers
26 on the prevention of firearm-related injury and death.

27 (b) The center shall develop education and training programs
28 that address all of the following:

29 (1) The epidemiology of firearm-related injury and death,
30 including the scope of the problem in California and nationwide,
31 individual and societal determinants of risk, and effective
32 prevention strategies for all types of firearm-related injury and
33 death, including suicide, homicide, and unintentional injury and
34 death.

35 (2) The role of health care providers in preventing
36 firearm-related harm, including how to assess individual patients
37 for risk of firearm-related injury and death.

38 (3) Best practices for conversations about firearm ownership,
39 access, and storage.

1 (4) *Appropriate tools for practitioner intervention with patients*
2 *at risk for firearm-related injury or death, including, but not limited*
3 *to, education on safer storage practices, gun violence restraining*
4 *orders, and mental health interventions.*

5 (5) *Relevant laws and policies related to prevention of*
6 *firearm-related injury and death and to the role of health care*
7 *providers in preventing firearm-related harm.*

8 (c) *The center shall launch a comprehensive dissemination*
9 *program to promote participation in these education and training*
10 *programs among practicing physicians, mental health care*
11 *professionals, physician assistants, nurse practitioners, nurses,*
12 *health professional students, and other relevant professional*
13 *groups in the state.*

14 (d) *The center shall develop curricular materials for medical*
15 *and mental health care practitioners in practice and in training,*
16 *tailored to the profession and suitable for use through a variety*
17 *of methods. Educators from the center shall provide didactic*
18 *education in person and by remote link at medical education*
19 *institutions, and recruit and train additional health professionals*
20 *to provide such education.*

21 (e) *The center shall develop education and training resources*
22 *on firearm-related injury and death, including but not limited to,*
23 *continuing medical education videos, additional training modules,*
24 *a website with current information on relevant research and*
25 *legislation, and handouts and written materials for clinicians to*
26 *provide to patients. The center shall serve as a resource for the*
27 *many professional and educational organizations in the state whose*
28 *members seek to advance their knowledge of firearm-related injury*
29 *and death and effective prevention measures.*

30 (f) *The center shall conduct rigorous research to further identify*
31 *specific gaps in knowledge and structural barriers that prevent*
32 *counseling and other interventions, and to evaluate the education*
33 *and training program. The center shall incorporate the research*
34 *findings into the design and implementation of the program to*
35 *support the mission of the center to deliver content to health care*
36 *providers and patients that is effective in guiding clinical decisions*
37 *and reducing firearm-related injury and death.*

38 14237. *On or before December 31, 2020, and annually*
39 *thereafter, the University of California shall transmit programmatic*
40 *and financial reports on this program to the Legislature, including*

1 reporting on funding and expenditures by source, participation
2 data, program accomplishments, and the future direction of the
3 program. The report shall be submitted in compliance with Section
4 9795 of the Government Code.

5 14238. This chapter shall apply to the University of California
6 only to the extent that the Regents of the University of California,
7 by resolution, make any to these provisions applicable to the
8 university.

9 ~~SECTION 1. It is the intent of the Legislature to enact~~
10 ~~legislation to provide physician and surgeons with training~~
11 ~~regarding firearm safety.~~

12
13 _____

14 **REVISIONS:**

15 **Heading—Line 2.**

16 _____

**AB 528 (*Low*) Controlled substances: CURES
database**

ASSEMBLY BILL

No. 528

Introduced by Assembly Member Low

February 13, 2019

An act to amend Section 11165 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 528, as introduced, Low. Controlled substances: CURES database.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance. Existing law requires a dispensing pharmacy, clinic, or other dispenser to report specified information to the Department of Justice as soon as reasonably possible, but not more than 7 days after the date a controlled substance is dispensed.

This bill would require a dispensing pharmacy, clinic, or other dispenser to report the information required by the CURES database no more than one working day after a controlled substance is dispensed.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. It is the intent of the Legislature that state laws
2 regarding the operation and use of prescription drug monitoring
3 programs continue to empower health care-oriented technology
4 solutions to the opioid crisis.

5 SEC. 2. Section 11165 of the Health and Safety Code is
6 amended to read:

7 11165. (a) To assist health care practitioners in their efforts
8 to ensure appropriate prescribing, ordering, administering,
9 furnishing, and dispensing of controlled substances, law
10 enforcement and regulatory agencies in their efforts to control the
11 diversion and resultant abuse of Schedule II, Schedule III, and
12 Schedule IV controlled substances, and for statistical analysis,
13 education, and research, the Department of Justice shall, contingent
14 upon the availability of adequate funds in the CURES Fund,
15 maintain the Controlled Substance Utilization Review and
16 Evaluation System (CURES) for the electronic monitoring of, and
17 Internet access to information regarding, the prescribing and
18 dispensing of Schedule II, Schedule III, and Schedule IV controlled
19 substances by all practitioners authorized to prescribe, order,
20 administer, furnish, or dispense these controlled substances.

21 (b) The Department of Justice may seek and use grant funds to
22 pay the costs incurred by the operation and maintenance of
23 CURES. The department shall annually report to the Legislature
24 and make available to the public the amount and source of funds
25 it receives for support of CURES.

26 (c) (1) The operation of CURES shall comply with all
27 applicable federal and state privacy and security laws and
28 regulations.

29 (2) (A) CURES shall operate under existing provisions of law
30 to safeguard the privacy and confidentiality of patients. Data
31 obtained from CURES shall only be provided to appropriate state,
32 local, and federal public agencies for disciplinary, civil, or criminal
33 purposes and to other agencies or entities, as determined by the
34 Department of Justice, for the purpose of educating practitioners
35 and others in lieu of disciplinary, civil, or criminal actions. Data
36 may be provided to public or private entities, as approved by the
37 Department of Justice, for educational, peer review, statistical, or
38 research purposes, if patient information, including any information

1 that may identify the patient, is not compromised. Further, data
2 disclosed to any individual or agency as described in this
3 subdivision shall not be disclosed, sold, or transferred to any third
4 party, unless authorized by, or pursuant to, state and federal privacy
5 and security laws and regulations. The Department of Justice shall
6 establish policies, procedures, and regulations regarding the use,
7 access, evaluation, management, implementation, operation,
8 storage, disclosure, and security of the information within CURES,
9 consistent with this subdivision.

10 (B) Notwithstanding subparagraph (A), a regulatory board whose
11 licensees do not prescribe, order, administer, furnish, or dispense
12 controlled substances shall not be provided data obtained from
13 CURES.

14 (3) The Department of Justice shall, no later than July 1, 2020,
15 adopt regulations regarding the access and use of the information
16 within CURES. The Department of Justice shall consult with all
17 stakeholders identified by the department during the rulemaking
18 process. The regulations shall, at a minimum, address all of the
19 following in a manner consistent with this chapter:

20 (A) The process for approving, denying, and disapproving
21 individuals or entities seeking access to information in CURES.

22 (B) The purposes for which a health care practitioner may access
23 information in CURES.

24 (C) The conditions under which a warrant, subpoena, or court
25 order is required for a law enforcement agency to obtain
26 information from CURES as part of a criminal investigation.

27 (D) The process by which information in CURES may be
28 provided for educational, peer review, statistical, or research
29 purposes.

30 (4) In accordance with federal and state privacy laws and
31 regulations, a health care practitioner may provide a patient with
32 a copy of the patient's CURES patient activity report as long as
33 no additional CURES data are provided and keep a copy of the
34 report in the patient's medical record in compliance with
35 subdivision (d) of Section 11165.1.

36 (d) For each prescription for a Schedule II, Schedule III, or
37 Schedule IV controlled substance, as defined in the controlled
38 substances schedules in federal law and regulations, specifically
39 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
40 of the Code of Federal Regulations, the dispensing pharmacy,

1 clinic, or other dispenser shall report the following information to
2 the Department of Justice as soon as reasonably possible, but not
3 more than ~~seven days~~ *one working day* after the date a controlled
4 substance is dispensed, in a format specified by the Department
5 of Justice:

6 (1) Full name, address, and, if available, telephone number of
7 the ultimate user or research subject, or contact information as
8 determined by the Secretary of the United States Department of
9 Health and Human Services, and the gender, and date of birth of
10 the ultimate user.

11 (2) The prescriber's category of licensure, license number,
12 national provider identifier (NPI) number, the federal controlled
13 substance registration number, and the state medical license number
14 of any prescriber using the federal controlled substance registration
15 number of a government-exempt facility, if provided.

16 (3) Pharmacy prescription number, license number, NPI number,
17 and federal controlled substance registration number.

18 (4) National Drug Code (NDC) number of the controlled
19 substance dispensed.

20 (5) Quantity of the controlled substance dispensed.

21 (6) International Statistical Classification of Diseases, 9th
22 revision (ICD-9) or 10th revision (ICD-10) Code, if available.

23 (7) Number of refills ordered.

24 (8) Whether the drug was dispensed as a refill of a prescription
25 or as a first-time request.

26 (9) Date of origin of the prescription.

27 (10) Date of dispensing of the prescription.

28 (11) The serial number for the corresponding prescription form,
29 if applicable.

30 (e) The Department of Justice may invite stakeholders to assist,
31 advise, and make recommendations on the establishment of rules
32 and regulations necessary to ensure the proper administration and
33 enforcement of the CURES database. All prescriber and dispenser
34 invitees shall be licensed by one of the boards or committees
35 identified in subdivision (d) of Section 208 of the Business and
36 Professions Code, in active practice in California, and a regular
37 user of CURES.

38 (f) The Department of Justice shall, prior to upgrading CURES,
39 consult with prescribers licensed by one of the boards or
40 committees identified in subdivision (d) of Section 208 of the

1 Business and Professions Code, one or more of the boards or
2 committees identified in subdivision (d) of Section 208 of the
3 Business and Professions Code, and any other stakeholder
4 identified by the department, for the purpose of identifying
5 desirable capabilities and upgrades to the CURES Prescription
6 Drug Monitoring Program (PDMP).

7 (g) The Department of Justice may establish a process to educate
8 authorized subscribers of the CURES PDMP on how to access and
9 use the CURES PDMP.

10 (h) (1) The Department of Justice may enter into an agreement
11 with any entity operating an interstate data sharing hub, or any
12 agency operating a prescription drug monitoring program in another
13 state, for purposes of interstate data sharing of prescription drug
14 monitoring program information.

15 (2) Data obtained from CURES may be provided to authorized
16 users of another state's prescription drug monitoring program, as
17 determined by the Department of Justice pursuant to subdivision
18 (c), if the entity operating the interstate data sharing hub, and the
19 prescription drug monitoring program of that state, as applicable,
20 have entered into an agreement with the Department of Justice for
21 interstate data sharing of prescription drug monitoring program
22 information.

23 (3) Any agreement entered into by the Department of Justice
24 for purposes of interstate data sharing of prescription drug
25 monitoring program information shall ensure that all access to data
26 obtained from CURES and the handling of data contained within
27 CURES comply with California law, including regulations, and
28 meet the same patient privacy, audit, and data security standards
29 employed and required for direct access to CURES.

30 (4) For purposes of interstate data sharing of CURES
31 information pursuant to this subdivision, an authorized user of
32 another state's prescription drug monitoring program shall not be
33 required to register with CURES, if he or she is registered and in
34 good standing with that state's prescription drug monitoring
35 program.

36 (5) The Department of Justice shall not enter into an agreement
37 pursuant to this subdivision until the department has issued final
38 regulations regarding the access and use of the information within
39 CURES as required by paragraph (3) of subdivision (c).

1 SEC. 3. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the California Constitution and shall
4 go into immediate effect. The facts constituting the necessity are:

5 In order to address the active crisis of opioid overprescribing
6 and abuse through timely data, it is necessary that this bill go into
7 immediate effect.

O

**AB 544 (*Brough*) Professions and vocations:
inactive license fees and accrued and unpaid
renewal fees**

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 544

Introduced by Assembly Member Brough

February 13, 2019

~~An act to amend Section 4073 of the Business and Professions Code, relating to healing arts.~~ *An act to amend Sections 121.5, 462, 703, 1006.5, 1718, 1718.3, 1936, 2427, 2456.3, 2535.2, 2538.54, 2646, 2734, 2892.1, 2984, 3147, 3147.7, 3524, 3774, 3775.5, 4545, 4843.5, 4901, 4966, 4989.36, 4999.104, 5070.6, 5600.2, 5680.1, 6796, 6980.28, 7076.5, 7417, 7672.8, 7725.2, 7729.1, 7881, 7883, 8024.7, 8802, 9832, 9832.5, 9884.5, 19170.5, and 19290 of the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 544, as amended, Brough. ~~Prescriptions.~~ *Professions and vocations: inactive license fees and accrued and unpaid renewal fees.*

Existing law provides for the licensure and regulation of professions and vocations by various boards within the Department of Consumer Affairs. Existing law provides for the payment of a fee for the renewal of certain licenses, certificates, or permits in an inactive status, and, for certain licenses, certificates, and permits that have expired, requires the payment of all accrued fees as a condition of reinstatement of the license, certificate, or permit.

This bill would limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license. The bill would also prohibit a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.

~~The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy, which is within the Department of Consumer Affairs, and authorizes a pharmacist filling a prescription order for a drug product prescribed by its brand or trade name to select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name of those drug products having the same active chemical ingredients, as specified.~~

~~This bill would make a nonsubstantive change to that provision.~~

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

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

1 *SECTION 1. Section 121.5 of the Business and Professions*
2 *Code is amended to read:*

3 121.5. (a) Except as otherwise provided in this code, the
4 application of delinquency fees ~~or accrued and unpaid renewal~~
5 fees for the renewal of expired licenses or registrations shall not
6 apply to licenses or registrations that have lawfully been designated
7 as inactive or retired.

8 (b) *Notwithstanding any other law, a board shall not require a*
9 *person to pay accrued and unpaid renewal fees as a condition of*
10 *reinstating an expired license or registration.*

11 *SEC. 2. Section 462 of the Business and Professions Code is*
12 *amended to read:*

13 462. (a) Any of the boards, bureaus, commissions, or programs
14 within the department may establish, by regulation, a system for
15 an inactive category of licensure for persons who are not actively
16 engaged in the practice of their profession or vocation.

17 (b) The regulation shall contain the following provisions:

18 (1) The holder of an inactive license issued pursuant to this
19 section shall not engage in any activity for which a license is
20 required.

21 (2) An inactive license issued pursuant to this section shall be
22 renewed during the same time period in which an active license
23 is renewed. The holder of an inactive license need not comply with
24 any continuing education requirement for renewal of an active
25 license.

1 (3) The renewal fee for a license in ~~an active status shall apply~~
2 ~~also for a renewal of a license in an inactive status, unless a lesser~~
3 ~~renewal fee is specified by the board.~~ *status shall be no more than*
4 *50 percent of the renewal fee for a license in an active status.*

5 (4) In order for the holder of an inactive license issued pursuant
6 to this section to restore ~~his or her~~ *the* license to an active status,
7 the holder of an inactive license shall comply with all the
8 following:

9 (A) Pay the renewal fee.

10 (B) If the board requires completion of continuing education
11 for renewal of an active license, complete continuing education
12 equivalent to that required for renewal of an active license, unless
13 a different requirement is specified by the board.

14 (c) This section shall not apply to any healing arts board as
15 specified in Section 701.

16 *SEC. 3. Section 703 of the Business and Professions Code is*
17 *amended to read:*

18 703. (a) An inactive healing arts license or certificate issued
19 pursuant to this article shall be renewed during the same time
20 period at which an active license or certificate is renewed. In order
21 to renew a license or certificate issued pursuant to this article, the
22 holder thereof need not comply with any continuing education
23 requirement for renewal of an active license or certificate.

24 (b) ~~The~~ *Notwithstanding any other law, the* renewal fee for a
25 license or certificate in an ~~active~~ *inactive* status shall ~~apply also~~
26 ~~for renewal of a license or certificate in an inactive status, unless~~
27 ~~a lower fee has been established by the issuing board.~~ *be no more*
28 *than 50 percent of the renewal fee for a license in an active status.*

29 *SEC. 4. Section 1006.5 of the Business and Professions Code*
30 *is amended to read:*

31 1006.5. Notwithstanding any other law, the amount of
32 regulatory fees necessary to carry out the responsibilities required
33 by the Chiropractic Initiative Act and this chapter are fixed in the
34 following schedule:

35 (a) Fee to apply for a license to practice chiropractic: three
36 hundred seventy-one dollars (\$371).

37 (b) Fee for initial license to practice chiropractic: one hundred
38 eighty-six dollars (\$186).

39 (c) Fee to renew an ~~active or inactive~~ license to practice
40 chiropractic: three hundred thirteen dollars (\$313).

- 1 (d) Fee to renew an inactive license to practice chiropractic:
- 2 no more than 50 percent of the renewal fee for an active license.
- 3 ~~(d)~~
- 4 (e) Fee to apply for approval as a continuing education provider:
- 5 eighty-four dollars (\$84).
- 6 ~~(e)~~
- 7 (f) Biennial continuing education provider renewal fee: fifty-six
- 8 dollars (\$56).
- 9 ~~(f)~~
- 10 (g) Fee to apply for approval of a continuing education course:
- 11 fifty-six dollars (\$56) per course.
- 12 ~~(g)~~
- 13 (h) Fee to apply for a satellite office certificate: sixty-two dollars
- 14 (\$62).
- 15 ~~(h)~~
- 16 (i) Fee to renew a satellite office certificate: thirty-one dollars
- 17 (\$31).
- 18 ~~(i)~~
- 19 (j) Fee to apply for a license to practice chiropractic pursuant
- 20 to Section 9 of the Chiropractic Initiative Act: three hundred
- 21 seventy-one dollars (\$371).
- 22 ~~(j)~~
- 23 (k) Fee to apply for a certificate of registration of a chiropractic
- 24 corporation: one hundred eighty-six dollars (\$186).
- 25 ~~(k)~~
- 26 (l) Fee to renew a certificate of registration of a chiropractic
- 27 corporation: thirty-one dollars (\$31).
- 28 ~~(l)~~
- 29 (m) Fee to file a chiropractic corporation special report:
- 30 thirty-one dollars (\$31).
- 31 ~~(m)~~
- 32 (n) Fee to apply for approval as a referral service: five hundred
- 33 fifty-seven dollars (\$557).
- 34 ~~(n)~~
- 35 (o) Fee for an endorsed verification of licensure: one hundred
- 36 twenty-four dollars (\$124).
- 37 ~~(o)~~
- 38 (p) Fee for replacement of a lost or destroyed license: fifty
- 39 dollars (\$50).
- 40 ~~(p)~~

1 (q) Fee for replacement of a satellite office certificate: fifty
2 dollars (\$50).

3 ~~(q)~~

4 (r) Fee for replacement of a certificate of registration of a
5 chiropractic corporation: fifty dollars (\$50).

6 ~~(r)~~

7 (s) Fee to restore a forfeited or canceled license to practice
8 chiropractic: double the annual renewal fee specified in subdivision
9 (c).

10 ~~(s)~~

11 (t) Fee to apply for approval to serve as a preceptor: thirty-one
12 dollars (\$31).

13 ~~(t)~~

14 (u) Fee to petition for reinstatement of a revoked license: three
15 hundred seventy-one dollars (\$371).

16 ~~(u)~~

17 (v) Fee to petition for early termination of probation: three
18 hundred seventy-one dollars (\$371).

19 ~~(v)~~

20 (w) Fee to petition for reduction of penalty: three hundred
21 seventy-one dollars (\$371).

22 *SEC. 5. Section 1718 of the Business and Professions Code is*
23 *amended to read:*

24 1718. Except as otherwise provided in this chapter, an expired
25 license may be renewed at any time within five years after its
26 expiration on filing of application for renewal on a form prescribed
27 by the board, and payment of ~~all accrued~~ *the* renewal and
28 delinquency fees. If the license is renewed more than 30 days after
29 its expiration, the licensee, as a condition precedent to renewal,
30 shall also pay the delinquency fee prescribed by this chapter.
31 Renewal under this section shall be effective on the date on which
32 the application is filed, on the date on which the renewal fee is
33 paid, or on the date on which the delinquency fee, if any, is paid,
34 whichever last occurs. If so renewed, the license shall continue in
35 effect through the expiration date provided in Section 1715 which
36 next occurs after the effective date of the renewal, when it shall
37 expire if it is not again renewed.

38 *SEC. 6. Section 1718.3 of the Business and Professions Code*
39 *is amended to read:*

1 1718.3. (a) A license which is not renewed within five years
 2 after its expiration may not be renewed, restored, reinstated, or
 3 reissued thereafter, but the holder of the license may apply for and
 4 obtain a new license if the following requirements are satisfied:

5 (1) No fact, circumstance, or condition exists which would
 6 justify denial of licensure under Section 480.

7 (2) ~~He or she~~ *The person* pays all of the fees which would be
 8 required of him or her if he or she if *the person* were then applying
 9 for the license for the first time and ~~all the~~ renewal and delinquency
 10 fees which have accrued since the date on which he or she last
 11 renewed his or her license. *fees.*

12 (3) ~~He or she~~ *The person* takes and passes the examination, if
 13 any, which would be required of him or her if he or she if *the*
 14 *person* were then applying for the license for the first time, or
 15 otherwise establishes to the satisfaction of the board that with due
 16 regard for the public interest, ~~he or she~~ *the person* is qualified to
 17 practice the profession or activity in which ~~he or she~~ *again the*
 18 *person* seeks to be licensed.

19 (b) The board may impose conditions on any license issued
 20 pursuant to this section, as it deems necessary.

21 (c) The board may by regulation provide for the waiver or refund
 22 of all or any part of the examination fee in those cases in which a
 23 license is issued without an examination under this section.

24 *SEC. 7. Section 1936 of the Business and Professions Code is*
 25 *amended to read:*

26 1936. Except as otherwise provided in this article, an expired
 27 license may be renewed at any time within five years after its
 28 expiration by filing an application for renewal on a form prescribed
 29 by the hygiene board and payment of ~~all accrued~~ *the* renewal and
 30 delinquency fees. If the license is renewed after its expiration, the
 31 licensee, as a condition precedent of renewal, shall also pay the
 32 delinquency fee prescribed by this article. Renewal under this
 33 section shall be effective on the date on which the application is
 34 filed, on the date on which the renewal fee is paid, or on the date
 35 on which the delinquency fee, if any, is paid, whichever last occurs.
 36 If so renewed, the license shall continue in effect until the
 37 expiration date provided in Section 1935 that next occurs after the
 38 effective date of the renewal.

39 *SEC. 8. Section 2427 of the Business and Professions Code is*
 40 *amended to read:*

1 2427. (a) Except as provided in Section 2429, a license which
2 has expired may be renewed at any time within five years after its
3 expiration on filing an application for renewal on a form prescribed
4 by the licensing authority and payment of ~~all accrued~~ *the* renewal
5 ~~fees~~ *fee* and any other fees required by Section 2424. If the license
6 is not renewed within 30 days after its expiration, the licensee, as
7 a condition precedent to renewal, shall also pay the prescribed
8 delinquency fee, if any. Except as provided in Section 2424,
9 renewal under this section shall be effective on the date on which
10 the renewal application is filed, on the date on which the renewal
11 ~~fee or accrued renewal fees are~~ *is* paid, or on the date on which
12 the delinquency fee or the delinquency fee and penalty fee, if any,
13 are paid, whichever last occurs. If so renewed, the license shall
14 continue in effect through the expiration date set forth in Section
15 2422 or 2423 which next occurs after the effective date of the
16 renewal, when it shall expire and become invalid if it is not again
17 renewed.

18 (b) Notwithstanding subdivision (a), the license of a doctor of
19 podiatric medicine which has expired may be renewed at any time
20 within three years after its expiration on filing an application for
21 renewal on a form prescribed by the licensing authority and
22 payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and any other fees
23 required by Section 2424. If the license is not renewed within 30
24 days after its expiration, the licensee, as a condition precedent to
25 renewal, shall also pay the prescribed delinquency fee, if any.
26 Except as provided in Section 2424, renewal under this section
27 shall be effective on the date on which the renewal application is
28 filed, on the date on which the renewal ~~fee or accrued renewal fees~~
29 ~~are~~ *is* paid, or on the date on which the delinquency fee or the
30 delinquency fee and penalty fee, if any, are paid, whichever last
31 occurs. If so renewed, the license shall continue in effect through
32 the expiration date set forth in Section 2422 or 2423 which next
33 occurs after the effective date of the renewal, when it shall expire
34 and become invalid if it is not again renewed.

35 *SEC. 9. Section 2456.3 of the Business and Professions Code*
36 *is amended to read:*

37 2456.3. Except as provided in Section 2429, a license which
38 has expired may be renewed at any time within five years after its
39 expiration by filing an application for renewal on a form prescribed
40 by the board and payment of ~~all accrued~~ *the* renewal ~~fees~~ *fee* and

1 any other fees required by Section 2455. Except as provided in
 2 Section 2456.2, renewal under this section shall be effective on
 3 the date on which the renewal application is filed, on the date on
 4 which the renewal fee ~~or accrued renewal fees are~~ *is* paid, or on
 5 the date on which the delinquency fee or the delinquency fee and
 6 penalty fee, if any, are paid, whichever last occurs. If so renewed,
 7 the license shall continue in effect through the expiration date set
 8 forth in Section 2456.1 which next occurs after the effective date
 9 of the renewal.

10 *SEC. 10. Section 2535.2 of the Business and Professions Code*
 11 *is amended to read:*

12 2535.2. Except as provided in Section 2535.3, a license that
 13 has expired may be renewed at any time within five years after its
 14 expiration upon filing of an application for renewal on a form
 15 prescribed by the board and payment of ~~all accrued and unpaid~~
 16 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed on or
 17 before its expiration, the licensee, as a condition precedent to
 18 renewal, shall also pay the prescribed delinquency fee. Renewal
 19 under this section shall be effective on the date on which the
 20 application is filed, on the date on which ~~all the renewal fees are~~
 21 *fee is* paid, or on the date on which the delinquency fee is paid,
 22 whichever last occurs. If so renewed, the license shall continue in
 23 effect through the expiration date provided in Section 2535, after
 24 the effective date of the renewal, when it shall expire and become
 25 invalid if it is not again renewed.

26 *SEC. 11. Section 2538.54 of the Business and Professions Code*
 27 *is amended to read:*

28 2538.54. Except as otherwise provided in this article, an expired
 29 license may be renewed at any time within three years after its
 30 expiration on filing of an application for renewal on a form
 31 prescribed by the board, and payment of ~~all accrued and unpaid~~
 32 ~~renewal fees.~~ *the renewal fee.* If the license is renewed after its
 33 expiration the licensee, as a condition precedent to renewal, shall
 34 also pay the delinquency fee prescribed by this article. Renewal
 35 under this section shall be effective on the date on which the
 36 application is filed, on the date on which the renewal fee is paid,
 37 or on the date on which the delinquency fee, if any, is paid,
 38 whichever last occurs. If so renewed, the license shall continue in
 39 effect through the date provided in Section 2538.53 which next

1 occurs after the effective date of the renewal, when it shall expire
2 if it is not again renewed.

3 *SEC. 12. Section 2646 of the Business and Professions Code*
4 *is amended to read:*

5 2646. A license that has expired may be renewed at any time
6 within five years after its expiration by applying for renewal as
7 set forth in Section 2644. Renewal under this section shall be
8 effective on the date on which the renewal application is filed, on
9 the date on which the renewal fee ~~or accrued renewal fees are~~ *is*
10 paid, or on the date on which the delinquency fee and penalty fee,
11 if any, are paid, whichever last occurs. A renewed license shall
12 continue in effect through the expiration date set forth in Section
13 2644 that next occurs after the effective date of the renewal, at
14 which time it shall expire and become invalid if it is not so
15 renewed.

16 *SEC. 13. Section 2734 of the Business and Professions Code*
17 *is amended to read:*

18 2734. Upon application in writing to the board and payment
19 of ~~the a fee not to exceed 50 percent of the~~ biennial renewal fee,
20 a licensee may have ~~his~~ *their* license placed in an inactive status
21 for an indefinite period of time. A licensee whose license is in an
22 inactive status may not practice nursing. However, such a licensee
23 does not have to comply with the continuing education standards
24 of Section 2811.5.

25 *SEC. 14. Section 2892.1 of the Business and Professions Code*
26 *is amended to read:*

27 2892.1. Except as provided in Sections 2892.3 and 2892.5, an
28 expired license may be renewed at any time within four years after
29 its expiration upon filing of an application for renewal on a form
30 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
31 ~~fees,~~ *the renewal fee,* and payment of any fees due pursuant to
32 Section 2895.1.

33 If the license is renewed more than 30 days after its expiration,
34 the licensee, as a condition precedent to renewal, shall also pay
35 the delinquency fee prescribed by this chapter. Renewal under this
36 section shall be effective on the date on which the application is
37 filed, on the date on which ~~all the renewal fees are~~ *fee is* paid, or
38 on the date on which the delinquency fee is paid, whichever last
39 occurs. If so renewed, the license shall continue in effect through
40 the date provided in Section 2892 which next occurs after the

1 effective date of the renewal, when it shall expire if it is not again
2 renewed.

3 *SEC. 15. Section 2984 of the Business and Professions Code*
4 *is amended to read:*

5 2984. Except as provided in Section 2985, a license that has
6 expired may be renewed at any time within three years after its
7 expiration on filing of an application for renewal on a form
8 prescribed by the board and payment of ~~all accrued and unpaid~~
9 ~~the renewal fees.~~ *fee*. If the license is renewed after its expiration,
10 the licensee, as a condition precedent to renewal, shall also pay
11 the prescribed delinquency fee, if any. Renewal under this section
12 shall be effective on the date on which the application is filed, on
13 the date on which ~~all the renewal fees are~~ *fee is* paid, or on the date
14 on which the delinquency fee, if any, is paid, whichever last occurs.
15 If so renewed, the license shall continue in effect through the
16 expiration date provided in Section 2982 which next occurs after
17 the effective date of the renewal, when it shall expire and become
18 invalid if it is not again renewed.

19 *SEC. 16. Section 3147 of the Business and Professions Code*
20 *is amended to read:*

21 3147. (a) Except as otherwise provided by Section 114, an
22 expired optometrist license may be renewed at any time within
23 three years after its expiration, and a retired license issued for less
24 than three years may be reactivated to active status, by filing an
25 application for renewal or reactivation on a form prescribed by the
26 board, paying ~~all accrued and unpaid the renewal fees~~ *fee* or
27 ~~reactivation fees~~ *fee* determined by the board, paying any
28 delinquency fees prescribed by the board, and submitting proof of
29 completion of the required number of hours of continuing education
30 for the last two years, as prescribed by the board pursuant to
31 Section 3059. Renewal or reactivation to active status under this
32 section shall be effective on the date on which all of those
33 requirements are satisfied. If so renewed or reactivated to active
34 status, the license shall continue as provided in Sections 3146 and
35 3147.5.

36 (b) Expired statements of licensure, branch office licenses, and
37 fictitious name permits issued pursuant to Sections 3070, 3077,
38 and 3078, respectively, may be renewed at any time by filing an
39 application for renewal, paying ~~all accrued and unpaid renewal~~

1 ~~fees, the renewal fee~~, and paying any delinquency fees prescribed
2 by the board.

3 *SEC. 17. Section 3147.7 of the Business and Professions Code*
4 *is amended to read:*

5 3147.7. The provisions of Section 3147.6 shall not apply to a
6 person holding a license that has not been renewed within three
7 years of expiration, if the person provides satisfactory proof that
8 ~~he or she~~ *the person* holds an active license from another state and
9 meets all of the following conditions:

10 (a) Is not subject to denial of a license under Section 480.

11 (b) Applies in writing for restoration of the license on a form
12 prescribed by the board.

13 (c) Pays ~~all accrued and unpaid~~ *the renewal fees fee* and any
14 delinquency fees prescribed by the board.

15 (d) Submits proof of completion of the required number of hours
16 of continuing education for the last two years.

17 (e) Takes and satisfactorily passes the board's jurisprudence
18 examination.

19 *SEC. 18. Section 3524 of the Business and Professions Code*
20 *is amended to read:*

21 3524. A license or approval that has expired may be renewed
22 at any time within five years after its expiration by filing an
23 application for renewal on a form prescribed by the board or
24 Medical Board of California, as the case may be, and payment of
25 ~~all accrued and unpaid renewal fees.~~ *the renewal fee*. If the license
26 or approval is not renewed within 30 days after its expiration, the
27 licensed physician assistant and approved supervising physician,
28 as a condition precedent to renewal, shall also pay the prescribed
29 delinquency fee, if any. Renewal under this section shall be
30 effective on the date on which the application is filed, on the date
31 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
32 which the delinquency fee, if any, is paid, whichever occurs last.
33 If so renewed, the license shall continue in effect through the
34 expiration date provided in Section 3522 or 3523 which next occurs
35 after the effective date of the renewal, when it shall expire, if it is
36 not again renewed.

37 *SEC. 19. Section 3774 of the Business and Professions Code*
38 *is amended to read:*

39 3774. On or before the birthday of a licensed practitioner in
40 every other year, following the initial licensure, the board shall

1 mail to each practitioner licensed under this chapter, at the latest
2 address furnished by the licensed practitioner to the executive
3 officer of the board, a notice stating the amount of the renewal fee
4 and the date on which it is due. The notice shall state that failure
5 to pay the renewal fee on or before the due date and submit
6 evidence of compliance with Sections 3719 and 3773 shall result
7 in expiration of the license.

8 Each license not renewed in accordance with this section shall
9 expire but may within a period of three years thereafter be
10 reinstated upon payment of ~~all accrued and unpaid~~ *the* renewal
11 fees and penalty fees required by this chapter. The board may also
12 require submission of proof of the applicant's qualifications, except
13 that during the three-year period no examination shall be required
14 as a condition for the reinstatement of any expired license that has
15 lapsed solely by reason of nonpayment of the renewal fee.

16 *SEC. 20. Section 3775.5 of the Business and Professions Code*
17 *is amended to read:*

18 3775.5. The fee for an inactive license shall be ~~the same as no~~
19 *more than 50 percent of the renewal fee for an active license* for
20 the practice of respiratory care as specified in Section 3775.

21 *SEC. 21. Section 4545 of the Business and Professions Code*
22 *is amended to read:*

23 4545. Except as provided in Section 4545.2, a license that has
24 expired may be renewed at any time within four years after its
25 expiration on filing an application for renewal on a form prescribed
26 by the board, payment of ~~all accrued and unpaid renewal fees, the~~ *renewal fee*, and payment of all fees required by this chapter. If
27 the license is renewed more than 30 days after its expiration, the
28 holder, as a condition precedent to renewal, shall also pay the
29 delinquency fee prescribed by this chapter. Renewal under this
30 section shall be effective on the date on which the application is
31 filed, on the date on which the renewal fee is paid, or on the date
32 on which the delinquency fee, if any, is paid, whichever last occurs.
33 If so renewed, the license shall continue in effect through the date
34 provided in Section 4544 which next occurs after the effective date
35 of the renewal, when it shall expire if it is not again renewed.

36
37 A certificate which was forfeited for failure to renew under the
38 law in effect before October 1, 1961, shall, for the purposes of this
39 article, be considered to have expired on the date that it became
40 forfeited.

1 *SEC. 22. Section 4843.5 of the Business and Professions Code*
2 *is amended to read:*

3 4843.5. Except as otherwise provided in this article, an expired
4 certificate of registration may be renewed at any time within five
5 years after its expiration on filing of an application for renewal on
6 a form prescribed by the board, and payment of ~~all accrued and~~
7 ~~unpaid renewal fees.~~ *the renewal fee.* If the certificate of
8 registration is renewed more than 30 days after its expiration, the
9 registrant, as a condition precedent to renewal, shall also pay the
10 delinquency fee prescribed by this article. Renewal under this
11 section shall be effective on the date on which the application is
12 filed, on the date ~~all the renewal fees are~~ *fee is* paid, or on the date
13 on which the delinquency fee, if any, is paid, whichever occurs
14 last.

15 *SEC. 23. Section 4901 of the Business and Professions Code*
16 *is amended to read:*

17 4901. Except as otherwise provided in this chapter, an expired
18 license or registration may be renewed at any time within five
19 years after its expiration on filing of an application for renewal on
20 a form prescribed by the board, and payment of ~~all accrued and~~
21 ~~unpaid renewal fees.~~ *the renewal fee.* If the license or registration
22 is renewed more than 30 days after its expiration, the licensee or
23 registrant, as a condition precedent to renewal, shall also pay the
24 delinquency fee prescribed by this chapter. Renewal under this
25 section shall be effective on the date on which the application is
26 filed, on the date on which ~~all renewal fees are~~ *the renewal fee is*
27 paid, or on the date on which the delinquency fee, if any, is paid,
28 whichever last occurs. If so renewed, the license or registration
29 shall continue in effect through the expiration date provided in
30 Section 4900 that next occurs after the effective date of the renewal,
31 when it shall expire if it is not again renewed.

32 *SEC. 24. Section 4966 of the Business and Professions Code*
33 *is amended to read:*

34 4966. Except as provided in Section 4969, a license that has
35 expired may be renewed at any time within three years after its
36 expiration by filing of an application for renewal on a form
37 provided by the board, paying ~~all accrued and unpaid renewal fees,~~
38 *the renewal fee,* and providing proof of completing continuing
39 education requirements. If the license is not renewed prior to its
40 expiration, the acupuncturist, as a condition precedent to renewal,

1 shall also pay the prescribed delinquency fee. Renewal under this
 2 section shall be effective on the date on which the application is
 3 filed, on the date on which the renewal fee is paid, or on the date
 4 the delinquency fee is paid, whichever occurs last. If so renewed,
 5 the license shall continue in effect through the expiration date
 6 provided in Section 4965, after the effective date of the renewal,
 7 when it shall expire and become invalid if it is not again renewed.

8 *SEC. 25. Section 4989.36 of the Business and Professions Code*
 9 *is amended to read:*

10 4989.36. A licensee may renew a license that has expired at
 11 any time within three years after its expiration date by taking all
 12 of the actions described in Section 4989.32 and by paying ~~all~~
 13 ~~unpaid prior renewal fees and delinquency fees.~~ *the delinquency*
 14 *fee.*

15 *SEC. 26. Section 4999.104 of the Business and Professions*
 16 *Code is amended to read:*

17 4999.104. Licenses issued under this chapter that have expired
 18 may be renewed at any time within three years of expiration. To
 19 renew an expired license described in this section, the licensee
 20 shall do all of the following:

21 (a) File an application for renewal on a form prescribed by the
 22 board.

23 ~~(b) Pay all fees that would have been paid if the license had not~~
 24 ~~become delinquent.~~

25 ~~(c)~~

26 ~~(b)~~ Pay ~~all~~ *the delinquency fees.* *fee.*

27 ~~(d)~~

28 (c) Certify compliance with the continuing education
 29 requirements set forth in Section 4999.76.

30 ~~(e)~~

31 (d) Notify the board whether ~~he or she~~ *the licensee* has been
 32 convicted, as defined in Section 490, of a misdemeanor or felony,
 33 or whether any disciplinary action has been taken by any regulatory
 34 or licensing board in this or any other state, subsequent to the
 35 licensee's last renewal.

36 *SEC. 27. Section 5070.6 of the Business and Professions Code*
 37 *is amended to read:*

38 5070.6. Except as otherwise provided in this chapter, an expired
 39 permit may be renewed at any time within five years after its
 40 expiration upon the filing of an application for renewal on a form

1 prescribed by the board, payment of ~~all accrued and unpaid renewal~~
2 ~~fees~~ *the renewal fee*, and providing evidence satisfactory to the
3 board of compliance as required by Section 5070.5. If the permit
4 is renewed after its expiration, its holder, as a condition precedent
5 to renewal, shall also pay the delinquency fee prescribed by this
6 chapter. Renewal under this section shall be effective on the date
7 on which the application is filed, on the date on which the ~~accrued~~
8 ~~renewal fees~~ *are fee is paid*, or on the date on which the
9 delinquency fee, if any, is paid, whichever last occurs. If so
10 renewed, the permit shall continue in effect through the date
11 provided in Section 5070.5 that next occurs after the effective date
12 of the renewal, when it shall expire if it is not again renewed.

13 *SEC. 28. Section 5600.2 of the Business and Professions Code*
14 *is amended to read:*

15 5600.2. Except as otherwise provided in this chapter, a license
16 which has expired may be renewed at any time within five years
17 after its expiration on filing of application for renewal on a form
18 prescribed by the board, and payment of ~~all accrued and unpaid~~
19 ~~renewal fees~~ *the renewal fee*. If a license is renewed more than
20 30 days after its expiration, the licenseholder, as a condition
21 precedent to renewal, shall also pay the delinquency fee prescribed
22 by this chapter. Renewal under this section shall be effective on
23 the date on which the application is filed, on the date on which the
24 renewal fee is paid, or on the date on which the delinquency fee,
25 if any, is paid, whichever last occurs. If so renewed, the license
26 shall continue in effect through the expiration date provided in this
27 chapter which next occurs after the effective date of the renewal,
28 when it shall expire if it is not again renewed.

29 *SEC. 29. Section 5680.1 of the Business and Professions Code*
30 *is amended to read:*

31 5680.1. Except as otherwise provided in this chapter, a license
32 that has expired may be renewed at any time within five years after
33 its expiration on filing of an application for renewal on a form
34 prescribed by the board, and payment of ~~all accrued and unpaid~~
35 ~~renewal fees~~ *the renewal fee*. If the license is renewed more than
36 30 days after its expiration, the licenseholder, as a condition
37 precedent to renewal, shall also pay the delinquency fee prescribed
38 by this chapter. Renewal under this section shall be effective on
39 the date on which the application is filed, on the date on which ~~all~~
40 ~~the renewal fees~~ *are fee is paid*, or on the date on which the

1 delinquency fee, if any, is paid, whichever last occurs. If so
2 renewed, the license shall continue in effect through the date
3 provided in Section 5680 that next occurs after the effective date
4 of the renewal, when it shall expire if it is not again renewed.

5 *SEC. 30. Section 6796 of the Business and Professions Code*
6 *is amended to read:*

7 6796. Except as otherwise provided in this article, certificates
8 of registration as a professional engineer and certificates of
9 authority may be renewed at any time within five years after
10 expiration on filing of application for renewal on a form prescribed
11 by the board and payment of ~~all accrued and unpaid renewal fees.~~
12 *the renewal fee.* If the certificate is renewed more than 60 days
13 after its expiration, the certificate holder, as a condition precedent
14 to renewal, shall also pay the delinquency fee prescribed by this
15 chapter. Renewal under this section shall be effective on the date
16 on which the application is filed, on the date on which the renewal
17 fee is paid, or on the date on which the delinquency fee, if any, is
18 paid, whichever last occurs.

19 The expiration date of a certificate renewed pursuant to this
20 section shall be determined pursuant to Section 6795.

21 *SEC. 31. Section 6980.28 of the Business and Professions Code*
22 *is amended to read:*

23 6980.28. A locksmith license not renewed within three years
24 following its expiration may not be renewed thereafter. Renewal
25 of the license within three years, or issuance of an original license
26 thereafter, shall be subject to payment of any ~~and all fines~~ *fine*
27 assessed by the chief or the director ~~which are~~ *that is* not pending
28 appeal and all other applicable fees.

29 *SEC. 32. Section 7076.5 of the Business and Professions Code*
30 *is amended to read:*

31 7076.5. (a) A contractor may inactivate ~~his or her~~ *their* license
32 by submitting a form prescribed by the registrar accompanied by
33 the current active license certificate. When the current license
34 certificate has been lost, the licensee shall pay the fee prescribed
35 by law to replace the license certificate. Upon receipt of an
36 acceptable application to inactivate, the registrar shall issue an
37 inactive license certificate to the contractor. The holder of an
38 inactive license shall not be entitled to practice as a contractor until
39 ~~his or her~~ *their* license is reactivated.

1 (b) Any licensed contractor who is not engaged in work or
2 activities which require a contractor's license may apply for an
3 inactive license.

4 (c) Inactive licenses shall be valid for a period of four years
5 from their due date.

6 (d) During the period that an existing license is inactive, no
7 bonding requirement pursuant to Section 7071.6, 7071.8 or 7071.9
8 or qualifier requirement pursuant to Section 7068 shall apply. An
9 applicant for license having met the qualifications for issuance
10 may request that the license be issued inactive unless the applicant
11 is subject to the provisions of Section 7071.8.

12 (e) The board shall not refund any of the renewal fee which a
13 licensee may have paid prior to the inactivation of ~~his or her~~ *the*
14 license.

15 (f) An inactive license shall be renewed on each established
16 renewal date by submitting the renewal application and paying the
17 inactive renewal fee.

18 (g) An inactive license may be reactivated by submitting an
19 application acceptable to the registrar, by paying ~~the full~~ *a fee no*
20 *more than 50 percent of the* renewal fee for an active ~~license~~
21 *license*, and by fulfilling all other requirements of this chapter. No
22 examination shall be required to reactivate an inactive license.

23 (h) The inactive status of a license shall not bar any disciplinary
24 action by the board against a licensee for any of the causes stated
25 in this chapter.

26 *SEC. 33. Section 7417 of the Business and Professions Code*
27 *is amended to read:*

28 7417. Except as otherwise provided in this article, a license
29 that has expired for failure of the licensee to renew within the time
30 fixed by this article may be renewed at any time within five years
31 following its expiration upon application and payment of ~~all~~
32 ~~accrued and unpaid~~ *the* renewal ~~fees~~ and delinquency fees. If the
33 license is renewed after its expiration, the licensee, as a condition
34 precedent to renewal, shall also pay the delinquency fee and meet
35 current continuing education requirements, if applicable, prescribed
36 by this chapter. Renewal under this section shall be effective on
37 the date on which the application is filed, or on the date on which
38 ~~the accrued renewal fees are~~ *fee is* paid, or on the date on which
39 the delinquency fee, if any, is paid, whichever occurs last. If so
40 renewed, the license shall continue in effect through the expiration

1 date provided in this article which next occurs following the
2 effective date of the renewal, when it shall expire if it is not again
3 renewed.

4 *SEC. 34. Section 7672.8 of the Business and Professions Code*
5 *is amended to read:*

6 7672.8. All cremated remains disposer registrations shall expire
7 at midnight on September 30 of each year. A person desiring to
8 renew ~~his or her~~ *their* registration shall file an application for
9 renewal on a form prescribed by the bureau accompanied by the
10 required fee. A registration that has expired may be renewed within
11 five years of its expiration upon payment of ~~all accrued and unpaid~~
12 ~~renewal fees.~~ *the renewal fee.* The bureau shall not renew the
13 registration of any person who has not filed the required annual
14 report until ~~he or she~~ *the person* has filed a complete annual report
15 with the department.

16 *SEC. 35. Section 7725.2 of the Business and Professions Code*
17 *is amended to read:*

18 7725.2. Except as otherwise provided in this chapter, a license
19 that has expired may be renewed at any time within five years after
20 its expiration on filing of an application for renewal on a form
21 prescribed by the bureau and payment of ~~all accrued and unpaid~~
22 ~~renewal fees.~~ *the renewal fee.* If the license is not renewed within
23 30 days after its expiration the licensee, as a condition precedent
24 to renewal, shall also pay the delinquency fee prescribed by this
25 chapter. Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which ~~all the~~
27 ~~renewal fees are~~ *fee is* paid, or on the date on which the
28 delinquency fee, if any, is paid, whichever last occurs. If so
29 renewed, the license shall continue in effect through the date
30 provided in Section 7725 that next occurs after the effective date
31 of the renewal, when it shall expire if it is not again renewed.

32 If a license is not renewed within one year following its
33 expiration, the bureau may require as a condition of renewal that
34 the holder of the license pass an examination on the appropriate
35 subjects provided by this chapter.

36 *SEC. 36. Section 7729.1 of the Business and Professions Code*
37 *is amended to read:*

38 7729.1. The amount of fees prescribed for a license or
39 certificate of authority under this act is that fixed by the following
40 provisions of this article. Any license or certificate of authority

1 provided under this act that has expired may be renewed within
2 five years of its expiration upon payment of ~~all accrued and unpaid~~
3 ~~renewal and regulatory fees.~~ *the renewal fee.*

4 *SEC. 37. Section 7881 of the Business and Professions Code*
5 *is amended to read:*

6 7881. Except as otherwise provided in this article, certificates
7 of registration as a geologist or as a geophysicist, or certified
8 specialty certificates, may be renewed at any time within five years
9 after expiration on filing an application for renewal on a form
10 prescribed by the board and payment of ~~all accrued and unpaid~~
11 ~~renewal fees.~~ *the renewal fee.* If the certificate is renewed more
12 than 30 days after its expiration, the certificate holder, as a
13 condition precedent to renewal, shall also pay the delinquency fee
14 prescribed by this chapter. Renewal under this section shall be
15 effective on the date on which the application is filed, on the date
16 on which ~~all the renewal fees are~~ *fee is* paid, or on the date on
17 which the delinquency fee, if any, is paid, whichever last occurs.
18 If so renewed, the certificate shall continue in effect through the
19 date provided in Section 7880 that next occurs after the effective
20 date of the renewal, when it shall expire if it is not again renewed.

21 *SEC. 38. Section 7883 of the Business and Professions Code*
22 *is amended to read:*

23 7883. A revoked certificate is subject to expiration as provided
24 in this article, but it may not be renewed. If it is reinstated after its
25 expiration, the holder of the certificate, as a condition precedent
26 to its reinstatement, shall pay a reinstatement fee in an amount
27 equal to the renewal fee in effect on the last regular date before
28 the date on which it is ~~reinstated, plus all accrued and unpaid~~
29 ~~renewal fees~~ *reinstated* and the delinquency fee, if any, accrued
30 at the time of its revocation.

31 *SEC. 39. Section 8024.7 of the Business and Professions Code*
32 *is amended to read:*

33 8024.7. The board shall establish an inactive category of
34 licensure for persons who are not actively engaged in the practice
35 of shorthand reporting.

36 (a) The holder of an inactive license issued pursuant to this
37 section shall not engage in any activity for which a license is
38 required.

39 (b) An inactive license issued pursuant to this section shall be
40 renewed during the same time period in which an active license

1 is renewed. The holder of an inactive license is exempt from any
 2 continuing education requirement for renewal of an active license.

3 (c) The renewal fee for a license in an active status shall ~~apply~~
 4 ~~also for a renewal of a license in an inactive status, unless a lesser~~
 5 ~~renewal fee is specified by the board.~~ *be no more than 50 percent*
 6 *of the renewal fee for a license in an active status.*

7 (d) In order for the holder of an inactive license issued pursuant
 8 to this section to restore ~~his or her~~ *their* license to an active status,
 9 the holder of an inactive license shall comply with both of the
 10 following:

- 11 (1) Pay the renewal fee.
- 12 (2) If the board requires completion of continuing education for
 13 renewal of an active license, complete continuing education
 14 equivalent to that required for renewal of an active license, unless
 15 a different requirement is specified by the board.

16 *SEC. 40. Section 8802 of the Business and Professions Code*
 17 *is amended to read:*

18 8802. Except as otherwise provided in this article, licenses
 19 issued under this chapter may be renewed at any time within five
 20 years after expiration on filing of application for renewal on a form
 21 prescribed by the board and payment of ~~all accrued and unpaid~~
 22 ~~renewal fees.~~ *the renewal fee.* If the license is renewed more than
 23 30 days after its expiration, the licensee, as a condition precedent
 24 to renewal, shall also pay the delinquency fee prescribed by this
 25 chapter. Renewal under this section shall be effective on the date
 26 on which the application is filed, on the date on which the renewal
 27 fee is paid, or on the date on which the delinquency fee, if any, is
 28 paid, whichever last occurs. If so renewed, the license shall
 29 continue in effect through the date provided in Section 8801 which
 30 next occurs after the effective date of the renewal, when it shall
 31 expire if it is not again renewed.

32 *SEC. 41. Section 9832 of the Business and Professions Code*
 33 *is amended to read:*

34 9832. (a) Registrations issued under this chapter shall expire
 35 no more than 12 months after the issue date. The expiration date
 36 of registrations shall be set by the director in a manner to best
 37 distribute renewal procedures throughout the year.

38 (b) To renew an unexpired registration, the service dealer shall,
 39 on or before the expiration date of the registration, apply for

1 renewal on a form prescribed by the director, and pay the renewal
2 fee prescribed by this chapter.

3 (c) To renew an expired registration, the service dealer shall
4 apply for renewal on a form prescribed by the director, pay the
5 renewal fee in effect on the last regular renewal date, and pay ~~all~~
6 ~~accrued and unpaid~~ the delinquency ~~and renewal fees.~~ *fee.*

7 (d) Renewal is effective on the date that the application is ~~filed,~~
8 ~~filed and~~ the renewal fee is paid, and ~~all~~ delinquency fees are paid.

9 (e) For purposes of implementing the distribution of the renewal
10 of registrations throughout the year, the director may extend by
11 not more than six months, the date fixed by law for renewal of a
12 registration, except that in that event any renewal fee that may be
13 involved shall be prorated in a manner that no person shall be
14 required to pay a greater or lesser fee than would have been
15 required had the change in renewal dates not occurred.

16 *SEC. 42. Section 9832.5 of the Business and Professions Code*
17 *is amended to read:*

18 9832.5. (a) Registrations issued under this chapter shall expire
19 no more than 12 months after the issue date. The expiration date
20 of registrations shall be set by the director in a manner to best
21 distribute renewal procedures throughout the year.

22 (b) To renew an unexpired registration, the service contractor
23 shall, on or before the expiration date of the registration, apply for
24 renewal on a form prescribed by the director, and pay the renewal
25 fee prescribed by this chapter.

26 (c) To renew an expired registration, the service contractor shall
27 apply for renewal on a form prescribed by the director, pay the
28 renewal fee in effect on the last regular renewal date, and pay ~~all~~
29 ~~accrued and unpaid~~ the delinquency and renewal fees.

30 (d) Renewal is effective on the date that the application is ~~filed,~~
31 ~~filed and~~ the renewal fee is paid, and ~~all~~ delinquency fees are paid.

32 (e) For purposes of implementing the distribution of the renewal
33 of registrations throughout the year, the director may extend, by
34 not more than six months, the date fixed by law for renewal of a
35 registration, except that, in that event, any renewal fee that may
36 be involved shall be prorated in such a manner that no person shall
37 be required to pay a greater or lesser fee than would have been
38 required had the change in renewal dates not occurred.

39 (f) This section shall remain in effect only until January 1, 2023,
40 and as of that date is repealed.

1 *SEC. 43. Section 9884.5 of the Business and Professions Code*
2 *is amended to read:*

3 9884.5. A registration that is not renewed within three years
4 following its expiration shall not be renewed, restored, or reinstated
5 thereafter, and the delinquent registration shall be canceled
6 immediately upon expiration of the three-year period.

7 An automotive repair dealer whose registration has been canceled
8 by operation of this section shall obtain a new registration only if
9 ~~he or she~~ *the automotive repair dealer* again meets the requirements
10 set forth in this chapter relating to registration, is not subject to
11 denial under Section 480, and pays the applicable fees.

12 An expired registration may be renewed at any time within three
13 years after its expiration upon the filing of an application for
14 renewal on a form prescribed by the bureau and the payment of
15 ~~all accrued~~ *the* renewal and delinquency fees. Renewal under this
16 section shall be effective on the date on which the application is
17 filed and ~~all~~ *the* renewal and delinquency fees are paid. If so
18 renewed, the registration shall continue in effect through the
19 expiration date of the current registration year as provided in
20 Section 9884.3, at which time the registration shall be subject to
21 renewal.

22 *SEC. 44. Section 19170.5 of the Business and Professions Code*
23 *is amended to read:*

24 19170.5. (a) Except as provided in Section 19170.3, licenses
25 issued under this chapter expire two years from the date of
26 issuance. To renew ~~his or her~~ *a* license, a licensee shall, on or
27 before the date on which it would otherwise expire, apply for
28 renewal on a form prescribed by the chief, and pay the fees
29 prescribed by Sections 19170 and 19213.1. If a licensee fails to
30 renew ~~his or her~~ *their* license before its expiration, a delinquency
31 fee of 20 percent, but not more than one hundred dollars (\$100),
32 notwithstanding the provisions of Section 163.5, shall be added
33 to the renewal fee. If the renewal fee and delinquency fee are not
34 paid within 90 days after expiration of a license, the licensee shall
35 be assessed an additional penalty fee of 30 percent of the renewal
36 fee.

37 (b) Except as otherwise provided in this chapter, a licensee may
38 renew an expired license within six years after expiration of the
39 license by filing an application for renewal on a form prescribed

1 by the bureau, and paying ~~all accrued renewal, delinquent, the~~
2 ~~renewal, delinquency,~~ and penalty fees.

3 (c) A license that is not renewed within six years of its expiration
4 shall not be renewed, restored, reinstated, or reissued, but the holder
5 of the license may apply for and obtain a new license if both of
6 the following requirements are satisfied:

7 (1) No fact, circumstance, or condition exists which would
8 justify denial of licensure under Section 480.

9 (2) The licensee pays ~~all the~~ renewal, delinquency, and penalty
10 fees ~~that have accrued since the date on which the license was last~~
11 ~~renewed.~~ fees.

12 (d) The bureau may impose conditions on any license issued
13 pursuant to subdivision (c).

14 *SEC. 45. Section 19290 of the Business and Professions Code*
15 *is amended to read:*

16 19290. (a) Permits issued under this chapter expire two years
17 from the date of issuance. To renew a permit, a permittee shall,
18 on or before the date on which it would otherwise expire, apply
19 for renewal on a form prescribed by the chief, and continue to pay
20 the fees prescribed in Sections 19288 and 19288.1. Notwithstanding
21 Section 163.5, if a permittee fails to renew the permit before its
22 expiration, a delinquency fee of 20 percent of the most recent fee
23 paid to the bureau pursuant to Sections 19288 and 19288.1 shall
24 be added to the amount due to the bureau at the next fee interval.
25 If the renewal fee and delinquency fee are not paid within 90 days
26 after expiration of a permit, the permittee shall be assessed an
27 additional fee of 30 percent of the most recent fee paid to the
28 bureau pursuant to Sections 19288 and 19288.1.

29 (b) Except as otherwise provided in this chapter, a permittee
30 may renew an expired permit within two years after expiration of
31 the permit by filing an application for renewal on a form prescribed
32 by the bureau, and paying all ~~accrued~~ fees.

33 (c) A permit that is not renewed within two years of its
34 expiration shall not be renewed, restored, reinstated, or reissued,
35 but the holder of the expired permit may apply for and obtain a
36 new permit as provided in this chapter, upon payment of all fees
37 that accrued since the date the permit was last renewed.

38 (d) The bureau may impose conditions on any permit issued
39 pursuant to subdivision (c).

1 SECTION 1. ~~Section 4073 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 4073. (a) ~~A pharmacist filling a prescription order for a drug~~
4 ~~product prescribed by its trade or brand name may select another~~
5 ~~drug product with the same active chemical ingredients of the same~~
6 ~~strength, quantity, and dosage form, and of the same generic drug~~
7 ~~name as determined by the United States Adopted Names (USAN)~~
8 ~~and accepted by the federal Food and Drug Administration (FDA),~~
9 ~~of those drug products having the same active chemical ingredients.~~

10 (b) ~~In no case shall a selection be made pursuant to this section~~
11 ~~if the prescriber personally indicates, either orally or in the~~
12 ~~prescriber's own handwriting, "Do not substitute," or words of~~
13 ~~similar meaning. Nothing in this subdivision shall prohibit a~~
14 ~~prescriber from checking a box on a prescription marked "Do not~~
15 ~~substitute"; provided that the prescriber personally initials the box~~
16 ~~or checkmark. To indicate that a selection shall not be made~~
17 ~~pursuant to this section for an electronic data transmission~~
18 ~~prescription as defined in subdivision (c) of Section 4040, a~~
19 ~~prescriber may indicate "Do not substitute," or words of similar~~
20 ~~meaning, in the prescription as transmitted by electronic data, or~~
21 ~~may check a box marked on the prescription "Do not substitute."~~
22 ~~In either instance, it shall not be required that the prohibition on~~
23 ~~substitution be manually initialed by the prescriber.~~

24 (c) ~~Selection pursuant to this section is within the discretion of~~
25 ~~the pharmacist, except as provided in subdivision (b). The person~~
26 ~~who selects the drug product to be dispensed pursuant to this~~
27 ~~section shall assume the same responsibility for selecting the~~
28 ~~dispensed drug product as would be incurred in filling a~~
29 ~~prescription for a drug product prescribed by generic name. There~~
30 ~~shall be no liability on the prescriber for an act or omission by a~~
31 ~~pharmacist in selecting, preparing, or dispensing a drug product~~
32 ~~pursuant to this section. In no case shall the pharmacist select a~~
33 ~~drug product pursuant to this section unless the drug product~~
34 ~~selected costs the patient less than the prescribed drug product.~~
35 ~~Cost, as used in this subdivision, is defined to include any~~
36 ~~professional fee that may be charged by the pharmacist.~~

37 (d) ~~This section shall apply to all prescriptions, including those~~
38 ~~presented by or on behalf of persons receiving assistance from the~~
39 ~~federal government or pursuant to the California Medical~~
40 ~~Assistance Program set forth in Chapter 7 (commencing with~~

1 ~~Section 14000) of Part 3 of Division 9 of the Welfare and~~
2 ~~Institutions Code.~~
3 ~~(e) When a substitution is made pursuant to this section, the use~~
4 ~~of the cost-saving drug product dispensed shall be communicated~~
5 ~~to the patient and the name of the dispensed drug product shall be~~
6 ~~indicated on the prescription label, except where the prescriber~~
7 ~~orders otherwise.~~

O

**AB 613 (*Low*) Professions and vocations:
regulatory fees**

ASSEMBLY BILL

No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

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

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

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:

3 101.1. (a) Notwithstanding any other law, no more than once
4 every four years, any board listed in Section 101 may increase any
5 fee authorized to be imposed by that board by an amount not to
6 exceed the increase in the California Consumer Price Index, as
7 determined pursuant to Section 2212 of the Revenue and Taxation
8 Code, for the preceding four years in accordance with the
9 following:

10 (1) The board shall provide its calculations and proposed fee,
11 rounded to the nearest whole dollar, to the director and the director
12 shall approve the fee increase unless any of the following apply:

13 (A) The board has unencumbered funds in an amount that is
14 equal to more than the board’s operating budget for the next two
15 fiscal years.

16 (B) The fee would exceed the reasonable regulatory costs to the
17 board in administering the provisions for which the fee is
18 authorized.

19 (C) The director determines that the fee increase would be
20 injurious to the public health, safety, or welfare.

21 (2) The adjustment of fees and publication of the adjusted fee
22 list is not subject to the Administrative Procedure Act (Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2) of the Government Code.

25 (b) For purposes of this section, “fee” includes any fees
26 authorized to be imposed by a board for regulatory costs. “Fee”
27 does not include administrative fines, civil penalties, or criminal
28 penalties.

O

**AB 617 (*Mullin*) Stem Cell Clinic Regulation
Advisory Group**

AMENDED IN ASSEMBLY MAY 1, 2019
AMENDED IN ASSEMBLY APRIL 22, 2019
AMENDED IN ASSEMBLY MARCH 21, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 617

Introduced by Assembly Member Mullin

February 14, 2019

An act to add ~~Chapter 3 (commencing with Section 125360) to Part 5.5 of Division 106 of the Health and Safety Code, and repeal Article 24.5 (commencing with Section 2524) of Chapter 5 of Division 2 of the Business and Professions Code, relating to public health.~~ *healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 617, as amended, Mullin. ~~Stem Cell Clinic and Regenerative Therapy Regulation Advisory Group.~~

Existing law, including, among other laws, the Medical Practice Act, the Osteopathic Act, and the Nursing Practice Act, provides for the licensure and regulation of various health care practitioners by various boards within the Department of Consumer Affairs, including the Medical Board of California, the Osteopathic Medical Board of California, and the Board of Registered Nursing. Existing law requires licensed health care practitioners who perform stem cell therapies that are subject to regulation by the United States Food and Drug Administration (FDA), but are not FDA approved, to communicate to their patients specified information regarding the therapies in a notice and in writing prior to providing the initial stem cell therapy.

Existing law requires the State Department of Public Health to establish and maintain an anonymous registry of embryos that are

available for research. Existing law makes it the policy of the state that research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells shall be reviewed by a stem cell research oversight committee.

The California Stem Cell Research and Cures Act, an initiative measure approved by the voters at the November 2, 2004, statewide general election as Proposition 71, establishes the California Institute for Regenerative Medicine (CIRM), the purpose of which is, among other things, to make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and medical procedures that will result in the cure for, or substantial mitigation of, diseases and injuries. Existing law prohibits amendment of Proposition 71 by the Legislature unless the amendment is approved by the voters, or the amendment is accomplished by a bill introduced after the first 2 full calendar years and approved by a vote of 70% of both houses, and only if the amendment enhances the ability of the institute to further the purposes of the grant and loan programs.

Existing federal law creates an electronic registration and listing system for establishments that manufacture human cells, tissues, and cellular and tissue-based products (HCT/Ps) and ~~to establish~~ *establishes* current good tissue practice and other procedures to prevent the introduction, transmission, and spread of communicable diseases by HCT/Ps. Existing federal law requires the ~~federal Food and Drug Administration~~ *FDA* to register, list, and regulate HCT/Ps for these purposes.

This bill would require the ~~department,~~ *Medical Board of California,* no later than February 1, 2020, to ~~convene~~ *establish* the Stem Cell ~~Clinic~~ *and Regenerative Therapy Regulation Advisory Group* for purposes of, ~~among other duties, holding~~ *comprised of specified members, including 3 members appointed by the CIRM, as specified.* By imposing a duty on the CIRM to appoint members to the Stem Cell and Regenerative Therapy Regulation Advisory Group, the bill would require for passage a 70% vote. The bill, on or after July 1, 2020, would authorize the board to make the appointments that CIRM fails to make. The bill would require the advisory group to convene a series of stakeholder meetings to review *the Medical Practice Act, the Osteopathic Act, and the State Department of Public Health's* current licensing and certification laws and ~~the department's~~ procedures to determine whether those laws and procedures provide for adequate

consumer protection for the use of stem cell therapies in ~~clinics, and~~
clinics and other practice settings, to make recommendations to the
 Legislature, on or before July 1, 2020, regarding how to improve state
 oversight of ~~clinics licensees~~ offering or providing stem cell therapies
 to ~~patients~~. *patients, and to make recommendations to the board for the*
adoption of emergency regulations, as specified. The bill would
authorize the board to adopt those recommended emergency regulations,
as specified. The bill would repeal these provisions on January 1, 2024.

Vote: ~~majority~~ 70%. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Article 24.5 (commencing with Section 2524) is
 2 added to Chapter 5 of Division 2 of the Business and Professions
 3 Code, to read:

4
 5 Article 24.5. Stem Cell and Regenerative Therapy Regulation
 6 Advisory Group

7
 8 2524. For purposes of this article, the following definitions
 9 apply:

- 10 (a) “Board” means the Medical Board of California.
- 11 (b) “Clinic” has the meaning set forth in Section 1200 of the
 12 Health and Safety Code.
- 13 (c) “Department” means the State Department of Public Health.
- 14 (d) “FDA” means the United States Food and Drug
 15 Administration.
- 16 (e) “HCT/Ps” means human cells, tissues, or cellular or
 17 tissue-based products, as defined in Section 1271.3 of Title 21 of
 18 the Code of Federal Regulations, as amended August 31, 2016,
 19 as published in the Federal Register (81 Fed. Reg. 60223).
- 20 (f) “Licensee” means a licensee of the Board of Registered
 21 Nursing, the Medical Board of California, or the Osteopathic
 22 Medical Board of California.
- 23 (g) “Stem cell therapy” means a therapy involving the use of
 24 HCT/Ps.

25 2524.1. (a) No later than February 1, 2020, the board shall
 26 establish the Stem Cell and Regenerative Therapy Regulation

1 *Advisory Group comprised of the following members who shall*
2 *serve in an advisory capacity:*

3 *(1) Three members appointed by the board that are members*
4 *of the board, including two physician and surgeon members and*
5 *one public member.*

6 *(2) Three members appointed by the California Institute for*
7 *Regenerative Medicine no later than January 15, 2020. On or after*
8 *July 1, 2020, the board may make those appointments that the*
9 *California Institute for Regenerative Medicine fails to make*
10 *pursuant to this paragraph.*

11 *(3) Two members of the Osteopathic Medical Board of*
12 *California appointed by the Osteopathic Medical Board of*
13 *California.*

14 *(4) One member of the Board of Registered Nursing appointed*
15 *by the Board of Registered Nursing.*

16 *(b) The Stem Cell and Regenerative Therapy Regulation*
17 *Advisory Group shall convene a series of stakeholder meetings*
18 *for the following purposes:*

19 *(1) Review the Medical Practice Act, the Osteopathic Act, and*
20 *the department's current licensing and certification laws and*
21 *procedures to determine whether those laws and procedures*
22 *provide for adequate consumer protection for the use of stem cell*
23 *therapies in clinics and other practice settings.*

24 *(2) Make recommendations to the Legislature, on or before July*
25 *1, 2020, regarding how to improve state oversight of licensees*
26 *offering or providing stem cell therapies to patients. A report*
27 *submitted to the Legislature authorized by this paragraph shall*
28 *be in compliance with Section 9795 of the Government Code.*

29 *(3) Make recommendations to the board, if appropriate, for the*
30 *adoption of emergency regulations to protect the public against*
31 *stem cell therapies that are not in compliance with federal laws*
32 *and regulations, including regulations adopted by the FDA.*

33 *(c) The board may adopt emergency regulations recommended*
34 *pursuant to paragraph (3) of subdivision (b). The board shall*
35 *consult relevant stakeholders prior to adopting those regulations*
36 *and shall provide a 90-day notice to stakeholders prior to adopting*
37 *regulations. The adoption of these regulations is deemed to address*
38 *an emergency, for purposes of Sections 11346.1 and 11349.6 of*
39 *the Government Code, and is hereby exempted for this purpose*

1 *from the requirements of subdivision (b) of Section 11346.1 of the*
2 *Government Code.*

3 2524.2. *This article shall remain in effect only until January*
4 *1, 2024, and as of that date is repealed.*

5 SECTION 1. ~~Chapter 3 (commencing with Section 125360)~~
6 ~~is added to Part 5.5 of Division 106 of the Health and Safety Code,~~
7 ~~to read:~~

8
9 ~~CHAPTER 3. STEM CELL CLINIC REGULATION ADVISORY GROUP~~

10
11 125360. ~~For purposes of this chapter, the following definitions~~
12 ~~apply:~~

- 13 (a) ~~“Clinic” has the meaning set forth in Section 1200.~~
- 14 (b) ~~“Department” means the State Department of Public Health.~~
- 15 (c) ~~“FDA” means the federal Food and Drug Administration.~~
- 16 (d) ~~“HCT/Ps” means human cells, tissues, or cellular or~~
17 ~~tissue-based products, as defined in Section 1271.3 of Title 21 of~~
18 ~~the Code of Federal Regulations, as amended August 31, 2016, as~~
19 ~~published in the Federal Register (81 Fed. Reg. 60223).~~
- 20 (e) ~~“Stem cell therapy” means a therapy involving the use of~~
21 ~~HCT/Ps.~~

22 125361. ~~(a) No later than February 1, 2020, the department~~
23 ~~shall convene the Stem Cell Clinic Regulation Advisory Group~~
24 ~~for purposes of holding a series of stakeholder meetings. The duties~~
25 ~~of the advisory group include all of the following:~~

- 26 (1) ~~Review current licensing and certification laws and the~~
27 ~~department’s procedures to determine whether those laws and~~
28 ~~procedures provide for adequate consumer protection for the use~~
29 ~~of stem cell therapies in clinics.~~
- 30 (2) ~~Make recommendations to the Legislature, on or before July~~
31 ~~1, 2020, regarding how to improve state oversight of clinics~~
32 ~~offering or providing stem cell therapies to patients.~~
- 33 (3) ~~Adopt, if appropriate, emergency regulations to protect the~~
34 ~~public against stem cell therapies that are not in compliance with~~
35 ~~federal laws and regulations, including regulations adopted by the~~
36 ~~federal Food and Drug Administration. The department shall~~
37 ~~consult relevant stakeholders prior to promulgating regulations~~
38 ~~and shall provide a 90-day notice to stakeholders prior to adopting~~
39 ~~regulations. The adoption of these regulations is an emergency~~

1 and necessary for the immediate preservation of the public peace,
2 health and safety, or general welfare.
3 (b) ~~In carrying out the duties described in subdivision (a), the~~
4 ~~department shall consult with the medical community, bioethicists,~~
5 ~~legal scholars, and patient advocacy groups. The department is~~
6 ~~authorized to consult with the California Institute for Regenerative~~
7 ~~Medicine.~~

O

**AB 714 (*Wood*) Opioid prescription drugs:
prescribers**

AMENDED IN ASSEMBLY APRIL 4, 2019
AMENDED IN ASSEMBLY MARCH 19, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 714

Introduced by Assembly Member Wood

February 19, 2019

An act to amend Sections 740 and 741 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 714, as amended, Wood. Opioid prescription drugs: prescribers.

Existing law requires a prescriber, as defined, to offer to a patient a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression when certain conditions are present, including if the patient presents with an increased risk for overdose or a history of substance use disorder, and to provide education on overdose prevention to patients receiving a prescription and specified other persons.

This bill would make those provisions applicable only to a patient receiving a prescription for an opioid or benzodiazepine medication, and would make the provisions specific to opioid-induced respiratory depression, opioid overdose, opioid use disorder, and opioid overdose prevention, as specified. ~~The bill~~ *bill, among other exclusions*, would exclude from the above-specified provisions requiring prescribers to offer a prescription and provide education prescribers when ~~prescribing, ordering, or administering~~ *ordering medications to be administered to*

a patient in an inpatient health facility and prescribers prescribing to a patient in outpatient-based hospice care, or outpatient setting. The bill would define terms for purposes of those provisions.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 740 of the Business and Professions Code
2 is amended to read:

3 740. For purposes of this article, the following definitions
4 apply:

5 (a) “Administer” means the direct application of a drug or device
6 to the body of a patient by injection, inhalation, ingestion, or other
7 means.

8 ~~(b) “Hospice care” means a specialized form of multidisciplinary~~
9 ~~health care that is designed to provide palliative care, alleviate the~~
10 ~~physical, emotional, social, and spiritual discomforts of an~~
11 ~~individual who is experiencing the last phases of life due to the~~
12 ~~existence of a terminal disease, and to provide supportive care for~~
13 ~~the primary caregiver and the family of the hospice patient and~~
14 ~~shall include both inpatient and outpatient care.~~

15 (c)

16 (b) “Order” means an order entered on the chart or medical
17 record of a patient registered in an inpatient health facility by or
18 on the order of a prescriber.

19 ~~(d)~~

20 (c) “Prescriber” means a person licensed, certified, registered,
21 or otherwise subject to regulation pursuant to this division, or an
22 initiative act referred to in this division, who is authorized to
23 prescribe prescription drugs.

24 SEC. 2. Section 741 of the Business and Professions Code is
25 amended to read:

26 741. (a) Notwithstanding any other law, when prescribing an
27 opioid or benzodiazepine medication to a patient, a prescriber shall
28 do the following:

29 (1) Offer the patient a prescription for naloxone hydrochloride
30 or another drug approved by the United States Food and Drug

1 Administration for the complete or partial reversal of
2 opioid-induced respiratory depression when one or more of the
3 following conditions are present:

4 (A) The prescription dosage for the patient is 90 or more
5 morphine milligram equivalents of an opioid medication per day.

6 (B) An opioid medication is prescribed ~~concurrently with~~ *within*
7 *a year from the date* a prescription for ~~benzodiazepine.~~
8 *benzodiazepine has been dispensed to the patient.*

9 (C) The patient presents with an increased risk for opioid
10 overdose, including a patient with a history of opioid overdose, a
11 patient with a history of opioid use disorder, or a patient at risk
12 for returning to a high dose of opioid medication to which the
13 patient is no longer tolerant.

14 (2) Consistent with the existing standard of care, provide
15 education to the patient on opioid overdose prevention and the use
16 of naloxone hydrochloride or another drug approved by the United
17 States Food and Drug Administration for the complete or partial
18 reversal of opioid-induced respiratory depression.

19 (3) Consistent with the existing standard of care, provide
20 education on opioid overdose prevention and the use of naloxone
21 hydrochloride or another drug approved by the United States Food
22 and Drug Administration for the complete or partial reversal of
23 opioid-induced respiratory depression to one or more persons
24 designated by the patient, or, for a patient who is a minor, to the
25 minor's parent or guardian.

26 *(b) A prescriber is not required to provide the education*
27 *specified in paragraphs (2) or (3) of subdivision (a) if the patient*
28 *receiving the prescription declines the education or has received*
29 *the education within the past 24 months.*

30 ~~(b)~~

31 *(c) This section does not apply to a prescriber when under any*
32 *of the following circumstances:*

33 *(1) When prescribing to an inmate or a youth under the*
34 *jurisdiction of the Department of Corrections and Rehabilitation*
35 *or the Division of Juvenile Justice within the Department of*
36 *Corrections and Rehabilitation.*

37 ~~*(e) This section does not apply to a prescriber when prescribing,*~~
38 ~~*ordering, or administering medications to a patient in an inpatient*~~
39 ~~*health facility, as defined in Section 1250 of the Health and Safety*~~
40 ~~*Code.*~~

1 ~~(d) This section does not apply to a prescriber when prescribing~~
2 ~~medications to a patient in outpatient-based hospice care.~~

3 *(2) When ordering medications to be administered to a patient*
4 *while the patient is in either an inpatient or outpatient setting.*

5 *(3) When prescribing medications to a patient who is terminally*
6 *ill, as defined in subdivision (c) of Section 11159.2 of the Health*
7 *and Safety Code.*

8 SEC. 3. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the California Constitution and shall
11 go into immediate effect. The facts constituting the necessity are:

12 In order to properly address the health crisis caused by opioid
13 addiction and the loss of life caused by opioid-induced respiratory
14 failure in this state as soon as possible, it is necessary that this bill
15 take effect immediately.

**AB 845 (*Maienschein*) Continuing education:
physicians and surgeons: maternal mental
health**

AMENDED IN ASSEMBLY APRIL 1, 2019
AMENDED IN ASSEMBLY MARCH 14, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 845

Introduced by Assembly Member Maienschein

February 20, 2019

An act to add Section 2196.9 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 845, as amended, Maienschein. Continuing education: physicians and surgeons: maternal mental health.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California within the Department of Consumer Affairs. Under that act, the board is required to adopt and administer standards for the continuing education of physicians and surgeons.

By July 1, 2019, existing law requires a licensed healthcare practitioner who provides prenatal or postpartum care for a patient to offer to screen or appropriately screen a mother for maternal mental health conditions. Existing law also requires a general acute care hospital or special hospital that has a perinatal unit to develop to implement, by January 1, 2020, a program relating to maternal mental health conditions including, but not limited to, postpartum depression.

This bill would require the board, in determining the continuing education requirements for physicians and surgeons, to ~~include~~ *consider including* a course in maternal mental health, addressing, among other provisions, the requirements described above. The bill would require

the board to periodically update ~~the~~ any curricula developed pursuant to the bill to account for new research.

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

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

- 1 SECTION 1. Section 2196.9 is added to the Business and
- 2 Professions Code, to read:
- 3 2196.9. (a) In determining its continuing education
- 4 requirements for physicians and surgeons, the board shall ~~include~~
- 5 *consider including* a course in maternal mental health, which shall
- 6 address the following:
- 7 (1) Best practices in screening for maternal mental health
- 8 disorders, including cultural competency and unintended bias as
- 9 a means to build trust with mothers.
- 10 (2) The range of maternal mental health disorders.
- 11 (3) The range of evidence-based treatment options, including
- 12 the importance of allowing a mother to be involved in developing
- 13 the treatment plan.
- 14 (4) When an obstetrician or a primary care doctor should consult
- 15 with a psychiatrist versus making a referral.
- 16 (5) Applicable requirements under Sections 123640 and
- 17 123616.5 of the Health and Safety Code.
- 18 (b) Subject to Section 2001.1, the board shall periodically update
- 19 ~~the~~ any curriculum developed pursuant to this section to account
- 20 for new research.

O

**AB 888 (*Low*) Opioid prescriptions:
information: nonpharmacological treatments
for pain**

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Member Low

February 20, 2019

An act to amend Section 11158.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, Low. Opioid prescriptions: information: nonpharmacological treatments for pain.

Existing law requires a prescriber, with certain exceptions, before directly dispensing or issuing for a minor the first prescription for a controlled substance containing an opioid in a single course of treatment, to discuss specified information with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment.

This bill would extend that requirement for the prescriber by applying it to any patient, not only a minor, under those circumstances. The bill would also require the prescriber to discuss the availability of nonpharmacological treatments for pain, as defined.

Existing law makes an exception to the requirement for the prescriber in the case of a patient who is being treated for a diagnosis of chronic intractable pain, as specified.

This bill would remove that exception and would instead make an exception in the case of a patient who is currently receiving hospice care.

The bill would require the prescriber, after discussing the information, to ~~offer~~ *offer, as deemed appropriate by the prescriber*, a referral for a provider of nonpharmacological treatments for pain, and to obtain informed written consent from the patient, a minor patient’s parent or guardian, or another authorized adult, as specified.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health benefit plan issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package, as defined.

This bill would make legislative findings and declarations relating to addiction associated with overreliance on prescription medication for pain management, and providing that nonpharmacological treatments for pain should be considered during the next update to the state’s essential health benefits benchmark plan.

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

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

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

3 (a) The opioid crisis has devastated communities within
 4 California, which has prompted an urgent discussion about the
 5 risks of addiction associated with overreliance on prescription
 6 medication for pain management.

7 (b) A growing body of research indicates that certain
 8 nonpharmacological therapies are proven to be equally effective
 9 to treat certain causes of pain as prescription opioids, without
 10 placing patients at risk for addiction or overdose.

11 (c) To this end, awareness of, and access to, nonpharmacological
 12 treatments for pain are vitally important to the state’s efforts to
 13 combat the opioid crisis, and that coverage of these treatments
 14 should be considered during the next update to the state’s essential
 15 health ~~benefit~~ *benefits* benchmark plan pursuant to Section 156.111
 16 of Title 45 of the Code of Federal Regulations.

17 SEC. 2. Section 11158.1 of the Health and Safety Code is
 18 amended to read:

19 11158.1. (a) Except when a patient is being treated as set forth
 20 in Sections 11159, 11159.2, and 11167.5, and Article 2
 21 (commencing with Section 11215) of Chapter 5, pertaining to the

1 treatment of addicts, or except when a patient is currently receiving
2 hospice care, a prescriber shall discuss all of the following
3 information with the patient, or, if the patient is a minor, the minor,
4 the minor's parent or guardian, or another adult authorized to
5 consent to the minor's medical treatment, before directly dispensing
6 or issuing to a patient the first prescription in a single course of
7 treatment for a controlled substance containing an opioid:

8 (1) The risks of addiction and overdose associated with the use
9 of opioids.

10 (2) The increased risk of addiction to an opioid for an individual
11 who is suffering from both mental and substance abuse disorders.

12 (3) The danger of taking an opioid with a benzodiazepine,
13 alcohol, or another central nervous system depressant.

14 (4) The availability of nonpharmacological treatments for pain.

15 (5) Any other information required by law.

16 (b) After discussing the information required by subdivision
17 (a), the prescriber shall do both of the following:

18 (1) Obtain informed written consent from the patient, a minor
19 patient's parent or guardian, or another adult authorized to consent
20 to the minor patient's medical treatment, which shall be placed in
21 the patient's medical record and shall contain all of the following:

22 (A) The name and quantity of the controlled substance being
23 prescribed or issued to the patient, and the amount of the initial
24 dose.

25 (B) A statement certifying that the prescriber discussed with
26 the patient, a minor patient's parent or guardian, or another adult
27 authorized to consent to the minor patient's medical treatment, the
28 information required by subdivision (a).

29 (C) A space for the signature of the patient, a minor patient's
30 parent or guardian, or another adult authorized to consent to the
31 minor patient's medical treatment.

32 (2) ~~Offer~~ *Offer, as deemed appropriate by the prescriber, a*
33 *referral for a provider of nonpharmacological treatments for pain.*

34 (c) This section does not apply in any of the following
35 circumstances:

36 (1) If the patient's treatment includes emergency services and
37 care as defined in Section 1317.1.

38 (2) If the patient's treatment is associated with, or incidental to,
39 an emergency surgery, regardless of whether the surgery is
40 performed on an inpatient or outpatient basis.

1 (3) If, in the prescriber’s professional judgment, fulfilling the
2 requirements of subdivision (a) or (b) would be detrimental to the
3 patient’s health or safety, or in violation of the patient’s legal rights
4 regarding confidentiality.

5 (d) For purposes of this section, “nonpharmacological treatments
6 for pain” include, but are not limited to, acupuncture, chiropractic
7 care, physical therapy, occupational therapy, and licensed mental
8 health provider services.

9 (e) *This section shall not be construed as requiring health care*
10 *coverage, or changing existing health care coverage requirements,*
11 *for nonpharmacological treatments for pain.*

12 (e)

13 (f) Notwithstanding any other law, including Section 11374,
14 failure to comply with this section shall not constitute a criminal
15 offense.

**AB 1030 (*Calderon*) Gynecological
examinations: informational pamphlet**

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1030

Introduced by Assembly Members Calderon and Petrie-Norris

February 21, 2019

An act to amend Section 2249 of, and to add Section 2248.9 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1030, as amended, Calderon. Gynecological examinations: informational pamphlet.

Existing law establishes the Medical Board of California within the Department of Consumer Affairs to enforce the licensing and regulatory provisions relating to medical practitioners, including physicians and surgeons. Existing law requires a physician and surgeon primarily responsible for providing a patient an annual gynecological examination to provide that patient, during the annual examination in layperson's language and in a language understood by the patient, a standardized summary containing a description of the symptoms and appropriate methods of diagnoses for gynecological cancers. Existing law makes a failure to provide that information punishable by citation and an administrative fine.

This bill, on or before July 1, 2020, would require the board, in coordination with the American College of Obstetricians and Gynecologists, to develop an informational pamphlet for patients undergoing gynecological examinations that includes specified information, including what a ~~Pap smear~~ *is pelvic exams and Pap smears are* and how ~~it is they are~~ performed and privacy expectations for patients. The bill would require the board to make the information sheet

available for the use of licensees that perform gynecological examinations, as specified.

The bill, commencing one month after the board makes the informational pamphlet available, would require a physician and surgeon primarily responsible for providing a patient an annual gynecological examination, to provide a patient with the informational pamphlet ~~prior to~~ *before* a patient’s first gynecological examination with that practitioner. The bill would require the practitioner to have the patient sign and date a form attesting that the patient has received the informational pamphlet and understood the contents ~~prior to~~ *before* the first gynecological examination with that practitioner. The bill would make a violation of these provisions punishable by citation and an administrative fine.

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

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

- 1 SECTION 1. Section 2248.9 is added to the Business and
- 2 Professions Code, to read:
- 3 2248.9. (a) On or before July 1, 2020, the Medical Board of
- 4 California, in coordination with the American College of
- 5 Obstetricians and Gynecologists, shall develop an informational
- 6 pamphlet for patients undergoing gynecological examinations that
- 7 includes, but is not limited to, all of the following:
- 8 (1) *What a pelvic exam is and how it is properly performed.*
- 9 ~~(1)~~
- 10 (2) *What a Pap smear is and how it is properly performed.*
- 11 ~~(2)~~
- 12 (3) *The recommended age for a patient receiving a pelvic exam*
- 13 *or Pap smear and how often a pelvic exam or Pap smear should*
- 14 *be performed.*
- 15 ~~(3)~~
- 16 (4) *Privacy expectations, including that privacy should be*
- 17 *provided for the patient both when undressing and dressing and*
- 18 *that a gown should be worn during the entire examination.*
- 19 ~~(4) Appropriate questions that a practitioner may ask during the~~
- 20 ~~examination.~~
- 21 (5) *An explanation of what a speculum is and how it should be*
- 22 *properly used during an examination.*

1 (6) That ~~latex~~ gloves should be worn by the practitioner during
2 the examination.

3 (7) The duration of a *pelvic exam and* Pap smear.

4 (8) A telephone number for the Medical Board of California at
5 which a patient may report any misconduct that the patient feels
6 may have occurred.

7 (b) The informational pamphlet developed pursuant to
8 subdivision (a) shall be made available for the use of licensees that
9 provide gynecological services. The informational pamphlet shall
10 either be posted as a printable file on the board's internet website
11 or made available for order as a printed deliverable on the board's
12 internet website, or both.

13 SEC. 2. Section 2249 of the Business and Professions Code is
14 amended to read:

15 2249. (a) A physician and surgeon primarily responsible for
16 providing a patient an annual gynecological examination shall
17 provide that patient, during the annual examination in layperson's
18 language and in a language understood by the patient, a
19 standardized summary containing a description of the symptoms
20 and appropriate methods of diagnoses for gynecological cancers.
21 This section does not preclude the use of existing publications or
22 pamphlets developed by nationally recognized cancer organizations
23 or by the State Department of Public Health pursuant to Section
24 138.4 of the Health and Safety Code.

25 (b) (1) A physician and surgeon primarily responsible for
26 providing a patient an annual gynecological examination shall,
27 ~~prior to~~ *before* a patient's first gynecological examination with the
28 physician and surgeon, provide the patient with the informational
29 pamphlet developed pursuant to Section 2248.9. The physician
30 and surgeon shall have the patient sign and date a form attesting
31 that the patient has received the informational pamphlet and
32 understood the contents ~~prior to~~ *before* the first gynecological
33 examination with that physician and surgeon. Forms showing
34 receipt of the information shall be kept as part of the patient's
35 medical record.

36 (2) This subdivision shall become operative one month after
37 the board posts availability information on its internet website as
38 provided in Section 2248.9.

39 (c) A physician and surgeon who violates this section may be
40 cited and assessed an administrative fine. A citation shall not be

1 issued and a fine shall not be assessed upon the first complaint
2 against a physician and surgeon who violates this section. Upon
3 the second and subsequent complaints against a physician and
4 surgeon who violates this section, a citation may be issued and an
5 administrative fine may be assessed.

6 (d) Notwithstanding any other law, all fines collected pursuant
7 to this section for a violation of subdivision (a) shall be credited
8 to the Contingent Fund of the Medical Board of California to be
9 used by the Office of Women’s Health within the State Department
10 of Public Health for outreach services that provide information to
11 women about gynecological cancers, but shall not be expended
12 until they are appropriated by the Legislature in the Budget Act
13 or another statute.

14 (e) Section 2314 shall not apply to this section.

AB 1038 (*Muratsuchi*) Health data: rates for health care services: physicians and surgeons

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1038

Introduced by Assembly Member Muratsuchi

February 21, 2019

~~An act to add Article 10 (commencing with Section 42000) to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, relating to nonvehicular air pollution. An act to add Chapter 4 (commencing with Section 128900) to Part 5 of Division 107 of the Health and Safety Code, relating to health data.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1038, as amended, Muratsuchi. ~~Air quality management districts: scientific and engineering review. Health data: rates for health care services: physicians and surgeons.~~

Existing law states the intent of the Legislature to establish a Health Care Cost Transparency Database to collect information regarding the cost of health care. Existing law requires the Office of Statewide Health Planning and Development to convene a review committee for purposes of advising the office on the establishment and implementation of the database. Existing law requires the office, by July 1, 2020, to submit a report to the Legislature, based on recommendations of the review committee and any third-party vendor, that includes prescribed elements. Existing law requires the office to establish, implement, and administer the database. Existing law requires certain health care entities, including a physician and surgeon, to provide specified information to the office for collection in the database. Under existing law, implementation of these provisions is subject to budget appropriation for that purpose.

This bill would require the Medical Board of California to provide to the office, no less than annually, a comprehensive list of all physicians and surgeons practicing in California, including prescribed information. The bill would require a board-licensed physician and surgeon to provide to the office specified information relating to negotiated rates and charges imposed for services provided. The bill would require the office to make public certain aggregate data on negotiated rates.

~~Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.~~

~~This bill would authorize an air district to impose a charge equal to the costs the air district expends in contracting with a third party to review the scientific or engineering information provided to the air district at the air district’s request by a facility regulated pursuant to specified provisions in order to verify the information provided is accurate. The bill would state that this provision is declaratory of existing law.~~

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

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

1 SECTION 1. Chapter 4 (commencing with Section 128900) is
2 added to Part 5 of Division 107 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 4. RATES FOR HEALTH CARE SERVICES
6

7 128900. (a) The Legislature finds and declares that negotiated
8 rates for services provided by physicians and surgeons are not
9 publicly available, impeding the ability of the payers of health
10 care services to determine the price of care and the oversight of
11 the Legislature of health care costs.

12 (b) It is the intent of the Legislature in enacting this chapter to
13 provide transparency of pricing information for services provided

1 *by physicians and surgeons in order to allow payers of health care*
2 *services to determine the price of care.*

3 *128901. As used in this chapter, “office” means the Office of*
4 *Statewide Health Planning and Development.*

5 *128902. (a) The Medical Board of California shall provide to*
6 *the office no less than annually a comprehensive list of all*
7 *physicians and surgeons licensed in California, including the*
8 *following information:*

9 *(1) Name.*

10 *(2) Address and contact information.*

11 *(3) Specialty.*

12 *(4) Certificate number.*

13 *(5) Other information as may be required by the office to*
14 *determine whether a physician and surgeon is subject to this*
15 *chapter.*

16 *(b) A physician and surgeon licensed by the Medical Board of*
17 *California under the Medical Practice Act (Chapter 5 (commencing*
18 *with Section 2000) of Division 2 of the Business and Professions*
19 *Code) shall provide to the office, in a manner and format specified*
20 *by the office, the following data:*

21 *(1) The negotiated rate for each service for each health care*
22 *service plan or insurer with which the physician and surgeon has*
23 *a contract.*

24 *(2) The charge for each service provided by the physician and*
25 *surgeon.*

26 *(3) If the physician and surgeon is a member of a risk-bearing*
27 *organization, independent practice association, or other organized*
28 *medical group, the group may provide this data if the office can*
29 *determine from the provided data the negotiated rate for each*
30 *service for each physician and surgeon.*

31 *(c) The office shall make public aggregate data indicating the*
32 *following:*

33 *(1) Negotiated rates by physician and surgeon specialty by*
34 *geographic region.*

35 *(2) Negotiated rates compared to Medicare rates by physician*
36 *and surgeon specialty by geographic region.*

37 ~~SECTION 1. Article 10 (commencing with Section 42000) is~~
38 ~~added to Chapter 3 of Part 4 of Division 26 of the Health and Safety~~
39 ~~Code, to read:~~

1 Article 10. ~~Scientific and Engineering Review~~

2

3 42000. ~~A district may impose a charge equal to the costs the~~
4 ~~district expends in contracting with a third party to review the~~
5 ~~scientific or engineering information provided to the district at the~~
6 ~~district's request by a facility regulated pursuant to this part in~~
7 ~~order to verify the information provided is accurate.~~

8 SEC. 2. ~~The addition of Section 42000 to the Health and Safety~~
9 ~~Code does not constitute a change in, but is declaratory of, existing~~
10 ~~law.~~

**AB 1076 (*Ting*) Criminal records:
automatic relief**

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1076

Introduced by Assembly Member Ting

February 21, 2019

An act to add Sections 851.93 and 1203.425 to the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, as amended, Ting. Criminal records: automatic relief.

Existing law authorizes a person who was arrested and has successfully completed a prefiling diversion program, a person who has successfully completed a specified drug diversion program, a person who has successfully completed a specified deferred entry of judgment program, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person's arrest record. Under existing law, if a defendant successfully completes certain diversion programs, the arrest for the crime for which the defendant was diverted is deemed to have never occurred.

Existing law authorizes a defendant to petition to withdraw the defendant's plea of guilty or nolo contendere and enter a plea of not guilty, if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met, and the defendant is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of

a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would, commencing January 1, 2021, require the Department of Justice, on a weekly basis, to review the records in the ~~state summary criminal history information database~~ *statewide criminal justice databases* and to identify persons who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.

The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a weekly basis, to *electronically* submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

The bill would authorize the prosecuting attorney to file a motion to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that motion, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.

The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.

The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.

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

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

1 SECTION 1. Section 851.93 is added to the Penal Code, to
2 read:
3 851.93. (a) (1) On a weekly basis, the Department of Justice
4 shall review the records in the ~~state summary criminal history~~

1 ~~information database and shall identify persons who are eligible~~
2 ~~for relief in their arrest records pursuant to Section 851.87, 851.90,~~
3 ~~851.91, 1000.4, or 1001.9, and whose arrests meet the conditions~~
4 ~~described in paragraph (2): statewide criminal justice databases,~~
5 ~~and based on information in the Automated Criminal History~~
6 ~~System, shall identify persons with records of arrest that meet the~~
7 ~~criteria set forth in paragraph (2) and are eligible for arrest record~~
8 ~~relief.~~

9 (2) A person is eligible for relief pursuant to this section, if the
10 ~~underlying arrest shall meet all~~ *meets any* of the following
11 conditions:

12 ~~(A) Either of the following criteria is met:~~

13 (A) *The arrest was for a misdemeanor offense and the charge*
14 *was dismissed.*

15 (i)

16 (B) ~~The arrest is~~ *was for a misdemeanor offense, and at least*
17 *one calendar year has elapsed since the date of the* ~~arrest.~~ *arrest,*
18 *and no conviction occurred, or the arrestee was acquitted of any*
19 *charges that arose, from that arrest.*

20 (ii)

21 (C) ~~The arrest is~~ *was for a felony offense an offense that is*
22 *punishable by imprisonment pursuant to paragraph (1) or (2) of*
23 *subdivision (h) of Section 1170, and at least three calendar years*
24 *have elapsed since the date of the* ~~arrest.~~ *arrest, and no conviction*
25 *occurred, or the arrestee was acquitted of any charges arising*
26 *from, that arrest.*

27 ~~(B) A criminal conviction did not result based on the arrest.~~

28 (C) ~~Nothing in the arrest record indicates that proceedings~~
29 ~~seeking conviction remain pending.~~

30 (D) *The person successfully completed any of the following,*
31 *relating to that arrest:*

32 (i) *A prefiling diversion program, as defined in Section 851.87,*
33 *administered by a prosecuting attorney in lieu of filing an*
34 *accusatory pleading.*

35 (ii) *A drug diversion program administered by a superior court*
36 *pursuant to Section 1000.5, or a deferred entry of judgment*
37 *program pursuant to Section 1000 or 1000.8.*

38 (iii) *A pretrial diversion program, pursuant to Section 1000.4.*

39 (iv) *A diversion program, pursuant to Section 1001.9.*

1 (v) Any diversion program described in Chapters 2.8
 2 (commencing with Section 1001.20), 2.8A (commencing with
 3 Section 1001.35), 2.9 (commencing with Section 1001.50), 2.9A
 4 (commencing with Section 1001.60), 2.9B (commencing with
 5 Section 1001.70), 2.9C (commencing with Section 1001.80), or
 6 2.9D (commencing with Section 1001.81), of Title 6.

7 (b) (1) The department shall grant relief to a person identified
 8 pursuant to subdivision (a), without requiring a petition or motion
 9 by a party for that relief.

10 ~~(2) Section 851.92 does not apply to relief granted pursuant to~~
 11 ~~this section.~~

12 ~~(3)~~

13 (2) The state summary criminal history information shall
 14 include, directly next to or below the entry or entries regarding the
 15 person’s arrest record, a note stating “arrest relief granted,” listing
 16 the date that the department granted relief, ~~and this section, and~~
 17 ~~the section pursuant to which the relief was granted.~~ *section.* This
 18 note shall be included in all statewide criminal databases with a
 19 record of the arrest.

20 (3) *Except as otherwise provided in subdivision (d), an arrest*
 21 *for which arrest relief has been granted is deemed not to have*
 22 *occurred, and a person who has been granted arrest relief is*
 23 *released from any penalties and disabilities resulting from the*
 24 *arrest, and may answer any question relating to that arrest*
 25 *accordingly.*

26 (c) (1) On a weekly basis, the department shall *electronically*
 27 submit a notice to the superior court having jurisdiction over the
 28 criminal case, informing the court of all cases for which relief was
 29 granted pursuant to this section. The court shall not disclose
 30 information concerning an arrest that is granted relief pursuant to
 31 this section to any person or entity, except to the person whose
 32 arrest was granted relief or a criminal justice agency, as defined
 33 in Section 851.92.

34 (2) The department shall not disclose information concerning
 35 an arrest that is granted relief pursuant to this section to a board,
 36 as defined in Section 22 of the Business and Professions Code.

37 (d) ~~(1) Relief granted pursuant to this section is subject to the~~
 38 ~~following conditions: does~~

39 (1) *Arrest relief does not relieve a person of the obligation to*
 40 *disclose an arrest in response to a direct question contained in a*

1 questionnaire or application for employment as a peace officer, as
2 defined in Section 830.

3 (2) Relief granted pursuant to this section has no effect on the
4 ability of a criminal justice agency, as defined in Section 851.92,
5 to access and use records that are granted relief. *relief to the same*
6 *extent that would have been permitted for a criminal justice agency*
7 *had relief not been granted.*

8 (3) Relief granted pursuant to this section does not affect a
9 person's authorization to own, possess, or have in the person's
10 custody or control any firearm, or the person's susceptibility to
11 conviction under Chapter 2 (commencing with Section 29800) of
12 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
13 this authorization or susceptibility.

14 (4) Relief granted pursuant to this section does not affect any
15 prohibition from holding public office that would otherwise apply
16 under law as a result of the arrest.

17 (5) *Relief granted pursuant to this section is subject to the*
18 *provisions of Section 11105.*

19 (e) This section shall not limit petitions, motions, or orders for
20 arrest record relief, as required or authorized by any other law,
21 including, but not limited to, Sections 851.87, 851.90, 851.91,
22 1000.4, and 1001.9.

23 (f) *The department shall annually publish statistics regarding*
24 *the total number of arrests granted relief pursuant to this section,*
25 *by county, on the OpenJustice Web portal, as defined in Section*
26 *13010.*

27 (f)

28 (g) This section shall be operative commencing January 1, 2021.

29 SEC. 2. Section 1203.425 is added to the Penal Code,
30 immediately following Section 1203.42, to read:

31 1203.425. (a) (1) On a weekly basis, the Department of Justice
32 shall review the records in ~~the state summary criminal history~~
33 ~~information database and shall identify persons who are eligible~~
34 ~~for relief in their criminal conviction records pursuant to Section~~
35 ~~1203.4, 1203.4a, 1203.41, or 1203.42. the statewide criminal justice~~
36 ~~databases, and based on information in the Automated Criminal~~
37 ~~History System and the Supervised Release File, shall identify~~
38 ~~persons with convictions that meet the criteria set forth in~~
39 ~~paragraph (2) and are eligible for automatic conviction record~~
40 ~~relief.~~

1 (2) A person is eligible for automatic conviction relief pursuant
 2 to this section if they meet all of the following conditions:
 3 (A) The person is not required to register pursuant to Section
 4 290.
 5 (B) The person is not under active local, state, or federal
 6 supervision, according to the Supervised Release File.
 7 (C) The person is not currently serving a sentence for any
 8 offense and does not have any pending criminal charges.
 9 (D) The conviction meets one of the following criteria:
 10 (i) The defendant was sentenced to probation and has completed
 11 their term of probation without revocation.
 12 (ii) The defendant was convicted of an infraction or
 13 misdemeanor and was not granted probation, has completed their
 14 sentence or paid their fine, and at least one calendar year has
 15 elapsed since the date of judgment.
 16 (iii) The defendant was sentenced pursuant to subparagraph
 17 (B) of paragraph (5) of subdivision (h) of Section 1170, and one
 18 year has elapsed following the completion of sentence, or, the
 19 defendant was sentenced pursuant to subparagraph (A) of
 20 paragraph (5) of subdivision (h) of Section 1170, and two years
 21 has elapsed following the completion of sentence.
 22 (iv) The defendant was sentenced before January 1, 2012 for a
 23 crime which, on or after January 1, 2012, would have been eligible
 24 for sentencing pursuant to subdivision (h) of Section 1170, and
 25 two years have elapsed following the defendant’s completion of
 26 the sentence.
 27 (b) (1) Except as specified in subdivision (g), the department
 28 shall grant relief, including dismissal of a conviction, to a person
 29 identified pursuant to subdivision (a), without requiring a petition
 30 or motion by a party for that relief.
 31 (2) The state summary criminal history information shall
 32 include, directly next to or below the entry or entries regarding the
 33 person’s criminal record, a note stating “relief granted,” listing the
 34 date that the department granted relief, *relief and this section, and*
 35 ~~the section pursuant to which the relief was granted.~~ *section.* This
 36 note shall be included in all statewide criminal databases with a
 37 record of the conviction.
 38 (3) *Except as otherwise provided in subdivision (d) and in*
 39 *Section 13555 of the Vehicle Code, a person granted conviction*
 40 *relief pursuant to this section shall be released from all penalties*

1 *and disabilities resulting from the offense of which he or she has*
2 *been convicted.*

3 (c) (1) On a weekly basis, the department shall *electronically*
4 submit a notice to the superior court having jurisdiction over the
5 criminal case, informing the court of all cases for which relief was
6 granted pursuant to this section. The court shall not disclose
7 information concerning a conviction granted relief pursuant to this
8 section to any person or entity, except to the person whose
9 conviction was granted relief or a criminal justice agency, as
10 defined in Section 851.92.

11 (2) The department shall not disclose information concerning
12 a criminal conviction record that is granted relief pursuant to this
13 section to a board, as defined in Section 22 of the Business and
14 Professions Code.

15 (d) ~~(4)~~ Relief granted pursuant to this section *is subject to the*
16 *following conditions: does*

17 (1) *Relief granted pursuant to this section does not relieve a*
18 *person of the obligation to disclose a criminal conviction in*
19 *response to a direct question contained in a questionnaire or*
20 *application for employment as a peace officer, as defined in Section*
21 *830.*

22 (2) *Relief granted pursuant to this section does not relieve a*
23 *person of the obligation to disclose the conviction in response to*
24 *any direct question contained in any questionnaire or application*
25 *for public office, for licensure by any state or local agency, or for*
26 *contracting with the California State Lottery Commission.*

27 ~~(2)~~

28 (3) Relief granted pursuant to this section has no effect on the
29 ability of a criminal justice agency, as defined in Section 851.92,
30 to access and use records that are granted ~~relief~~. *relief to the same*
31 *extent that would have been permitted for a criminal justice agency*
32 *had relief not been granted.*

33 ~~(3)~~

34 (4) Relief granted pursuant to this section does not affect a
35 person's authorization to own, possess, or have in the person's
36 custody or control any firearm, or the person's susceptibility to
37 conviction under Chapter 2 (commencing with Section 29800) of
38 Division 9 of Title 4 of Part 6, if the criminal conviction would
39 otherwise affect this authorization or susceptibility.

40 ~~(4)~~

1 (5) Relief granted pursuant to this section does not affect any
 2 prohibition from holding public office that would otherwise apply
 3 under law as a result of the criminal conviction.

4 (6) *In any subsequent prosecution of the defendant for any other*
 5 *offense, the prior conviction may be pleaded and proved and shall*
 6 *have the same effect as if the relief had not been granted.*

7 (e) This section shall not limit petitions, motions, or orders for
 8 relief in a criminal case, as required or authorized by any other
 9 law, including, but not limited to, Sections 1203.4, 1203.4a,
 10 1203.41, and 1203.42.

11 (f) *The department shall annually publish statistics regarding*
 12 *the total number of convictions granted relief pursuant to this*
 13 *section, and the total number of convictions prohibited from*
 14 *automatic relief pursuant to subdivision (h), by county, on the*
 15 *OpenJustice Web portal, as defined in Section 13010.*

16 ~~(f)~~

17 (g) Subdivisions (a) to ~~(e)~~, (g) inclusive, shall be operative
 18 commencing January 1, 2021.

19 ~~(g)~~

20 (h) No later than 90 calendar days before the date of a person’s
 21 eligibility for relief pursuant to ~~Section 1203.4, 1203.4a, 1203.41,~~
 22 ~~or 1203.42, this section~~, the prosecuting attorney or probation
 23 department may file a motion to prohibit the department from
 24 granting automatic relief pursuant to this section. If the court grants
 25 that motion, the department shall not grant relief pursuant to this
 26 section, but the person may continue to be eligible for relief
 27 pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42.

28 (i) *At the time of sentencing, the court shall advise a defendant,*
 29 *either orally or in writing, of the provisions of this section and of*
 30 *the defendant’s right, if any, to petition for a certificate of*
 31 *rehabilitation and pardon.*

**AB 1264 (*Petrie-Norris*) Healing arts
licensees: self-administered hormonal**

AMENDED IN ASSEMBLY APRIL 22, 2019

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1264

Introduced by Assembly Member Petrie-Norris
(Coauthor: Assembly Member Friedman)

February 21, 2019

An act to amend Section 2242.2 of the Business and Professions Code, relating to healing ~~arts~~: *arts, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, as amended, Petrie-Norris. Healing arts licensees: self-administered hormonal contraceptives.

Existing law authorizes certain healing arts licensees to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after appropriate prior examination, to prescribe, furnish, or dispense self-administered hormonal contraceptives to a patient.

This bill would specify that “appropriate prior examination” ~~for purposes of those provisions~~ does not require a ~~real-time synchronous~~ interaction between the patient and the healing arts license.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 2242.2 of the Business and Professions
2 Code is amended to read:

3 2242.2. (a) Notwithstanding any other law, a physician and
4 surgeon, a registered nurse acting in accordance with Section
5 2725.2, a certified nurse-midwife acting within the scope of Section
6 2746.51, a nurse practitioner acting within the scope of Section
7 2836.1, a physician assistant acting within the scope of Section
8 3502.1, and a pharmacist acting within the scope of Section 4052.3
9 may use a self-screening tool that will identify patient risk factors
10 for the use of self-administered hormonal contraceptives by a
11 patient, and, after an appropriate prior examination, prescribe,
12 furnish, or dispense, as applicable, self-administered hormonal
13 contraceptives to the patient. Blood pressure, weight, height, and
14 patient health history may be self-reported using the self-screening
15 tool that identifies patient risk factors.

16 (b) ~~For purposes of this section, an~~ An “appropriate prior
17 examination” does not require a ~~real-time synchronous~~ interaction
18 between the patient and the healing arts licensee.

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

23 *In order to ensure patients have access to necessary health care*
24 *services at the earliest possible time, it is imperative that this bill*
25 *take effect immediately.*

26

27

28 **REVISIONS:**

29 **Heading—Line 2.**

30

O

**AB 1444 (*Flora*) Physicians and surgeons and
registered nurses: loan repayment**

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1444

Introduced by Assembly Member Flora
(Coauthor: Assembly Member Diep)

February 22, 2019

~~An act to amend Section 11999.2 of the Health and Safety Code, relating to drugs and alcohol.~~ *An act to add Article 7 (commencing with Section 128590) to Chapter 5 of Part 3 of Division 107 of the Health and Safety Code, relating to health care providers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1444, as amended, Flora. ~~Drug- or alcohol-related programs: "no unlawful use" requirement.~~ *Physicians and surgeons and registered nurses: loan repayment grants.*

Existing law establishes within the Health Professions Education Foundation the California Physician Corps Program, which includes the Steven M. Thompson Medical School Scholarship Program. Existing law provides student loan repayments for a physician and surgeon who agrees, in writing, prior to completing an accredited medical or osteopathic school based in the United States, to serve in an eligible practice setting in a medically underserved area for at least 3 years.

This bill would establish within the Office of Statewide Health Planning and Development the Primary Care Student Loan Repayment Program to provide loan repayment awards of up to \$50,000 to physicians and surgeons and registered nurses who provide 32 hours a week or more of direct care service for a period of 2 years in either a federally designated health professional shortage area (HPSA) or primary care shortage area (PCSA) in California. The bill would

establish in the State Treasury the Primary Care Student Loan Repayment Program Fund, to be used, upon appropriation by the Legislature, by the office to administer the program.

~~Existing law prohibits state funds from being encumbered by a state agency for allocation to an entity, whether public or private, for a drug- or alcohol-related program, unless the drug- or alcohol-related program contains a component that clearly explains, in written materials, that unlawful use of drugs or alcohol is prohibited. Existing law prohibits these programs from including a message on the responsible use, if the use is unlawful, of drugs or alcohol.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

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

4
5 Article 7. Primary Care Student Loan Repayment Program
6

7 128590. (a) There is hereby established within the Office of
8 Statewide Health Planning and Development the Primary Care
9 Student Loan Repayment Program to provide loan repayment
10 awards of up to fifty thousand dollars (\$50,000) per participant.

11 (b) There is hereby established in the State Treasury the Primary
12 Care Student Loan Repayment Program Fund, which shall be
13 used, upon appropriation by the Legislature, by the office to
14 administer the program established pursuant to this article.

15 128591. (a) Applications for loan repayment awards shall be
16 completed on forms established by the office.

17 (b) To be eligible for a loan repayment award, the applicant
18 shall meet all of the following requirements:

19 (1) Be either of the following:

20 (A) A physician and surgeon, licensed pursuant to Chapter 5
21 (commencing with Section 2000) of Division 2 of the Business and
22 Professions Code or pursuant to the Osteopathic Act.

1 (B) A registered nurse, licensed pursuant to Chapter 6
2 (commencing with Section 2700) of Division 2 of the Business and
3 Professions Code.

4 (2) Be in good standing with the applicable licensing board.

5 (3) Provide 32 hours or more a week of direct patient care for
6 two years.

7 (4) Provide service in a federally designated health professional
8 shortage area (HPSA) or primary care shortage area (PCSA) in
9 California.

10 (5) Have outstanding educational debt from either a government
11 or commercial institution.

12 SECTION 1. ~~Section 11999.2 of the Health and Safety Code~~
13 ~~is amended to read:~~

14 ~~11999.2. (a) Notwithstanding any other law, commencing~~
15 ~~July 1, 1990, state funds shall not be encumbered by a state agency~~
16 ~~for allocation to an entity, whether public or private, for a drug-~~
17 ~~or alcohol-related program, unless the drug- or alcohol-related~~
18 ~~program contains a component that clearly explains, in written~~
19 ~~materials, that unlawful use of drugs or alcohol is prohibited. No~~
20 ~~aspect of a drug- or alcohol-related program shall include a~~
21 ~~message on the responsible use, if the use is unlawful, of drugs or~~
22 ~~alcohol.~~

23 ~~(b) (1) All aspects of a drug- or alcohol-related program shall~~
24 ~~be consistent with the “no unlawful use” message, including, but~~
25 ~~not limited to, program standards, curricula, materials, and~~
26 ~~teachings.~~

27 ~~(2) These materials and programs may include information~~
28 ~~regarding the health hazards of using illegal drugs and alcohol,~~
29 ~~concepts promoting the well-being of the whole person, risk~~
30 ~~reduction, the addictive personality, development of positive~~
31 ~~self-esteem, productive decisionmaking skills, and other preventive~~
32 ~~concepts consistent with the “no unlawful use” of drugs and alcohol~~
33 ~~message.~~

34 ~~(c) The “no unlawful use” of drugs and alcohol message~~
35 ~~contained in drug- or alcohol-related programs shall apply to the~~
36 ~~use of drugs and alcohol prohibited by law.~~

37 ~~(d) This section does not apply to a program funded by the state~~
38 ~~that provides education and prevention outreach to intravenous~~

- 1 ~~drug users with AIDS or AIDS-related conditions, or persons at~~
- 2 ~~risk of HIV-infection through intravenous drug use.~~

O

**AB 1467 (*Salas & Low*) Optometrists: scope
of practice: delegation of services agreement**

ASSEMBLY BILL

No. 1467

Introduced by Assembly Members Salas and Low

February 22, 2019

An act to amend Section 3041 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1467, as introduced, Salas. Optometrists: scope of practice: delegation of services agreement.

The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry in the Department of Consumer Affairs. Existing law provides that the practice of optometry includes various functions relating to the visual system, including performing certain functions under the direction of, or after consultation with, an ophthalmologist. A violation of the act is a misdemeanor.

This bill would authorize an optometrist to provide services set forth in a delegation of services agreement, as defined, between an optometrist and an ophthalmologist. Because the bill would expand the scope of practice of optometry, this bill would revise the definition of a crime, thereby imposing a state-mandated local program.

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

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

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

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

1 SECTION 1. The intent of the Legislature in enacting this act
2 is as follows:

3 (a) To authorize ophthalmologists to enter into agreements for
4 the delegation of services by ophthalmologists to optometrists that
5 will increase the two professions' collaboration in the treatment
6 of patients.

7 (b) That delegation of service agreements between
8 ophthalmologists and optometrists improve access to quality vision
9 care as well as provide options for screening and early diagnosis
10 of systemic diseases.

11 SEC. 2. Section 3041 of the Business and Professions Code is
12 amended to read:

13 3041. (a) The practice of optometry includes the prevention
14 and diagnosis of disorders and dysfunctions of the visual system,
15 and the treatment and management of certain disorders and
16 dysfunctions of the visual system, as well as the provision of
17 habilitative or rehabilitative optometric services, and is the doing
18 of any or all of the following:

19 (1) The examination of the human eye or eyes, or its or their
20 appendages, and the analysis of the human vision system, either
21 subjectively or objectively.

22 (2) The determination of the powers or range of human vision
23 and the accommodative and refractive states of the human eye or
24 eyes, including the scope of its or their functions and general
25 condition.

26 (3) The prescribing or directing the use of, or using, any optical
27 device in connection with ocular exercises, visual training, vision
28 training, or orthoptics.

29 (4) The prescribing of contact and spectacle lenses for, or the
30 fitting or adaptation of contact and spectacle lenses to, the human
31 eye, including lenses that may be classified as drugs or devices by
32 any law of the United States or of this state.

33 (5) The use of topical pharmaceutical agents for the purpose of
34 the examination of the human eye or eyes for any disease or
35 pathological condition.

36 (b) (1) An optometrist who is certified to use therapeutic
37 pharmaceutical agents, pursuant to Section 3041.3, may also

1 diagnose and treat the human eye or eyes, or any of its or their
2 appendages, for all of the following conditions:

3 (A) Through medical treatment, infections of the anterior
4 segment and adnexa, excluding the lacrimal gland, the lacrimal
5 drainage system, and the sclera in patients under 12 years of age.

6 (B) Ocular allergies of the anterior segment and adnexa.

7 (C) Ocular inflammation, nonsurgical in cause except when
8 comanaged with the treating physician and surgeon, limited to
9 inflammation resulting from traumatic iritis, peripheral corneal
10 inflammatory keratitis, episcleritis, and unilateral nonrecurrent
11 nongranulomatous idiopathic iritis in patients over 18 years of age.

12 (D) Traumatic or recurrent conjunctival or corneal abrasions
13 and erosions.

14 (E) Nonmalignant ocular surface disease and dry eye disease.

15 (F) Ocular pain, nonsurgical in cause except when comanaged
16 with the treating physician and surgeon, associated with conditions
17 optometrists are authorized to treat.

18 (G) Hypotrichosis and blepharitis.

19 (H) Pursuant to subdivision (e), glaucoma in patients over 18
20 years of age, as described in subdivision (k).

21 (2) For purposes of this section, “treat” means the use of
22 therapeutic pharmaceutical agents, as described in subdivision (c),
23 and the procedures described in subdivision (d).

24 (c) In diagnosing and treating the conditions listed in subdivision
25 (b), an optometrist certified to use therapeutic pharmaceutical
26 agents pursuant to Section 3041.3 may use or prescribe, including
27 for rational off-label purposes, all of the following therapeutic
28 pharmaceutical agents:

29 (1) Topical pharmaceutical agents for the examination of the
30 human eye or eyes for any disease or pathological condition,
31 including, but not limited to, topical miotics.

32 (2) Topical lubricants.

33 (3) Antiallergy agents. In using topical steroid medication for
34 the treatment of ocular allergies, an optometrist shall consult with
35 an ophthalmologist if the patient’s condition worsens 21 days after
36 diagnosis.

37 (4) Topical and oral anti-inflammatories.

38 (5) Topical antibiotic agents.

39 (6) Topical hyperosmotics.

- 1 (7) Topical and oral antiglaucoma agents pursuant to the
2 certification process defined in subdivision (e).
- 3 (8) Nonprescription medications used for the rational treatment
4 of an ocular disorder.
- 5 (9) Oral antihistamines.
- 6 (10) Prescription oral nonsteroidal anti-inflammatory agents.
- 7 (11) Oral antibiotics for medical treatment of ocular disease.
- 8 (12) Topical and oral antiviral medication for the medical
9 treatment of herpes simplex viral keratitis, herpes simplex viral
10 conjunctivitis, periocular herpes simplex viral dermatitis, varicella
11 zoster viral keratitis, varicella zoster viral conjunctivitis, and
12 periocular varicella zoster viral dermatitis.
- 13 (13) Oral analgesics that are not controlled substances.
- 14 (14) Codeine with compounds, hydrocodone with compounds,
15 and tramadol as listed in the California Uniform Controlled
16 Substances Act (Division 10 (commencing with Section 11000)
17 of the Health and Safety Code) and the United States Uniform
18 Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use
19 of these agents shall be limited to three days, with a referral to an
20 ophthalmologist if the pain persists.
- 21 (15) Additional therapeutic pharmaceutical agents pursuant to
22 subdivision (f).
- 23 (d) An optometrist who is certified to use therapeutic
24 pharmaceutical agents pursuant to Section 3041.3 may also perform
25 all of the following procedures:
- 26 (1) Corneal scraping with cultures.
- 27 (2) Debridement of corneal epithelia.
- 28 (3) Mechanical epilation.
- 29 (4) Collection of blood by skin puncture or venipuncture for
30 testing patients suspected of having diabetes.
- 31 (5) Suture removal, with prior consultation with the treating
32 physician and surgeon.
- 33 (6) Treatment or removal of sebaceous cysts by expression.
- 34 (7) Administration of oral fluorescein to patients suspected as
35 having diabetic retinopathy.
- 36 (8) Use of an auto-injector to counter anaphylaxis.
- 37 (9) Ordering of smears, cultures, sensitivities, complete blood
38 count, mycobacterial culture, acid fast stain, urinalysis, tear fluid
39 analysis, and X-rays necessary for the diagnosis of conditions or
40 diseases of the eye or adnexa. An optometrist may order other

1 types of images subject to prior consultation with an
2 ophthalmologist or appropriate physician and surgeon.

3 (10) A clinical laboratory test or examination classified as
4 waived under the federal Clinical Laboratory Improvement
5 Amendments of 1988 (CLIA) (42 U.S.C. Sec. 263a; Public Law
6 100-578) and designated in paragraph (9) necessary for the
7 diagnosis of conditions and diseases of the eye or adnexa, or if
8 otherwise specifically authorized by this chapter.

9 (11) Punctal occlusion by plugs, excluding laser, diathermy,
10 cryotherapy, or other means constituting surgery as defined in this
11 chapter.

12 (12) The use or prescription of diagnostic or therapeutic contact
13 lenses, including lenses or devices that incorporate a medication
14 or therapy the optometrist is certified to prescribe or provide.

15 (13) Removal of foreign bodies from the cornea, eyelid, and
16 conjunctiva with any appropriate instrument other than a scalpel.
17 Corneal foreign bodies shall be nonperforating, be no deeper than
18 the midstroma, and require no surgical repair upon removal.

19 (14) For patients over 12 years of age, lacrimal irrigation and
20 dilation, excluding probing of the nasal lacrimal tract. The board
21 shall certify any optometrist who graduated from an accredited
22 school of optometry before May 1, 2000, to perform this procedure
23 after submitting proof of satisfactory completion of 10 procedures
24 under the supervision of an ophthalmologist as confirmed by the
25 ophthalmologist. Any optometrist who graduated from an
26 accredited school of optometry on or after May 1, 2000, shall be
27 exempt from the certification requirement contained in this
28 paragraph.

29 (15) Intravenous injection for the purpose of performing ocular
30 angiography at the direction of an ophthalmologist as part of an
31 active treatment plan in a setting where a physician and surgeon
32 is immediately available.

33 (16) Skin testing to diagnose ocular allergies, limited to the
34 superficial layer of the skin.

35 (17) Use of any noninvasive medical device or technology
36 authorized pursuant to subdivision (f).

37 (e) An optometrist certified pursuant to Section 3041.3 shall be
38 certified for the treatment of glaucoma, as described in subdivision
39 (k), in patients over 18 years of age after the optometrist meets the
40 following applicable requirements:

1 (1) For licensees who graduated from an accredited school of
2 optometry on or after May 1, 2008, submission of proof of
3 graduation from that institution.

4 (2) For licensees who were certified to treat glaucoma under
5 this section ~~prior to~~ *before* January 1, 2009, submission of proof
6 of completion of that certification program.

7 (3) For licensees who completed a didactic course of not less
8 than 24 hours in the diagnosis, pharmacological, and other
9 treatment and management of glaucoma, submission of proof of
10 satisfactory completion of the case management requirements for
11 certification established by the board.

12 (4) For licensees who graduated from an accredited school of
13 optometry on or before May 1, 2008, and who are not described
14 in paragraph (2) or (3), submission of proof of satisfactory
15 completion of the requirements for certification established by the
16 board under Chapter 352 of the Statutes of 2008.

17 (f) (1) Any topical or oral therapeutic pharmaceutical agent,
18 which is not a controlled substance, or noninvasive medical device
19 or technology that is not expressly authorized for use or
20 prescription by an optometrist certified to use therapeutic
21 pharmaceutical agents pursuant to Section 3041.3 shall be deemed
22 to be authorized if it has received a United States Food and Drug
23 Administration approved indication for the diagnosis or treatment
24 of a condition authorized by this chapter. A licensee shall
25 successfully complete any clinical training imposed by a related
26 manufacturer ~~prior to~~ *before* using any of those therapeutic
27 pharmaceutical agents or noninvasive medical devices or
28 technologies.

29 (2) Any other topical or oral therapeutic pharmaceutical agent,
30 which is not a controlled substance, or noninvasive medical device
31 or technology that is not expressly authorized for use or
32 prescription by an optometrist certified to use therapeutic
33 pharmaceutical agents pursuant to Section 3041.3 and does not
34 meet the requirements in paragraph (1) shall be deemed authorized
35 if approved by the board through regulation for the rational
36 treatment of a condition authorized by this chapter. Any regulation
37 under this paragraph shall require a licensee to successfully
38 complete an appropriate amount of clinical training to qualify to
39 use each topical or oral therapeutic pharmaceutical agent or

1 noninvasive medical device or technology approved by the board
2 pursuant to this paragraph.

3 (3) This subdivision shall not be construed to authorize any of
4 the following:

5 (A) Any therapeutic pharmaceutical agent, medical device, or
6 technology involving cutting, altering, or otherwise infiltrating
7 human tissue by any means.

8 (B) A clinical laboratory test or imaging study not authorized
9 by paragraphs (1) to (16), inclusive, of subdivision (d).

10 (C) Treatment of any disease or condition that could not be
11 treated by an optometrist before January 1, 2018.

12 (g) (1) An optometrist certified pursuant to Section 3041.3 shall
13 be certified for the administration of immunizations after the
14 optometrist meets all of the following requirements:

15 (A) Completes an immunization training program endorsed by
16 the federal Centers for Disease Control and Prevention (CDC) or
17 the Accreditation Council for Pharmacy Education that, at a
18 minimum, includes hands-on injection technique, clinical
19 evaluation of indications and contraindications of vaccines, and
20 the recognition and treatment of emergency reactions to vaccines,
21 and maintains that training.

22 (B) Is certified in basic life support.

23 (C) Complies with all state and federal recordkeeping and
24 reporting requirements, including providing documentation to the
25 patient's primary care provider and entering information in the
26 appropriate immunization registry designated by the immunization
27 branch of the State Department of Public Health.

28 (D) Applies for an immunization certificate on a board-approved
29 form.

30 (2) For the purposes of this section, "immunization" means the
31 administration of immunizations for influenza, herpes zoster virus,
32 and pneumococcus in compliance with individual Advisory
33 Committee on Immunization Practices (ACIP) vaccine
34 recommendations published by the CDC for persons 18 years of
35 age or older.

36 (h) Other than for prescription ophthalmic devices described in
37 subdivision (b) of Section 2541, any dispensing of a therapeutic
38 pharmaceutical agent by an optometrist shall be without charge.

39 (i) The practice of optometry does not include performing
40 surgery. "Surgery" means any procedure in which human tissue

1 is cut, altered, or otherwise infiltrated by mechanical or laser
2 means. “Surgery” does not include those procedures specified in
3 paragraphs (1) to (15), inclusive, of subdivision (d). This
4 subdivision does not limit an optometrist’s authority to utilize
5 diagnostic laser and ultrasound technology within ~~his or her~~ *the*
6 *optometrist’s* scope of practice.

7 (j) An optometrist licensed under this chapter is subject to the
8 provisions of Section 2290.5 for purposes of practicing telehealth.

9 (k) For purposes of this chapter, “glaucoma” means either of
10 the following:

- 11 (1) All primary open-angle glaucoma.
- 12 (2) Exfoliation and pigmentary glaucoma.
- 13 (3) (A) Steroid induced glaucoma.
- 14 (B) If an optometrist treats a patient for steroid induced
15 ~~glaucoma~~ *glaucoma*, the optometrist shall promptly notify the
16 prescriber of the steroid medication if the prescriber did not refer
17 the patient to the optometrist for treatment.

18 (l) For purposes of this chapter, “adnexa” means ocular adnexa.

19 (m) In an emergency, an optometrist shall stabilize, if possible,
20 and immediately refer any patient who has an acute attack of angle
21 closure to an ophthalmologist.

22 (n) (1) *In addition to the authority granted pursuant to this*
23 *section, an optometrist may provide services set forth in a*
24 *delegation of services agreement between an optometrist and an*
25 *ophthalmologist.*

26 (2) *For purposes of this subdivision, “delegation of services*
27 *agreement” means a writing between an ophthalmologist and an*
28 *optometrist authorizing the optometrist to perform services*
29 *consistent with this act.*

30 SEC. 3. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O

AB 1490 (*Carrillo*) Medical assistants

ASSEMBLY BILL

No. 1490

Introduced by Assembly Member Carrillo

February 22, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1490, as introduced, Carrillo. 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.

This bill would define “technical supportive services” to also include drawing up a local anesthetic provided specified conditions are met.

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

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

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

3 2069. (a) (1) Notwithstanding any other law, a medical
4 assistant may administer medication only by intradermal,
5 subcutaneous, or intramuscular injections and perform skin tests
6 and additional technical supportive services upon the specific
7 authorization and supervision of a licensed physician and surgeon
8 or a licensed podiatrist. A medical assistant may also perform all
9 these tasks and services upon the specific authorization of a
10 physician assistant, a nurse practitioner, or a certified
11 nurse-midwife.

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

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

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

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

35 (1) "Medical assistant" means a person who may be unlicensed,
36 who performs basic administrative, clerical, and technical
37 supportive services in compliance with this section and Section
38 2070 for a licensed physician and surgeon or a licensed podiatrist,

1 or group thereof, for a medical or podiatry corporation, for a
2 physician assistant, a nurse practitioner, or a certified
3 nurse-midwife as provided in subdivision (a), or for a health care
4 service plan, who is at least 18 years of age, and who has had at
5 least the minimum amount of hours of appropriate training pursuant
6 to standards established by the board. The medical assistant shall
7 be issued a certificate by the training institution or instructor
8 indicating satisfactory completion of the required training. A copy
9 of the certificate shall be retained as a record by each employer of
10 the medical assistant.

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

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

29 (A) A licensed physician and surgeon.

30 (B) A licensed podiatrist.

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

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

39 (B) Notwithstanding any other law, in a facility licensed by the
40 California State Board of Pharmacy under Section 4180 or 4190,

1 other than a facility operated by the state, “technical supportive
2 services” also includes handing to a patient a prepackaged
3 prescription drug, excluding a controlled substance, that is labeled
4 in compliance with Section 4170 and all other applicable state and
5 federal laws and ordered by a licensed physician and surgeon, a
6 licensed podiatrist, a physician assistant, a nurse practitioner, or a
7 certified nurse-midwife in accordance with subdivision (a). In
8 every instance, prior to handing the medication to a patient pursuant
9 to this subparagraph, the properly labeled and prepackaged
10 prescription drug shall have the patient’s name affixed to the
11 package and a licensed physician and surgeon, a licensed podiatrist,
12 a physician assistant, a nurse practitioner, or a certified
13 nurse-midwife shall verify that it is the correct medication and
14 dosage for that specific patient and shall provide the appropriate
15 patient consultation regarding use of the drug.

16 *(C) Notwithstanding any other law, “technical supportive*
17 *services” also includes drawing up a local anesthetic, such as*
18 *lidocaine in a syringe, provided all of the following conditions are*
19 *met:*

20 *(i) A supervising licensed physician and surgeon, licensed*
21 *podiatrist, licensed physician assistant, licensed nurse practitioner,*
22 *or certified nurse-midwife physically observes the medical assistant*
23 *draw up the anesthetic.*

24 *(ii) A supervising licensed physician and surgeon, licensed*
25 *podiatrist, licensed physician assistant, licensed nurse practitioner,*
26 *or certified nurse-midwife verifies that each syringe label is*
27 *accurate.*

28 *(iii) The anesthetic is a local anesthetic and is reconstituted by*
29 *someone with a license to do so or comes reconstituted from the*
30 *manufacturer.*

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

33 (1) The licensure of medical assistants.

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

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

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

1 (5) A nurse practitioner, certified nurse-midwife, or physician
2 assistant to be a laboratory director of a clinical laboratory, as those
3 terms are defined in paragraph (8) of subdivision (a) of Section
4 1206 and subdivision (a) of Section 1209.

5 (d) A nurse practitioner, certified nurse-midwife, or physician
6 assistant shall not authorize a medical assistant to perform any
7 clinical laboratory test or examination for which the medical
8 assistant is not authorized by Chapter 3 (commencing with Section
9 1200). A violation of this subdivision constitutes unprofessional
10 conduct.

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

O

SB 53 (*Wilk*) Open meetings

AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

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

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

O

**SB 159 (*Wiener – Principal coauthors:
Assembly Members Gipson and Gloria –
Coauthor: Assembly Member Chiu*) HIV:
preexposure and postexposure prophylaxis**

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 11, 2019

AMENDED IN SENATE APRIL 1, 2019

AMENDED IN SENATE FEBRUARY 27, 2019

SENATE BILL

No. 159

Introduced by Senator Wiener

(Principal coauthors: Assembly Members Gipson and Gloria)

(Coauthor: Assembly Member Chiu)

January 23, 2019

An act to amend Section 4052 of, and to add Section 4052.02 to, the Business and Professions Code, to add Section 1342.74 to the Health and Safety Code, to add Section 10123.1933 to the Insurance Code, and to amend Section 14132.968 of the Welfare and Institutions Code, relating to HIV prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 159, as amended, Wiener. HIV: preexposure and postexposure prophylaxis.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy, and makes a violation of these requirements a crime. Existing law generally authorizes a pharmacist to dispense or furnish drugs only pursuant to a valid prescription, except as provided, such as furnishing emergency contraceptives, hormonal contraceptives, and naloxone hydrochloride, pursuant to standardized procedures.

This bill would authorize a pharmacist to furnish preexposure prophylaxis and postexposure prophylaxis, in specified amounts, if the pharmacist completes a training program approved by the board and

complies with specified requirements, such as assessing a patient and providing a patient with counseling and tests. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services pursuant to a schedule of benefits, including pharmacist services, which are subject to approval by the federal Centers for Medicare and Medicaid Services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill would expand the Medi-Cal schedule of benefits to include preexposure prophylaxis and postexposure prophylaxis as pharmacist services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law authorizes health care service plans and health insurers that cover prescription drugs to utilize reasonable medical management practices, including prior authorization and step therapy, consistent with applicable law. For combination antiretroviral drug treatments medically necessary for the prevention of AIDS/HIV, existing law prohibits plans and insurers, until January 1, 2023, from having utilization management policies or procedures that rely on a multitablet drug regimen instead of a single-tablet drug regimen, except as specified.

This bill would additionally prohibit plans and insurers from subjecting those drug treatments, including preexposure prophylaxis or postexposure prophylaxis, to prior authorization or step therapy. *The bill would also prohibit plans and insurers from prohibiting, or allowing a pharmacy benefit manager to prohibit, a pharmacy provider from providing preexposure prophylaxis or postexposure prophylaxis.* Because a willful violation of these provisions *by a health care service plan* 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.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 4052 of the Business and Professions
2 Code is amended to read:
3 4052. (a) Notwithstanding any other law, a pharmacist may:
4 (1) Furnish a reasonable quantity of compounded drug product
5 to a prescriber for office use by the prescriber.
6 (2) Transmit a valid prescription to another pharmacist.
7 (3) Administer drugs and biological products that have been
8 ordered by a prescriber.
9 (4) Perform procedures or functions in a licensed health care
10 facility as authorized by Section 4052.1.
11 (5) Perform procedures or functions as part of the care provided
12 by a health care facility, a licensed home health agency, a licensed
13 clinic in which there is a physician oversight, a provider who
14 contracts with a licensed health care service plan with regard to
15 the care or services provided to the enrollees of that health care
16 service plan, or a physician, as authorized by Section 4052.2.
17 (6) Perform procedures or functions as authorized by Section
18 4052.6.
19 (7) Manufacture, measure, fit to the patient, or sell and repair
20 dangerous devices, or furnish instructions to the patient or the
21 patient's representative concerning the use of those devices.
22 (8) Provide consultation, training, and education to patients
23 about drug therapy, disease management, and disease prevention.
24 (9) Provide professional information, including clinical or
25 pharmacological information, advice, or consultation to other
26 health care professionals, and participate in multidisciplinary
27 review of patient progress, including appropriate access to medical
28 records.
29 (10) Furnish the medications described in subparagraph (A) in
30 accordance with subparagraph (B):
31 (A) (i) Emergency contraception drug therapy and
32 self-administered hormonal contraceptives, as authorized by
33 Section 4052.3.

1 (ii) Nicotine replacement products, as authorized by Section
2 4052.9.

3 (iii) Prescription medications not requiring a diagnosis that are
4 recommended by the federal Centers for Disease Control and
5 Prevention for individuals traveling outside of the United States.

6 (iv) HIV preexposure prophylaxis and postexposure prophylaxis,
7 as authorized by Section 4052.02.

8 (B) The pharmacist shall notify the patient’s primary care
9 provider of any drugs or devices furnished to the patient, or enter
10 the appropriate information in a patient record system shared with
11 the primary care provider, as permitted by that primary care
12 provider. If the patient does not have a primary care provider, the
13 pharmacist shall provide the patient with a written record of the
14 drugs or devices furnished and advise the patient to consult a
15 physician of the patient’s choice.

16 (11) Administer immunizations pursuant to a protocol with a
17 prescriber.

18 (12) Order and interpret tests for the purpose of monitoring and
19 managing the efficacy and toxicity of drug therapies. A pharmacist
20 who orders and interprets tests pursuant to this paragraph shall
21 ensure that the ordering of those tests is done in coordination with
22 the patient’s primary care provider or diagnosing prescriber, as
23 appropriate, including promptly transmitting written notification
24 to the patient’s diagnosing prescriber or entering the appropriate
25 information in a patient record system shared with the prescriber,
26 when available and as permitted by that prescriber.

27 (b) A pharmacist who is authorized to issue an order to initiate
28 or adjust a controlled substance therapy pursuant to this section
29 shall personally register with the federal Drug Enforcement
30 Administration.

31 (c) This section does not affect the applicable requirements of
32 law relating to either of the following:

- 33 (1) Maintaining the confidentiality of medical records.
- 34 (2) The licensing of a health care facility.

35 SEC. 2. Section 4052.02 is added to the Business and
36 Professions Code, to read:

37 4052.02. (a) Notwithstanding any other law, a pharmacist may
38 initiate and furnish HIV preexposure prophylaxis and postexposure
39 prophylaxis in accordance with this section.

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

1 (1) “Preexposure prophylaxis” means a fixed-dose combination
2 of tenofovir disoproxil fumarate (TDF) (300 mg) with emtricitabine
3 (FTC) (200 mg), or another drug or drug combination that meets
4 the same clinical eligibility recommendations provided in CDC
5 guidelines.

6 (2) “Postexposure prophylaxis” means either of the following:

7 (A) Tenofovir disoproxil fumarate (TDF) (300 mg) with
8 emtricitabine (FTC) (200 mg), taken once daily, in combination
9 with either raltegravir (400 mg), taken twice daily, or dolutegravir
10 (50 mg), taken once daily.

11 (B) Tenofovir disoproxil fumarate (TDF) (300 mg) and
12 emtricitabine (FTC) (200 mg), taken once daily, in combination
13 with darunavir (800 mg) and ritonavir (100 mg), taken once daily.

14 (3) “CDC guidelines” means either of the following publications
15 by the federal Centers for Disease Control and Prevention:

16 (A) “2017 Preexposure Prophylaxis for the Prevention of HIV
17 Infection in the United States – 2017 Update: A Clinical Practice
18 Guideline.”

19 (B) “Updated Guidelines for Antiretroviral Postexposure
20 Prophylaxis After Sexual, Injection Drug Use, or Other
21 Nonoccupational Exposure to HIV – United States, 2016.”

22 (c) Before furnishing preexposure prophylaxis or postexposure
23 prophylaxis to a patient, a pharmacist shall complete a training
24 program approved by the board on the use of preexposure
25 prophylaxis and postexposure prophylaxis. The board shall consult
26 with the California Pharmacists Association and the Office of
27 AIDS, within the State Department of Public Health, on training
28 programs that are appropriate to meet the requirements of this
29 subdivision.

30 (d) A pharmacist may furnish a 30-day supply of preexposure
31 prophylaxis if all of the following conditions are met:

32 (1) The patient is HIV negative, as documented by a negative
33 HIV test result obtained within the previous seven days from an
34 HIV antigen/antibody test or antibody-only test, or from a rapid,
35 point-of-care fingerstick blood test approved by the federal Food
36 and Drug Administration. If the patient does not provide evidence
37 of a negative HIV test in accordance with this paragraph, the
38 pharmacist shall order an HIV test. If the test results are not
39 transmitted directly to the pharmacist, the pharmacist shall verify
40 the test results to the pharmacist’s satisfaction. If the patient tests

1 positive for HIV infection, the pharmacist or person administering
2 the test shall direct the patient to a primary care provider and
3 provide a list of providers and clinics in the region.

4 (2) The patient does not report any signs or symptoms of acute
5 HIV infection on a self-reported checklist of acute HIV infection
6 signs and symptoms.

7 (3) The patient does not report taking any contraindicated
8 medications.

9 (4) The pharmacist provides counseling to the patient on the
10 ongoing use of preexposure prophylaxis, which may include
11 education about side effects, safety during pregnancy and
12 breastfeeding, adherence to recommended dosing, and the
13 importance of timely testing and treatment, as applicable, for HIV,
14 renal function, hepatitis B, hepatitis C, sexually transmitted
15 diseases, and pregnancy for individuals of child-bearing capacity.
16 The pharmacist shall notify the patient that the patient must be
17 seen by a primary care provider to receive subsequent prescriptions
18 for preexposure prophylaxis and that a pharmacist may not furnish
19 a 30-day supply of preexposure prophylaxis to a single patient
20 more than once every two years.

21 (5) The patient reports having normal kidney function, and the
22 pharmacist orders a test to measure kidney function. The patient
23 shall provide contact information for the patient and sign an
24 agreement to stop taking preexposure prophylaxis if laboratory
25 results indicate that the patient should not take preexposure
26 prophylaxis. The pharmacist shall contact the patient if laboratory
27 results indicate that the patient should not take preexposure
28 prophylaxis.

29 (6) The pharmacist documents, to the extent possible, the
30 services provided by the pharmacist in the patient's health record.
31 The pharmacist shall maintain records of preexposure prophylaxis
32 furnished to each patient.

33 (7) The pharmacist does not furnish a 30-day supply of
34 preexposure prophylaxis to a single patient more than once every
35 two years, unless directed otherwise by a prescriber.

36 (8) The pharmacist notifies the patient's primary care provider
37 that the pharmacist completed the requirements specified in this
38 subdivision. If the patient does not have a primary care provider,
39 or refuses consent to notify the patient's primary care provider,
40 the pharmacist shall provide the patient a list of physicians and

1 surgeons, clinics, or other health care service providers to contact
2 regarding ongoing care for preexposure prophylaxis.

3 (e) A pharmacist may furnish a complete course of postexposure
4 prophylaxis if all of the following conditions are met:

5 (1) The pharmacist screens the patient and determines the
6 exposure occurred within the previous 72 hours and *the patient*
7 otherwise meets the clinical criteria for postexposure prophylaxis
8 consistent with CDC guidelines.

9 (2) The pharmacist provides HIV testing or determines the
10 patient is willing to undergo HIV testing consistent with CDC
11 guidelines. If the patient refuses to undergo HIV testing but is
12 otherwise eligible for postexposure prophylaxis under this section,
13 the pharmacist may furnish postexposure prophylaxis.

14 (3) The pharmacist provides counseling to the patient on the
15 use of postexposure prophylaxis consistent with CDC guidelines,
16 which may include education about side effects, safety during
17 pregnancy and breastfeeding, adherence to recommended dosing,
18 and the importance of timely testing and treatment, as applicable,
19 for HIV and sexually transmitted diseases.

20 (4) The pharmacist notifies the patient's primary care provider
21 of the postexposure prophylaxis treatment. If the patient does not
22 have a primary care provider, or refuses consent to notify the
23 patient's primary care provider, the pharmacist shall provide the
24 patient a list of physicians and surgeons, clinics, or other health
25 care service providers to contact regarding followup care for
26 postexposure prophylaxis.

27 (5) The pharmacist does not furnish postexposure prophylaxis
28 to a single individual more than two times in a calendar year.

29 (f) A pharmacist initiating or furnishing preexposure prophylaxis
30 or postexposure prophylaxis shall not permit the person to whom
31 the drug is furnished to waive the consultation required by the
32 board.

33 (g) The board, by July 1, 2020, shall adopt emergency
34 regulations to implement this section in accordance with CDC
35 guidelines. The adoption of regulations pursuant to this subdivision
36 shall be deemed to be an emergency and necessary for the
37 immediate preservation of the public peace, health, safety, or
38 general welfare.

39 SEC. 3. Section 1342.74 is added to the Health and Safety
40 Code, immediately following Section 1342.73, to read:

1 1342.74. (a) Notwithstanding Section 1342.71, a health care
2 service plan shall not subject combination antiretroviral drug
3 treatments that are medically necessary for the prevention of
4 AIDS/HIV, including preexposure prophylaxis or postexposure
5 prophylaxis, to prior authorization or step therapy.

6 (b) *Notwithstanding any other law, a health care service plan*
7 *shall not prohibit, or permit a delegated pharmacy benefit manager*
8 *to prohibit, a pharmacy provider from dispensing preexposure*
9 *prophylaxis or postexposure prophylaxis.*

10 (c) *This section does not require a health care service plan to*
11 *cover preexposure prophylaxis or postexposure prophylaxis by a*
12 *pharmacist at an out-of-network pharmacy, unless the health care*
13 *service plan has an out-of-network pharmacy benefit.*

14 SEC. 4. Section 10123.1933 is added to the Insurance Code,
15 immediately following Section 10123.1932, to read:

16 10123.1933. (a) Notwithstanding Section 10123.201, a health
17 insurer shall not subject combination antiretroviral drug treatments
18 that are medically necessary for the prevention of AIDS/HIV,
19 including preexposure prophylaxis or postexposure prophylaxis,
20 to prior authorization or step therapy.

21 (b) *Notwithstanding any other law, a health insurer shall not*
22 *prohibit, or permit a contracted pharmacy benefit manager to*
23 *prohibit, a pharmacist from dispensing preexposure prophylaxis*
24 *or postexposure prophylaxis.*

25 SEC. 5. Section 14132.968 of the Welfare and Institutions
26 Code is amended to read:

27 14132.968. (a) (1) Pharmacist services are a benefit under the
28 Medi-Cal program, subject to approval by the federal Centers for
29 Medicare and Medicaid Services.

30 (2) The department shall establish a fee schedule for the list of
31 pharmacist services.

32 (3) The rate of reimbursement for pharmacist services shall be
33 at 85 percent of the fee schedule for physician services under the
34 Medi-Cal program.

35 (b) (1) The following services are covered pharmacist services
36 that may be provided to a Medi-Cal beneficiary:

37 (A) Furnishing travel medications, as authorized in clause (3)
38 of subparagraph (A) of paragraph (10) of subdivision (a) of Section
39 4052 of the Business and Professions Code.

1 (B) Furnishing naloxone hydrochloride, as authorized in Section
2 4052.01 of the Business and Professions Code.

3 (C) Furnishing self-administered hormonal contraception, as
4 authorized in subdivision (a) of Section 4052.3 of the Business
5 and Professions Code.

6 (D) Initiating and administering immunizations, as authorized
7 in Section 4052.8 of the Business and Professions Code.

8 (E) Providing tobacco cessation counseling and furnishing
9 nicotine replacement therapy, as authorized in Section 4052.9 of
10 the Business and Professions Code.

11 (F) Initiating and furnishing preexposure prophylaxis and
12 postexposure prophylaxis, as authorized in Section 4052.02 of the
13 Business and Professions Code.

14 (2) Covered pharmacist services shall be subject to department
15 protocols and utilization controls.

16 (c) A pharmacist shall be enrolled as an ordering, referring, and
17 prescribing provider under the Medi-Cal program prior to rendering
18 a pharmacist service that is submitted by a Medi-Cal pharmacy
19 provider for reimbursement pursuant to this section.

20 (d) (1) The director shall seek any necessary federal approvals
21 to implement this section. This section shall not be implemented
22 until the necessary federal approvals are obtained and shall be
23 implemented only to the extent that federal financial participation
24 is available.

25 (2) This section neither restricts nor prohibits any services
26 currently provided by pharmacists as authorized by law, including,
27 but not limited to, this chapter, or the Medicaid state plan.

28 (e) Notwithstanding Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
30 the department may implement, interpret, or make specific this
31 section, and any applicable federal waivers and state plan
32 amendments, by means of all-county letters, plan letters, plan or
33 provider bulletins, or similar instructions, without taking regulatory
34 action. By July 1, 2021, the department shall adopt regulations in
35 accordance with the requirements of Chapter 3.5 (commencing
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code. Commencing July 1, 2017, the department
38 shall provide a status report to the Legislature on a semiannual
39 basis, in compliance with Section 9795 of the Government Code,
40 until regulations have been adopted.

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

O

**SB 201 (*Wiener*) Medical procedures:
treatment or intervention: sex characteristics
of a minor**

AMENDED IN SENATE MARCH 25, 2019

SENATE BILL

No. 201

Introduced by Senator Wiener

(~~Coauthor: Senator Beall~~)

(Coauthors: Senators Beall and Galgiani)

(Coauthors: Assembly Members Carrillo, Chiu, Gloria, McCarty, Quirk,
and Ting)

January 31, 2019

An act to add Section 2295 to the Business and Professions Code, and to add Section 6931 to the Family Code, relating to sex characteristics.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as amended, Wiener. Medical procedures: treatment or intervention: sex characteristics of a minor.

~~(1) Under~~

Under existing law, the Medical Practice Act, it is unprofessional conduct for a physician and surgeon to fail to comply with prescribed informed consent requirements relating to various medical procedures, including sterilization procedures, the removal of sperm or ova from a patient under specified circumstances, and the treatment of breast cancer. Any violation of the law relating to enforcement of the Medical Practice Act is a misdemeanor, as specified.

This bill ~~would~~ *would, absent a medical necessity*, prohibit a physician and surgeon from performing any treatment or intervention on the sex characteristics of an intersex minor ~~if the treatment or intervention may be deferred until~~ *without the informed consent of the intersex minor can provide informed consent*, *minor*, as described. The bill would, among other things, require a physician and ~~surgeon~~ *surgeon, prior to*

~~performing the treatment or intervention, to provide a written and oral disclosure prior to performing the treatment or intervention and to obtain the informed consent of the intersex minor to the treatment or intervention, as specified. The bill would authorize a physician and surgeon to perform the medical procedure without the minor's consent if it is medically necessary and the physician and surgeon provides the written and oral disclosure to the parent or guardian and obtains their informed consent, as specified. The bill would authorize the Medical Board of California to develop and adopt medical guidelines to implement these requirements. Any violation of these provisions would be subject to disciplinary action by the board, but not criminal prosecution.~~

~~(2) Under existing law, a minor may consent to specified medical procedures without the consent of a parent or guardian.~~

~~This bill would authorize an intersex minor to provide informed consent to treatment or intervention on their sex characteristics, as specified.~~

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

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

1 SECTION 1. Section 2295 is added to the Business and
2 Professions Code, to read:

3 2295. (a) Consistent with Senate Concurrent Resolution 110
4 of the 2017–18 Regular Session (Resolution Chapter 225 of the
5 Statutes of 2018), the Legislature hereby finds and declares all of
6 the following:

7 (1) The Legislature opposes all forms of prejudice, bias, or
8 discrimination and affirms its commitment to the dignity and
9 autonomy of all people, including those born with variations in
10 their physical sex characteristics.

11 (2) Intersex people are a part of the fabric of our state's diversity
12 to be celebrated, rather than an aberration to be corrected.

13 (3) Intersex people should be free to choose whether to undergo
14 life-altering surgeries and other treatments or interventions on their
15 physical sexual characteristics that irreversibly, and sometimes
16 irreparably, cause harm.

17 (4) The enactment of legislation is necessary to ensure the ability
18 of intersex people to participate in decisions about surgery and

1 other medical treatments or interventions on their physical sex
2 characteristics.

3 (5) *Intersex is an umbrella term used to describe a wide range*
4 *of natural bodily variations. In some cases, intersex traits are*
5 *visible at birth, while in others, they are not apparent until puberty.*
6 *Some chromosomal intersex variations may not be physically*
7 *apparent at all.*

8 (b) *The following definitions apply for purposes of this section:*

9 (1) *“Intersex” means an individual born with sex*
10 *characteristics, including genitals, gonads, and chromosome*
11 *patterns, that do not fit typical binary notions of male or female*
12 *bodies, including differences in sex development resulting from*
13 *androgen insensitivity syndrome, congenital adrenal hyperplasia,*
14 *and hypospadias.*

15 (2) (A) *A treatment or intervention on the sex characteristics*
16 *of an intersex minor is “medically necessary” or a “medical*
17 *necessity” when it is reasonable and necessary to protect life, to*
18 *prevent significant illness or significant disability, or to alleviate*
19 *severe pain.*

20 (B) *A medically necessary treatment or intervention on the sex*
21 *characteristics of an intersex minor includes, but is not limited to,*
22 *a procedure to repair the bladder or cloacal exstrophy, a*
23 *gonadectomy to address a risk of cancer that is significantly*
24 *elevated above the risk to the general population, a hypospadias*
25 *repair, including chordee release, intended to alleviate severe*
26 *pain, or a procedure intended to allow urine to exit the body absent*
27 *a urethral opening.*

28 (C) *A treatment or intervention is not medically necessary if*
29 *the treatment or intervention may be safely deferred until the*
30 *intersex minor can provide informed consent. Psychological factors*
31 *do not constitute medical necessity for a treatment or intervention*
32 *on the sex characteristics of an intersex minor.*

33 (3) *“Parent or guardian” has the same meaning as used in*
34 *Section 6903 of the Family Code.*

35 (4) *“Psychosocial” means an individual’s psychological status*
36 *in relation to their social and physical environment.*

37 (5) *For purposes of this section, “informed consent” means*
38 *that a person knowingly and intelligently, without duress or*
39 *coercion, and clearly and explicitly manifests their consent to the*
40 *proposed treatment or intervention to the attending physician and*

1 *surgeon, following receipt of the written and oral disclosures*
2 *described in subdivision (e).*

3 ~~(b)~~

4 (c) (1) ~~Absent a medical necessity, a physician and surgeon~~
5 *shall not perform any treatment or intervention on the sex*
6 *characteristics of an intersex minor if the treatment or intervention*
7 *may be deferred until the intersex minor can provide informed*
8 *consent; without the informed consent of the intersex minor, as*
9 *described in subdivision (d): (f).*

10 (2) A treatment or intervention *subject to the requirements of*
11 *this section* includes, but is not limited to, the following procedures:

12 (A) Clitorectomy, clitoroplasty, clitoral reduction, and clitoral
13 recession, including corporal-sparing procedures.

14 (B) Gonadectomy, including of testes, ovaries, ovotestes, and
15 streak gonads.

16 (C) Hypospadias surgery, relocation of the urethral meatus, and
17 chordee release.

18 (D) Labiaplasty and labial reduction.

19 (E) Phalloplasty.

20 (F) Vaginoplasty, introitoplasty, vaginal exteriorization, and
21 partial or total urogenital sinus mobilization.

22 ~~(e)~~

23 (d) Prior to performing a treatment or intervention on the sex
24 characteristics of an intersex minor, a physician and surgeon shall
25 provide *to the intersex minor* written and oral disclosure, ~~in~~
26 ~~nontechnical terms, about all of the following:~~ *as described in*
27 *subdivision (e), and shall obtain the informed consent of the*
28 *intersex minor, as described in subdivision (f).*

29 (e) *The written and oral disclosure required by subdivision (d)*
30 *shall include, in nontechnical terms, all of the following:*

31 (1) A description of the treatment or intervention to be
32 performed, including any necessary healthcare management or
33 long-term follow-up care to be expected following the treatment
34 or intervention.

35 (2) A description of any attendant discomfort and risks to the
36 patient in the short term and long term, which may reasonably be
37 expected following the treatment or intervention.

38 (3) An explanation of any benefits that the patient can reasonably
39 expect following the treatment or intervention.

1 (4) An explanation of any appropriate alternative procedures,
2 drugs, or devices, including delay of the procedure, that might be
3 advantageous to the patient, and their relative risks and benefits.

4 (5) An offer to answer any inquiries concerning the treatment
5 or intervention involved.

6 ~~(d)~~

7 ~~(f) (1) Following the receipt of the written and oral disclosure~~
8 ~~provided by the physician and surgeon, as described in subdivision~~
9 ~~(e), the intersex minor shall provide~~ *The informed consent to the*
10 *treatment or intervention, which meets intervention required by*
11 *subdivision (d) shall be obtained from the intersex minor after*
12 *providing the disclosure described in subdivision (e) and shall*
13 *meet all of the following requirements:*

14 (A) The consent shall be in writing and shall contain the
15 following statement: I (name of minor) do hereby consent to
16 (description of medical procedure) to be performed by (name of
17 physician and surgeon) on (date that the medical procedure is
18 performed on the minor).

19 (B) The consent shall be signed by the minor and by the
20 physician and surgeon who performs the medical procedure.

21 (C) The consent shall contain a notification to the minor that
22 the written consent is an important document that should be
23 retained with other vital records.

24 (2) The physician and surgeon shall retain the original consent
25 in the medical record of the minor and give a copy of the consent
26 to the minor.

27 (3) If the treatment or intervention is performed in a hospital,
28 the physician and surgeon shall provide a copy of the consent to
29 the hospital.

30 ~~(e) This section does not affect the obligation of a physician~~
31 ~~and surgeon under current law to obtain the informed consent of~~
32 ~~a patient before performing a medical procedure on the patient~~
33 ~~that may significantly affect the patient's reproductive health or~~
34 ~~ability to conceive, or both.~~

35 ~~(f) (1) If the intersex minor is unable to give informed consent,~~
36 ~~a physician and surgeon shall opine only on the medical necessity~~
37 ~~of a treatment or intervention.~~

38 ~~(2) If a physician and surgeon opines on medical necessity of~~
39 ~~a treatment or intervention pursuant to subparagraph (1), they shall~~
40 ~~neither evaluate nor opine on whether a treatment or intervention~~

1 on the sex characteristics of an intersex minor is advisable due to
2 psychosocial factors.

3 (g) If it is medically necessary to perform a treatment or
4 intervention on the sex characteristics of an intersex minor without
5 the consent of the intersex minor, a physician and surgeon may
6 perform the medical procedure only if the physician and surgeon
7 provides the written and oral disclosure, as described in subdivision
8 (e); (e), to the parent or guardian, and the parent or guardian
9 provides informed consent, as described in subdivision (d). (f).

10 (h) The following definitions apply for purposes of this
11 paragraph:

12 (1) “Intersex minor” means an individual born with atypical
13 physical sex characteristics, including, but not limited to,
14 chromosomes, genitals, or internal organs, and includes differences
15 in sex development resulting from androgen insensitivity syndrome,
16 congenital adrenal hyperplasia, and hypospadias.

17 (2) (A) “Medically necessary” means that the treatment or
18 intervention on the sex characteristics of an intersex minor is
19 reasonable and necessary for the diagnosis or treatment of an illness
20 or injury and cannot be safely deferred.

21 (B) A medically necessary treatment or intervention on the sex
22 characteristics of an intersex minor includes, but is not limited to,
23 a procedure to repair the bladder, a cloacal exstrophy, or any other
24 procedure intended to allow urine to exit the body absent a urethral
25 opening.

26 (3) “Parent or guardian” has the same meaning as used in
27 Section 6903 of the Family Code.

28 (4) “Psychosocial” means an individual’s psychological status
29 in relation to their social and physical environment.

30 (i)

31 (h) The board may develop and adopt medical guidelines to
32 implement this subdivision.

33 (j)

34 (i) A violation of this section constitutes unprofessional conduct.
35 Section 2314 shall not apply to a violation of this section.

36 SEC. 2. Section 6931 is added to the Family Code, to read:

37 6931. Notwithstanding paragraph (1) of subdivision (b) of
38 Section 6925, an intersex minor, as defined in subdivision (h) of
39 Section 2295 of the Business and Professions Code, may provide
40 informed consent to treatment or intervention on their sex

- 1 characteristics, pursuant to Section 2295 of the Business and
- 2 Professions Code.

O

SB 276 (Pan – Principal coauthor: Assembly Member Gonzalez – Coauthor: Senator Wiener – Coauthor: Assembly Member Aguiar-Curry)
Immunizations: medical exemptions

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 9, 2019

AMENDED IN SENATE MARCH 25, 2019

SENATE BILL

No. 276

Introduced by Senator Pan

(Principal coauthor: Assembly Member Gonzalez)

(Coauthor: Senator Wiener)

(Coauthor: Assembly Member Aguiar-Curry)

February 13, 2019

An act to amend Sections 120370 and 120375 of, and to add Section 120372 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, as amended, Pan. Immunizations: medical exemptions.

Existing law prohibits the governing authority of a school or other institution from admitting for attendance any pupil who fails to obtain required immunizations within the time limits prescribed by the State Department of Public Health. Existing law exempts from those requirements a pupil whose parents have filed with the governing authority a written statement by a licensed physician to the effect that immunization is not considered safe for that child, indicating the specific nature and probable duration of their medical condition or circumstances, including, but not limited to, family medical history.

This bill would instead require the State Department of Public Health ~~Health~~, *by July 1, 2020*, to develop and make available for use by licensed physicians and surgeons a statewide standardized medical exemption request form, ~~which~~ *which, commencing January 1, 2021*, would be the only medical exemption documentation that a governing

authority may accept. The bill would require the State Public Health Officer or the public health officer's designee to approve or deny a medical exemption request, upon determining that the request provides sufficient medical evidence that the immunization is ~~contraindicated~~ *by contraindicated or that a specific precaution regarding a particular immunization exists, based on guidelines of the federal Centers of for Disease Control and Prevention (CDC)*. The bill would specify the information to be included in the medical exemption form. The bill ~~would~~ *would, commencing January 1, 2021*, require a physician and surgeon to inform a parent or guardian of the bill's requirements and to examine the child and submit a completed medical exemption request form to the department, as specified. The bill would require the State Public Health Officer or designee to review the completed exemption request form and notify the physician and surgeon of the approval or denial of the request. The bill would require the reason for denial of a request to be included in the notification, and would authorize the physician and surgeon to submit additional information to the department for further ~~review, as specified.~~ *review for purposes of filing an appeal if an exemption request is denied.*

This bill would require the ~~department~~ *department, by December 31, 2020*, to create and maintain a database of approved medical exemption requests, and to make the database accessible to local health officers. The bill would require a copy of a medical exemption granted prior to the availability of the standardized form to be submitted to the department for inclusion in the database by ~~July 1, 2020,~~ *December 31, 2021*, in order for the medical exemption to remain valid after the statewide standardized form has been adopted. The bill would authorize the State Public Health Officer or a local public health officer to revoke a medical exemption if the State Public Health Officer or local public health officer determines that the medical exemption is fraudulent or inconsistent with applicable CDC guidelines. *The bill would require the department, in consultation with local educational agencies and local public health officers, to develop a process for a parent or guardian to request a medical exemption and the department to approve or deny the request and communicate its decision to the school district and the parent or guardian, as specified.* The bill would also make conforming changes to existing law.

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

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

1 SECTION 1. Section 120370 of the Health and Safety Code
2 is amended to read:

3 120370. (a) (1) If the parent or guardian files with the
4 governing authority a written statement by a licensed physician
5 and surgeon to the effect that the physical condition of the child
6 is such, or medical circumstances relating to the child are such,
7 that immunization is not considered safe, indicating the specific
8 nature and probable duration of the medical condition or
9 circumstances, including, but not limited to, family medical history,
10 for which the physician and surgeon does not recommend
11 immunization, that child shall be exempt from the requirements
12 of this chapter, except for Section 120380, and exempt from
13 Sections 120400, 120405, 120410, and 120415 to the extent
14 indicated by the physician and surgeon’s statement.

15 (2) ~~After the statewide standardized medical exemption request~~
16 ~~form developed pursuant to Section 120372 is made available for~~
17 ~~use, Commencing January 1, 2021, an exemption previously issued~~
18 ~~under before January 1, 2021, pursuant to this subdivision is valid~~
19 only if the parent or guardian has complied with paragraph (2) of
20 subdivision (c) of ~~that section. Section 120372.~~

21 (b) If there is good cause to believe that a child has been exposed
22 to a disease listed in subdivision (b) of Section 120335 and the
23 child’s documentary proof of immunization status does not show
24 proof of immunization against that disease, that child may be
25 temporarily excluded from the school or institution until the local
26 health officer is satisfied that the child is no longer at risk of
27 developing or transmitting the disease.

28 SEC. 2. Section 120372 is added to the Health and Safety Code,
29 to read:

30 120372. (a) (1) ~~The~~ *By July 1, 2020, the* department shall
31 develop and make available for use by licensed physicians and
32 surgeons a statewide standardized medical exemption request form.
33 Notwithstanding Section 120370, ~~once the form has been made~~
34 ~~available, commencing January 1, 2021, it shall be the only medical~~
35 exemption documentation that a governing authority may accept,
36 except as provided in paragraph (2) of subdivision (c). A medical
37 exemption request form shall be approved or denied only by the
38 State Public Health Officer or the public health officer’s designee,

1 upon a determination that the request provides sufficient medical
2 evidence that the immunization is contraindicated ~~by~~ *or there exists*
3 *a specific precaution regarding a particular immunization, based*
4 *on* guidelines of the federal Centers ~~of~~ *for* Disease Control and
5 Prevention (CDC).

6 (2) At a minimum, the form shall require all of the following
7 information:

8 (A) The name, medical license number, and business address
9 and telephone number, of the licensed physician and surgeon.

10 (B) The name of the child for whom the exemption is sought
11 and the name of the child's parent or guardian.

12 (C) A statement certifying that the licensed physician and
13 surgeon has personally examined the child.

14 (D) A description of the medical reason for which the exemption
15 is ~~required~~. *sought*.

16 (b) (1) ~~If~~ *Commencing January 1, 2021, if* a parent or guardian
17 requests a licensed physician and surgeon to ~~provide~~ *request* a
18 medical exemption for the parent's or guardian's child, the
19 physician and surgeon shall inform the parent or guardian of the
20 requirements of this section. If the parent or guardian consents,
21 the physician and surgeon shall examine the child and submit a
22 completed medical exemption request form to the department.

23 (2) The State Public Health Officer or designee shall review the
24 completed request form and provide the physician and surgeon
25 with notification approving or denying the medical exemption
26 request. If the medical exemption request is denied, the reason for
27 the denial shall be included in the ~~notification, and the physician~~
28 ~~and surgeon may submit additional information to the department~~
29 ~~within 30 days from the notification for further review by the State~~
30 ~~Public Health Officer or designee~~. *notification*.

31 (3) *The denial of a request for a medical exemption may be*
32 *appealed to the State Public Health Officer.*

33 (4) *For purposes of filing an appeal, the physician and surgeon*
34 *may submit additional information to the department within 30*
35 *days from the notification for further review by the State Public*
36 *Health Officer or designee.*

37 (c) (1) ~~The~~ *By December 31, 2020, the* department shall create
38 and maintain a database of medical exemption requests approved
39 pursuant to this section. The department shall make the information
40 in the database accessible to local public health officers.

1 (2) If a medical exemption has been authorized pursuant to
2 Section 120370 prior to the adoption of the statewide standardized
3 form, the parent or guardian shall submit, by ~~July 1, 2020,~~
4 *December 31, 2020*, a copy of that medical exemption to the
5 department for inclusion in the database in order for the medical
6 exemption to remain valid.

7 (d) If the State Public Health Officer or a local public health
8 officer determines that a medical exemption submitted to the
9 department is fraudulent or inconsistent with applicable CDC
10 guidelines, *as specified in paragraph (1) of subdivision (a)*, the
11 State Public Health Officer or local public health officer may
12 revoke the medical exemption.

13 (e) *The department, in consultation with local educational*
14 *agencies and local public health officers, shall develop a process*
15 *for a parent or guardian to request a medical exemption and the*
16 *department to expeditiously approve or deny the request and*
17 *communicate its decision in a timely manner to the school district*
18 *and the parent or guardian.*

19 (e)

20 (f) In administering this section, the department shall comply
21 with all applicable state and federal privacy laws, including, but
22 not limited to, the Confidentiality of Medical Information Act (Part
23 2.6 (commencing with Section 56) of Division 1 of the Civil Code),
24 the federal Health Insurance Portability and Accountability Act
25 of 1996 (Public Law 104-191), and Sections 827, 5328, and 10850
26 of the Welfare and Institutions Code.

27 SEC. 3. Section 120375 of the Health and Safety Code is
28 amended to read:

29 120375. (a) The governing authority of each school or
30 institution included in Section 120335 shall require documentary
31 proof of each entrant's immunization status. The governing
32 authority shall record the immunizations of each new entrant in
33 the entrant's permanent enrollment and scholarship record on a
34 form provided by the department. The immunization record of
35 each new entrant admitted conditionally shall be reviewed
36 periodically by the governing authority to ensure that within the
37 time periods designated by regulation of the department the entrant
38 has been fully immunized against all of the diseases listed in
39 Section 120335, and immunizations received after entry shall be
40 added to the pupil's immunization record.

1 (b) The governing authority of each school or institution
2 included in Section 120335 shall prohibit from further attendance
3 any pupil admitted conditionally who failed to obtain the required
4 immunizations within the time limits allowed in the regulations
5 of the department until that pupil has been fully immunized against
6 all of the diseases listed in Section 120335, unless the pupil is
7 exempted under Section 120370 or 120372.

8 (c) The governing authority shall file a written report on the
9 immunization status of new entrants to the school or institution
10 under their jurisdiction with the department and the local health
11 department at times and on forms prescribed by the department.
12 As provided in paragraph (4) of subdivision (a) of Section 49076
13 of the Education Code, the local health department shall have
14 access to the complete health information as it relates to
15 immunization of each student in the schools or other institutions
16 listed in Section 120335 in order to determine immunization
17 deficiencies.

18 (d) The governing authority shall cooperate with the county
19 health officer in carrying out programs for the immunization of
20 persons applying for admission to any school or institution under
21 its jurisdiction. The governing board of any school district may
22 use funds, property, and personnel of the district for that purpose.
23 The governing authority of any school or other institution may
24 permit any licensed physician or any qualified registered nurse to
25 administer immunizing agents to any person seeking admission to
26 any school or institution under its jurisdiction.

**SB 377 (*McGuire*) Juveniles: psychotropic
medications: medical records**

AMENDED IN SENATE APRIL 11, 2019

AMENDED IN SENATE APRIL 1, 2019

SENATE BILL

No. 377

Introduced by Senator McGuire

February 20, 2019

An act to amend ~~Section 369.5~~ *Sections 369.5 and 739.5* of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 377, as amended, McGuire. ~~Dependents:~~ *Juveniles*: psychotropic medications: medical records.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent ~~of the court under certain circumstances, including when the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, or a parent or guardian fails to adequately supervise or protect the child, as specified:~~ *or ward of the court under certain circumstances*. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child *or a ward* who has been removed from the physical custody of their parent. Existing law requires that court authorization for the administration of psychotropic medications to a child be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires, upon the approval or denial by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, the county child welfare ~~agency~~ *agency*, *probation department*, or other person or entity who submitted the

request to provide a copy of the court order approving or denying the request to the child's caregiver.

Existing law requires the Medical Board of California to review specified data provided by the State Department of Health Care Services and the State Department of Social Services regarding Medi-Cal physicians and their prescribing patterns of psychotropic medications and related services for dependents and wards of the juvenile court in order to determine if any potential violations of law or excessive prescribing of psychotropic medications inconsistent with the standard of care exist and, if warranted, to conduct an investigation.

This bill would, upon the approval by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, require the juvenile court judicial officer to also authorize the Medical Board of California to review the patient medical record of the child authorized to receive psychotropic medication. The bill would require the patient medical record to be limited to the diagnosis for the authorized prescription of psychotropic medication in order to ascertain whether there is excessive prescribing of psychotropic medication inconsistent with a specified standard of care.

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

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

1 SECTION 1. Section 369.5 of the Welfare and Institutions
2 Code is amended to read:
3 369.5. (a) (1) If a child is adjudged a dependent child of the
4 court under Section 300 and the child has been removed from the
5 physical custody of the parent under Section 361, only a juvenile
6 court judicial officer shall have authority to make orders regarding
7 the administration of psychotropic medications for that child. The
8 juvenile court may issue a specific order delegating this authority
9 to a parent upon making findings on the record that the parent
10 poses no danger to the child and has the capacity to authorize
11 psychotropic medications. Court authorization for the
12 administration of psychotropic medication shall be based on a
13 request from a physician, indicating the reasons for the request, a
14 description of the child's diagnosis and behavior, the expected
15 results of the medication, and a description of any side effects of
16 the medication.

1 (2) (A) ~~On or before July 1, 2016, the~~ *The* Judicial Council
2 shall amend and adopt rules of court and develop appropriate forms
3 for the implementation of this section, in consultation with the
4 State Department of Social Services, the State Department of
5 Health Care Services, and stakeholders, including, but not limited
6 to, the County Welfare Directors Association of California, the
7 County Behavioral Health Directors Association of California, the
8 Chief Probation Officers of California, associations representing
9 current and former foster children, caregivers, and children’s
10 attorneys. This effort shall be undertaken in coordination with the
11 updates required under paragraph (2) of subdivision (a) of Section
12 739.5.

13 (B) The rules of court and forms developed pursuant to
14 subparagraph (A) shall address all of the following:

15 (i) The child and their caregiver and court-appointed special
16 advocate, if any, have an opportunity to provide input on the
17 medications being prescribed.

18 (ii) Information regarding the child’s overall mental health
19 assessment and treatment plan is provided to the court.

20 (iii) Information regarding the rationale for the proposed
21 medication, provided in the context of past and current treatment
22 efforts, is provided to the court. This information shall include,
23 but not be limited to, information on other pharmacological and
24 nonpharmacological treatments that have been utilized and the
25 child’s response to those treatments, a discussion of symptoms not
26 alleviated or ameliorated by other current or past treatment efforts,
27 and an explanation of how the psychotropic medication being
28 prescribed is expected to improve the child’s symptoms.

29 (iv) Guidance is provided to the court on how to evaluate the
30 request for authorization, including how to proceed if information,
31 otherwise required to be included in a request for authorization
32 under this section, is not included in a request for authorization
33 submitted to the court.

34 (C) The rules of court and forms developed pursuant to
35 subparagraph (A) shall include a process for periodic oversight by
36 the court of orders regarding the administration of psychotropic
37 medications that includes the caregiver’s and child’s observations
38 regarding the effectiveness of the medication and side effects,
39 information on medication management appointments and other
40 followup appointments with medical practitioners, and information

1 on the delivery of other mental health treatments that are a part of
2 the child's overall treatment plan. The periodic oversight shall be
3 facilitated by the county social worker, public health nurse, or
4 other appropriate county staff. This oversight process shall be
5 conducted in conjunction with other regularly scheduled court
6 hearings and reports provided to the court by the county child
7 welfare agency.

8 (b) (1) In counties in which the county child welfare agency
9 completes the request for authorization for the administration of
10 psychotropic medication, the agency is encouraged to complete
11 the request within three business days of receipt from the physician
12 of the information necessary to fully complete the request.

13 (2) This subdivision does not change current local practice or
14 local court rules with respect to the preparation and submission of
15 requests for authorization for the administration of psychotropic
16 medication.

17 (c) (1) Within seven court days from receipt by the court of a
18 completed request, the juvenile court judicial officer shall either
19 approve or deny in writing a request for authorization for the
20 administration of psychotropic medication to the child, or shall,
21 upon a request by the parent, the legal guardian, or the child's
22 attorney, or upon its own motion, set the matter for hearing.

23 (2) Notwithstanding Section 827 or any other law, upon the
24 approval or denial by the juvenile court judicial officer of a request
25 for authorization for the administration of psychotropic medication,
26 the county child welfare agency or other person or entity who
27 submitted the request shall provide a copy of the court order
28 approving or denying the request to the child's caregiver.

29 (3) Upon the approval of a request for authorization for the
30 administration of psychotropic medication, the juvenile court
31 judicial officer shall also authorize the Medical Board of California
32 to review the patient medical record of the child authorized to
33 receive psychotropic medication. The review of the patient medical
34 record shall be limited to the diagnosis for the prescription
35 authorized under paragraph (1) in order to ascertain whether there
36 is excessive prescribing of psychotropic medication inconsistent
37 with the standard of care described in Section 2245 of the Business
38 and Professions Code.

39 (d) Psychotropic medication or psychotropic drugs are those
40 medications administered for the purpose of affecting the central

1 nervous system to treat psychiatric disorders or illnesses. These
2 medications include, but are not limited to, anxiolytic agents,
3 antidepressants, mood stabilizers, antipsychotic medications,
4 anti-Parkinson agents, hypnotics, medications for dementia, and
5 psychostimulants.

6 (e) This section does not supersede local court rules regarding
7 a minor’s right to participate in mental health decisions.

8 (f) This section does not apply to nonminor dependents, as
9 defined in subdivision (v) of Section 11400.

10 *SEC. 2. Section 739.5 of the Welfare and Institutions Code is*
11 *amended to read:*

12 739.5. (a) (1) If a minor who has been adjudged a ward of the
13 court under Section 601 or 602 is removed from the physical
14 custody of the parent under Section 726 and placed into foster
15 care, as defined in Section 727.4, only a juvenile court judicial
16 officer shall have authority to make orders regarding the
17 administration of psychotropic medications for that minor. The
18 juvenile court may issue a specific order delegating this authority
19 to a parent upon making findings on the record that the parent
20 poses no danger to the minor and has the capacity to authorize
21 psychotropic medications. Court authorization for the
22 administration of psychotropic medication shall be based on a
23 request from a physician, indicating the reasons for the request, a
24 description of the minor’s diagnosis and behavior, the expected
25 results of the medication, and a description of any side effects of
26 the medication.

27 (2) (A) ~~On or before July 1, 2016, the~~ *The* Judicial Council
28 shall amend and adopt rules of court and develop appropriate forms
29 for the implementation of this section, in consultation with the
30 State Department of Social Services, the State Department of
31 Health Care Services, and stakeholders, including, but not limited
32 to, the County Welfare Directors Association of California, the
33 County Behavioral Health Directors Association of California, the
34 Chief Probation Officers of California, associations representing
35 current and former foster children, caregivers, and minor’s
36 attorneys. This effort shall be undertaken in coordination with the
37 updates required under paragraph (2) of subdivision (a) of Section
38 369.5.

39 (B) The rules of court and forms developed pursuant to
40 subparagraph (A) shall address all of the following:

1 (i) The minor and ~~his or her~~ *the minor's* caregiver and
2 court-appointed special advocate, if any, have an opportunity to
3 provide input on the medications being prescribed.

4 (ii) Information regarding the minor's overall mental health
5 assessment and treatment plan is provided to the court.

6 (iii) Information regarding the rationale for the proposed
7 medication, provided in the context of past and current treatment
8 efforts, is provided to the court. This information shall include,
9 but not be limited to, information on other pharmacological and
10 nonpharmacological treatments that have been utilized and the
11 minor's response to those treatments, a discussion of symptoms
12 not alleviated or ameliorated by other current or past treatment
13 efforts, and an explanation of how the psychotropic medication
14 being prescribed is expected to improve the minor's symptoms.

15 (iv) Guidance is provided to the court on how to evaluate the
16 request for authorization, including how to proceed if information,
17 otherwise required to be included in a request for authorization
18 under this section, is not included in a request for authorization
19 submitted to the court.

20 (C) The rules of court and forms developed pursuant to
21 subparagraph (A) shall include a process for periodic oversight by
22 the court of orders regarding the administration of psychotropic
23 medications that includes the caregiver's and minor's observations
24 regarding the effectiveness of the medication and side effects,
25 information on medication management appointments and other
26 followup appointments with medical practitioners, and information
27 on the delivery of other mental health treatments that are a part of
28 the minor's overall treatment plan. This oversight process shall be
29 conducted in conjunction with other regularly scheduled court
30 hearings and reports provided to the court by the county probation
31 agency.

32 (b) (1) The agency that completes the request for authorization
33 for the administration of psychotropic medication is encouraged
34 to complete the request within three business days of receipt from
35 the physician of the information necessary to fully complete the
36 request.

37 (2) Nothing in this subdivision is intended to change current
38 local practice or local court rules with respect to the preparation
39 and submission of requests for authorization for the administration
40 of psychotropic medication.

1 (c) (1) Within seven court days from receipt by the court of a
2 completed request, the juvenile court judicial officer shall either
3 approve or deny in writing a request for authorization for the
4 administration of psychotropic medication to the minor, or shall,
5 upon a request by the parent, the legal guardian, or the minor's
6 attorney, or upon its own motion, set the matter for hearing.

7 (2) Notwithstanding Section 827 or any other law, upon the
8 approval or denial by the juvenile court judicial officer of a request
9 for authorization for the administration of psychotropic medication,
10 the county probation agency or other person or entity who
11 submitted the request shall provide a copy of the court order
12 approving or denying the request to the minor's caregiver.

13 (3) *Upon the approval of a request for authorization for the*
14 *administration of psychotropic medication, the juvenile court*
15 *judicial officer shall also authorize the Medical Board of California*
16 *to review the patient medical record of the child authorized to*
17 *receive psychotropic medication. The review of the patient medical*
18 *record shall be limited to the diagnosis for the prescription*
19 *authorized under paragraph (1) in order to ascertain whether*
20 *there is excessive prescribing of psychotropic medication*
21 *inconsistent with the standard of care described in Section 2245*
22 *of the Business and Professions Code.*

23 (d) Psychotropic medication or psychotropic drugs are those
24 medications administered for the purpose of affecting the central
25 nervous system to treat psychiatric disorders or illnesses. These
26 medications include, but are not limited to, anxiolytic agents,
27 antidepressants, mood stabilizers, antipsychotic medications,
28 anti-Parkinson agents, hypnotics, medications for dementia, and
29 psychostimulants.

30 (e) Nothing in this section is intended to supersede local court
31 rules regarding a minor's right to participate in mental health
32 decisions.

33 (f) This section does not apply to nonminor dependents, as
34 defined in subdivision (v) of Section 11400.

**SB 425 (*Hill*) Health care practitioners:
licensee's file: probationary physician's and
surgeon's certificate: unprofessional conduct**

AMENDED IN SENATE APRIL 30, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 425

Introduced by Senator Hill

February 21, 2019

An act to amend Sections 800, 2221, and 2234 of, and to add Section 805.8 to, the Business and Profession Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Hill. Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct.

Existing law requires the Medical Board of California and specified other boards responsible for the licensure, regulation, and discipline of health care practitioners to separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board, including prescribed historical information for each licensee. Existing law makes the contents of any central file that are not public records confidential, except that the licensee or their counsel or a representative are authorized to inspect and have copies made of the licensee's complete file other than the disclosure of the identity of an information source. Existing law authorizes a board to protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material.

This bill would delete the specification that the summary be comprehensive.

Existing law establishes a peer review process for certain healing arts licentiates, as defined, and requires the chief of staff of a medical or

professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to report specified information, including the denial or revocation of staff privileges, as defined, for a medical disciplinary cause or reason, within 15 days of the denial or revocation to the relevant state licensing agency. Existing law makes a violation of this reporting requirement punishable by a civil fine.

This bill would require any health facility or ~~clinic, administrator or chief executive officer of a health care service plan,~~ *clinic* or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients to report any allegation of sexual abuse or sexual misconduct made against a healing arts licensee to the relevant state licensing agency within 15 days of receiving the allegation and would require the relevant agency to investigate the circumstances underlying a received report. The bill would also require an employee or healing arts licensee that works in a health facility or ~~clinic, health care service plan,~~ *clinic* or other entity with knowledge of any allegation of sexual abuse or sexual misconduct by a healing arts licensee to report to the relevant state agency having jurisdiction over the healing arts licensee and the administration of the health facility or ~~clinic, health care service plan,~~ *clinic* or other entity within 15 days of knowing about the allegation of sexual abuse or sexual misconduct. The bill would make a willful failure to file the report by a health facility or ~~clinic, health care service plan,~~ *clinic* or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation, as specified. The bill would also prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health facility or ~~clinic, a health care service plan,~~ *clinic* or other entity from incurring civil or criminal liability as a result of making a ~~report.~~ *report if made in good faith.*

The Medical Practice Act establishes the Medical Board of California for the licensure, regulation, and discipline of physicians and surgeons.

The act authorizes the board to deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of their license. The act authorizes the board in its sole discretion to issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions.

This bill would require the board to disclose a probationary physician's and surgeon's certificate and the operative statement of issues to an inquiring member of the public and to post the certificate and statement on the board's internet website for 10 years from issuance.

The act requires the board to take action against any licensee who is charged with unprofessional conduct and provides that unprofessional conduct includes the repeated failure by a certificate holder who is the subject of an investigation by the board, in the absence of good cause, to attend and participate in an interview by the board.

This bill would delete the condition that the failure to attend and participate in an interview by the board be repeated. The bill would also delete an obsolete provision.

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

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

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:

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

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

1 (2) Any judgment or settlement requiring the licensee or the
2 licensee's insurer to pay any amount of damages in excess of three
3 thousand dollars (\$3,000) for any claim that injury or death was
4 proximately caused by the licensee's negligence, error or omission
5 in practice, or by rendering unauthorized professional services,
6 pursuant to the reporting requirements of Section 801 or 802.

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

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

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

21 (b) (1) Each board shall prescribe and promulgate forms on
22 which members of the public and other licensees or certificate
23 holders may file written complaints to the board alleging any act
24 of misconduct in, or connected with, the performance of
25 professional services by the licensee.

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

30 (3) Notwithstanding this subdivision, the Board of Psychology,
31 the Board of Behavioral Sciences, and the Respiratory Care Board
32 of California shall maintain complaints or reports as long as each
33 board deems necessary.

34 (c) (1) The contents of any central file that are not public
35 records under any other provision of law shall be confidential
36 except that the licensee involved, or the licensee's counsel or
37 representative, may inspect and have copies made of the licensee's
38 complete file except for the provision that may disclose the identity
39 of an information source. For the purposes of this section, a board
40 may protect an information source by providing a copy of the

1 material with only those deletions necessary to protect the identity
2 of the source or by providing a summary of the substance of the
3 material. Whichever method is used, the board shall ensure that
4 full disclosure is made to the subject of any personal information
5 that could reasonably in any way reflect or convey anything
6 detrimental, disparaging, or threatening to a licensee’s reputation,
7 rights, benefits, privileges, or qualifications, or be used by a board
8 to make a determination that would affect a licensee’s rights,
9 benefits, privileges, or qualifications. The information required to
10 be disclosed pursuant to Section 803.1 shall not be considered
11 among the contents of a central file for the purposes of this
12 subdivision.

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

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

21 (4) These disclosures shall effect no change in the confidential
22 status of these records.

23 SEC. 2. Section 805.8 is added to the Business and Professions
24 Code, to read:

25 805.8. (a) As used in this section, the following terms shall
26 have the following meanings:

27 (1) “Agency” means the relevant state licensing agency with
28 regulatory jurisdiction over a healing arts licensee listed in
29 paragraph ~~(3)~~: (2).

30 ~~(2) “Health care service plan” means a health care service plan~~
31 ~~licensed under Chapter 2.2 (commencing with Section 1340) of~~
32 ~~Division 2 of the Health and Safety Code.~~

33 ~~(3)~~

34 (2) “Healing arts licensee” or “licensee” means a licensee
35 licensed under Division 2 (commencing with Section 500) or any
36 initiative act referred to in that division. “Healing arts licensee”
37 or “licensee” also includes a person authorized to practice medicine
38 pursuant to Sections 2064.5, 2113, and 2168.

39 ~~(4)~~

1 (3) “Other entity” includes, but is not limited to, a postsecondary
2 educational institution as defined in Section 66261.5 of the
3 Education Code.

4 (b) A health facility or ~~clinic, the administrator or chief~~
5 ~~executive officer of a health care service plan, clinic~~ or other entity
6 that makes any arrangement under which a healing arts licensee
7 is allowed to practice or provide care for patients shall file a report
8 of any allegation of sexual abuse or sexual misconduct made
9 against a healing arts licensee to the agency within 15 days of
10 receiving the allegation of sexual abuse or sexual misconduct. An
11 arrangement under which a licensee is allowed to practice or
12 provide care for patients includes, but is not limited to, full staff
13 privileges, active staff privileges, limited staff privileges, auxiliary
14 staff privileges, provisional staff privileges, temporary staff
15 privileges, courtesy staff privileges, locum tenens arrangements,
16 and contractual arrangements to provide professional services,
17 including, but not limited to, arrangements to provide outpatient
18 services.

19 (c) An employee or a healing arts licensee that works in any
20 health facility or ~~clinic, health care service plan, clinic~~ or other
21 entity that subdivision (b) applies to who has knowledge of any
22 allegation of sexual abuse or sexual misconduct by a healing arts
23 licensee shall file a report with the agency that has regulatory
24 jurisdiction over the healing arts licensee and the administration
25 of the health facility or ~~clinic, health care service plan, clinic~~ or
26 other entity within 15 days of knowing about the allegation of
27 sexual abuse or sexual misconduct.

28 (d) A willful failure to file the report described in subdivision
29 (b) shall be punishable by a fine not to exceed one hundred
30 thousand dollars (\$100,000) per violation. The fine may be imposed
31 in any civil or administrative action or proceeding brought by or
32 on behalf of any agency having regulatory jurisdiction over the
33 licensee regarding whom the report was or should have been filed.
34 If the person who is designated or otherwise required to file the
35 report under this section is a licensed physician and surgeon, the
36 action or proceeding shall be brought by the Medical Board of
37 California. If the person who is designated or otherwise required
38 to file the report required under this section is a licensed doctor of
39 podiatric medicine, the action or proceeding shall be brought by
40 the Podiatric Medical Board of California. The fine shall be paid

1 to that agency, but not expended until appropriated by the
2 Legislature. A violation of this subdivision may constitute
3 unprofessional conduct by the licensee. A person who is alleged
4 to have violated this subdivision may assert any defense available
5 at law. As used in this subdivision, “willful” means a voluntary
6 and intentional violation of a known legal duty.

7 (e) Except as provided in subdivision (d), any failure to file the
8 report described in subdivision (b) shall be punishable by a fine
9 not to exceed fifty thousand dollars (\$50,000) per violation. The
10 fine may be imposed in any civil or administrative action or
11 proceeding brought by or on behalf of any agency having
12 regulatory jurisdiction over the person regarding whom the report
13 was or should have been filed. If the person who is designated or
14 otherwise required to file the report required under this section is
15 a licensed physician and surgeon, the action or proceeding shall
16 be brought by the Medical Board of California. If the person who
17 is designated or otherwise required to file the report required under
18 this section is a licensed doctor of podiatric medicine, the action
19 or proceeding shall be brought by the Podiatric Medical Board of
20 California. The fine shall be paid to that agency, but not expended
21 until appropriated by the Legislature. The amount of the fine
22 imposed, not exceeding fifty thousand dollars (\$50,000) per
23 violation, shall be proportional to the severity of the failure to
24 report and shall differ based upon written findings, including
25 whether the failure to file caused harm to a patient or created a
26 risk to patient safety; whether any person who is designated or
27 otherwise required by law to file the report required under this
28 section exercised due diligence despite the failure to file or whether
29 the person knew or should have known that a report required under
30 this section would not be filed; and whether there has been a prior
31 failure to file a report required under this section. The amount of
32 the fine imposed may also differ based on whether a health care
33 facility or clinic is a small or rural hospital as defined in Section
34 124840 of the Health and Safety Code.

35 (f) A person, including an employee or individual contracted
36 or subcontracted to provide health care services, a health facility
37 or clinic, ~~a health care service plan~~, or other entity shall not incur
38 any civil or criminal liability as a result of making a report required
39 by ~~this section~~. *section if made in good faith.*

1 (g) The agency shall investigate the circumstances underlying
2 a report received pursuant to this section.

3 SEC. 3. Section 2221 of the Business and Professions Code is
4 amended to read:

5 2221. (a) The board may deny a physician’s and surgeon’s
6 certificate to an applicant guilty of unprofessional conduct or of
7 any cause that would subject a licensee to revocation or suspension
8 of their license. The board, in its sole discretion, may issue a
9 probationary physician’s and surgeon’s certificate to an applicant
10 subject to terms and conditions, including, but not limited to, any
11 of the following conditions of probation:

12 (1) Practice limited to a supervised, structured environment
13 where the licensee’s activities shall be supervised by another
14 physician and surgeon.

15 (2) Total or partial restrictions on drug prescribing privileges
16 for controlled substances.

17 (3) Continuing medical or psychiatric treatment.

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

19 (5) Enrollment and successful completion of a clinical training
20 program.

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

22 (7) Restrictions against engaging in certain types of medical
23 practice.

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

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

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

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

39 (d) An applicant shall not be eligible to reapply for a physician’s
40 and surgeon’s certificate for a minimum of three years from the

1 effective date of the denial of their application, except that the
2 board, in its discretion and for good cause demonstrated, may
3 permit reapplication after not less than one year has elapsed from
4 the effective date of the denial.

5 (e) The board shall disclose a probationary physician's and
6 surgeon's certificate issued pursuant to this section and the
7 operative statement of issues to an inquiring member of the public
8 and shall post the certificate and statement on the board's internet
9 website for 10 years from issuance.

10 SEC. 4. Section 2234 of the Business and Professions Code is
11 amended to read:

12 2234. The board shall take action against any licensee who is
13 charged with unprofessional conduct. In addition to other
14 provisions of this article, unprofessional conduct includes, but is
15 not limited to, the following:

16 (a) Violating or attempting to violate, directly or indirectly,
17 assisting in or abetting the violation of, or conspiring to violate
18 any provision of this chapter.

19 (b) Gross negligence.

20 (c) Repeated negligent acts. To be repeated, there must be two
21 or more negligent acts or omissions. An initial negligent act or
22 omission followed by a separate and distinct departure from the
23 applicable standard of care shall constitute repeated negligent acts.

24 (1) An initial negligent diagnosis followed by an act or omission
25 medically appropriate for that negligent diagnosis of the patient
26 shall constitute a single negligent act.

27 (2) When the standard of care requires a change in the diagnosis,
28 act, or omission that constitutes the negligent act described in
29 paragraph (1), including, but not limited to, a reevaluation of the
30 diagnosis or a change in treatment, and the licensee's conduct
31 departs from the applicable standard of care, each departure
32 constitutes a separate and distinct breach of the standard of care.

33 (d) Incompetence.

34 (e) The commission of any act involving dishonesty or
35 corruption that is substantially related to the qualifications,
36 functions, or duties of a physician and surgeon.

37 (f) Any action or conduct that would have warranted the denial
38 of a certificate.

39 (g) The failure by a certificate holder, in the absence of good
40 cause, to attend and participate in an interview by the board. This

- 1 subdivision shall only apply to a certificate holder who is the
- 2 subject of an investigation by the board.

O

**SB 697 (*Caballero*) Physicians assistants:
practice agreement: supervision**

AMENDED IN SENATE APRIL 24, 2019

AMENDED IN SENATE APRIL 10, 2019

SENATE BILL

No. 697

Introduced by Senator Caballero
(Coauthor: Assembly Member Friedman)

February 22, 2019

An act to amend Sections 3500, 3501, 3502, 3502.1, 3502.3, 3509, 3516, 3518, 3527, and 3528, of, and to repeal Sections 3516.5, 3521, and 3522 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 697, as amended, Caballero. Physician assistants: practice agreement: supervision.

The Physician Assistant Practice Act provides for licensure and regulation of physician assistants by the Physician Assistant Board, which is within the jurisdiction of the Medical Board of California. The act authorizes a physician assistant to perform medical services as set forth by regulations and the act and when those services are rendered under the supervision of a licensed physician and surgeon. *The act requires the Physician Assistant Board to, among other things, make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians to supervise physician assistants.* The act prohibits a physician and surgeon from supervising more than 4 physician assistants at any one time. The act requires the medical record to identify the physician and surgeon who is responsible for the supervision of the physician assistant. The act requires the supervising physician and surgeon to be physically available to the physician

assistant for consultation when that assistance is rendered. The act requires the physician assistant and the supervising physician and surgeon to establish written guidelines for adequate supervision, and authorizes the supervising physician and surgeon to satisfy this requirement by adopting protocols for some or all of the tasks performed by the physician assistant, as provided. The act additionally authorizes a delegation of services agreement to authorize a physician assistant to order durable medical equipment, to approve, sign, modify, or add to a plan of treatment or plan of care for individuals receiving home health services or personal care services, or to certify disability, as provided.

This bill *would remove the requirement that the Physician Assistant Board make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians and surgeons to supervise physician assistants.* The bill, except as described below, would remove the limit on the number of physician assistants that a physician and surgeon may supervise. The bill would remove the requirements that the medical record identify the responsible supervising physician and surgeon and that those written guidelines for adequate supervision be established. The bill would instead authorize a physician assistant to perform various medical services if certain requirements are met including that the medical services are rendered pursuant to ~~a signed delegation of services agreement~~ or a practice agreement, as defined, and the physician assistant is competent to perform the medical services. The bill would also require a practice agreement between a physician assistant and a physician and surgeon to meet specified requirements.

The act authorizes a physician assistant, under the supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device.

This bill would instead authorize a physician assistant to furnish or order a drug or device subject to specified supervision. Specifically, the bill would prohibit a physician and surgeon from supervising more than 6 physician assistants for purposes of the provisions relating to physician assistants furnishing or ordering drugs or devices.

The act defines various terms for its purposes.

This bill would revise and change the definitions as applicable to carry out the bill's provisions. The bill would provide that any reference

to “delegation of services agreement” in any other law means “practice agreement,” as defined by the bill, and that “supervision” does not require the supervising physician and surgeon to be physically present. The bill would also make various conforming changes.

The act makes a violation of specified provisions punishable as a misdemeanor.

By revising and recasting the provisions of the act, the bill would change the definition of that crime and would, therefore, result in a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 3500 of the Business and Professions
2 Code is amended to read:

3 3500. In its concern with the growing shortage and geographic
4 maldistribution of health care services in California, the Legislature
5 intends to establish in this chapter a framework for another category
6 of health manpower—the physician assistant.

7 The purpose of this chapter is to encourage the effective
8 utilization of the skills of physicians and surgeons, and physicians
9 and surgeons and podiatrists practicing in the same medical group
10 practice, by enabling them to work with qualified physician
11 assistants to provide quality care.

12 This chapter is established to encourage the coordinated care
13 between physician assistants, physicians and surgeons, podiatrists,
14 and other qualified health care providers practicing in the same
15 medical group, and to provide health care services. It is also the
16 purpose of this chapter to allow for innovative development of
17 programs for the education, training, and utilization of physician
18 assistants.

19 SEC. 2. Section 3501 of the Business and Professions Code is
20 amended to read:

21 3501. As used in this chapter:

- 1 (a) “Board” means the Physician Assistant Board.
- 2 (b) “Approved program” means a program for the education of
3 physician assistants that has been formally approved by the board.
- 4 (c) “Trainee” means a person who is currently enrolled in an
5 approved program.
- 6 (d) “Physician assistant” or “PA” means a person who meets
7 the requirements of this chapter and is licensed by the board.
- 8 (e) “Supervising physician” or “supervising physician and
9 surgeon” means a physician and surgeon licensed by the Medical
10 Board of California or by the Osteopathic Medical Board of
11 California who supervises one or more physician assistants, who
12 possesses a current valid license to practice medicine, and who is
13 not currently on disciplinary probation prohibiting the employment
14 or supervision of a physician assistant.
- 15 (f) “Supervision” means that a licensed physician and surgeon
16 oversees the activities of, and accepts responsibility for, the medical
17 services rendered by a physician assistant. Supervision shall not
18 be construed to require the physical presence of the physician and
19 surgeon.
- 20 (g) “Regulations” means the rules and regulations as set forth
21 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
22 of the California Code of Regulations.
- 23 (h) “Routine visual screening” means noninvasive
24 nonpharmacological simple testing for visual acuity, visual field
25 defects, color blindness, and depth perception.
- 26 (i) “Program manager” means the staff manager of the diversion
27 program, as designated by the executive officer of the board. The
28 program manager shall have background experience in dealing
29 with substance abuse issues.
- 30 (j) “Organized health care system” includes a licensed clinic as
31 described in Chapter 1 (commencing with Section 1200) of
32 Division 2 of the Health and Safety Code, an outpatient setting as
33 described in Chapter 1.3 (commencing with Section 1248) of
34 Division 2 of the Health and Safety Code, a health facility as
35 described in Chapter 2 (commencing with Section 1250) of
36 Division 2 of the Health and Safety Code, a county medical facility
37 as described in Chapter 2.5 (commencing with Section 1440) of
38 Division 2 of the Health and Safety Code, an accountable care
39 organization, a home health agency, a physician’s ~~office~~, *office*,
40 a professional medical corporation, a medical partnership, a

1 medical foundation, and any other organized entity that lawfully
2 provides medical services.

3 (k) “Practice agreement” means the writing, developed through
4 collaboration among one or more physicians and surgeons, one or
5 more physician assistants, and, if applicable, administrators of an
6 organized health care system, that outlines the medical services
7 the physician assistant is authorized to perform and that grants
8 approval for physicians and surgeons on the staff of an organized
9 health care system to supervise one or more physician assistants
10 in the organized health care system. Any reference to a delegation
11 of services agreement relating to physician assistants in any other
12 law shall have the same meaning as a practice agreement.

13 (l) “Other specified medical services” means tests or
14 examinations performed or ordered by a PA practicing in
15 compliance with this chapter or regulations of the board or the
16 Medical Board of California promulgated under this chapter.

17 SEC. 3. Section 3502 of the Business and Professions Code is
18 amended to read:

19 3502. (a) Notwithstanding any other law, a PA may perform
20 those medical services as set forth by ~~the regulations to be adopted~~
21 ~~under~~ this chapter if the following requirements are met:

22 (1) The PA renders the services under the supervision of a
23 licensed physician and surgeon who is not subject to a disciplinary
24 condition imposed by the Medical Board of California or by the
25 Osteopathic Medical Board prohibiting that supervision or
26 prohibiting the employment of a physician assistant.

27 (2) The PA renders the services pursuant to ~~a delegation of~~
28 ~~services agreement~~ or a practice agreement that meets the
29 requirements of Section 3502.3.

30 (3) The PA is competent to perform the services.

31 (4) The PA’s education, training, and experience have prepared
32 the PA to render the services.

33 (b) (1) Notwithstanding any other law, a physician assistant
34 performing medical services under the supervision of a physician
35 and surgeon may assist a doctor of podiatric medicine who is a
36 partner, shareholder, or employee in the same medical group as
37 the supervising physician and surgeon. A physician assistant who
38 assists a doctor of podiatric medicine pursuant to this subdivision
39 shall do so only according to patient-specific orders from a
40 supervising physician and surgeon.

1 (2) A supervising physician and surgeon shall be available to
 2 the physician assistant for consultation when assistance is rendered
 3 pursuant to this subdivision. A physician assistant assisting a doctor
 4 of podiatric medicine shall be limited to performing those duties
 5 included within the scope of practice of a doctor of podiatric
 6 medicine.

7 ~~(c) This section shall not be construed to~~ *Nothing in statute or*
 8 *regulations shall* require that a physician *and surgeon* review or
 9 countersign a medical record of a patient treated by a physician
 10 assistant, unless required by the practice agreement. The board
 11 may, as a condition of probation of a licensee, require the review
 12 or countersignature of records of patients treated by a physician
 13 assistant for a specified duration.

14 (d) This chapter does not authorize the performance of medical
 15 services in any of the following areas:

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

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

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

23 (4) The practice of dentistry or dental hygiene or the work of a
 24 dental auxiliary as defined in Chapter 4 (commencing with Section
 25 1600).

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

29 SEC. 4. Section 3502.1 of the Business and Professions Code
 30 is amended to read:

31 3502.1. In addition to the medical services authorized in the
 32 regulations adopted pursuant to Section 3502, and except as
 33 prohibited by Section 3502, a PA may furnish or order a drug or
 34 device subject to *all of* the following:

35 (a) The PA shall furnish or order a drug or device in accordance
 36 with the practice agreement and consistent with the PA's
 37 educational preparation or for which clinical competency has been
 38 established and maintained.

39 (b) (1) A practice agreement authorizing a PA to order or
 40 furnish a drug or device shall specify which PAs may furnish or

1 order a drug or device, which drugs or devices may be furnished
2 or ordered, under what circumstances, the extent of physician and
3 surgeon supervision, the method of periodic review of the PA's
4 competence, including peer review, and review of the practice
5 agreement.

6 (2) In addition to the requirements in paragraph (1), if the
7 practice agreement authorizes the PA to furnish a Schedule II
8 controlled substance, the practice agreement shall address the
9 diagnosis of the illness, injury, or condition for which the PA may
10 furnish the Schedule II controlled substance.

11 (c) The PA shall furnish or order drugs or devices under
12 physician and surgeon supervision. This subdivision shall not be
13 construed to require the physical presence of the physician and
14 surgeon, but does require the following:

15 (1) Adherence to adequate supervision agreed to in the practice
16 agreement.

17 (2) The physician and surgeon be available by telephone or
18 other electronic communication method at the time the PA
19 examines the patient.

20 (d) For purposes of this section, a physician and surgeon shall
21 not supervise more than six PAs at one time.

22 (e) (1) Except as provided in paragraph (2), the PA may furnish
23 or order only those Schedule II through Schedule V controlled
24 substances under the California Uniform Controlled Substances
25 Act (Division 10 (commencing with Section 11000) of the Health
26 and Safety Code) that have been agreed upon ~~and specified~~ in the
27 practice agreement.

28 (2) The PA may furnish or order Schedule II or III controlled
29 substances, as defined in Sections 11055 and 11056, respectively,
30 of the Health and Safety Code, in accordance with ~~a patient-specific~~
31 ~~protocol~~ *the practice agreement or a patient-specific order*
32 approved by the treating or supervising physician. A copy of the
33 section of the PA's practice agreement relating to controlled
34 substances shall be provided, upon request, to any licensed
35 pharmacist who dispenses drugs or devices, when there is
36 uncertainty about the PA furnishing the order.

37 (f) (1) The PA has satisfactorily completed a course in
38 pharmacology covering the drugs or devices to be furnished or
39 ordered under this section or has completed a program for

1 instruction of PAs that meet the requirements of Section 1399.530
2 of Title 16 of the California Code of Regulations.

3 (2) ~~Except as provided in subdivision (e), a~~ A physician and
4 surgeon through a practice agreement may determine the extent
5 of supervision necessary pursuant to this section in the furnishing
6 or ordering of drugs and devices.

7 (3) PAs who hold an active license, who are authorized through
8 a practice agreement to furnish Schedule II controlled substances,
9 and who are registered with the United States Drug Enforcement
10 Administration, shall complete, as part of their continuing
11 education requirements, a course including Schedule II controlled
12 substances, and the risks of addiction associated with their use,
13 based on the standards developed by the board. The board shall
14 establish the requirements for satisfactory completion of this
15 subdivision. Evidence of completion of a course meeting the
16 standards, including pharmacological content, established in
17 Section 1399.610 and 1399.612 of Title 16 of the California Code
18 of Regulations shall be deemed to meet the requirements of this
19 Section.

20 (g) For purposes of this section:

21 (1) “Furnishing” or “ordering” shall include the following:

22 (A) Ordering a drug or device in accordance with the practice
23 agreement.

24 (B) Transmitting an order of a supervising physician and
25 surgeon.

26 (C) Dispensing a medication pursuant to Section 4170.

27 (2) “Drug order” or “order” means an order for medication that
28 is dispensed to or for an ultimate user, issued by a PA as an
29 individual practitioner, within the meaning of Section 1306.02 of
30 Title 21 of the Code of Federal Regulations.

31 (h) Notwithstanding any other law, (1) a drug order issued
32 pursuant to this section shall be treated in the same manner as a
33 prescription of ~~the~~ a supervising physician; (2) all references to
34 “prescription” in this code and the Health and Safety Code shall
35 include drug orders issued by physician assistants; and (3) the
36 signature of a PA on a drug order issued in accordance with this
37 section shall be deemed to be the signature of a ~~prescriber~~.
38 *prescriber for purposes of this code and the Health and Safety*
39 *Code.*

1 SEC. 5. Section 3502.3 of the Business and Professions Code
2 is amended to read:

3 3502.3. (a) (1) A practice agreement shall ~~include, but is not~~
4 ~~limited to,~~ *include* provisions that address the following:

5 (A) The types of medical services a physician assistant is
6 authorized to perform and how the services are performed.

7 (B) Policies and procedures to ensure adequate supervision of
8 the physician assistant, including but not limited to, appropriate
9 communication, availability, consultations, and referrals between
10 a physician and surgeon and the physician assistant in the provision
11 of medical services.

12 (C) The methods for the continuing evaluation of the
13 competency and qualifications of the physician assistant.

14 (D) The furnishing or ordering of drugs or devices by a
15 physician assistant pursuant to Section 3502.1.

16 (E) Any additional provisions agreed to by the physician
17 assistant and physician and surgeon or organized health care
18 system.

19 (2) A practice agreement shall be signed by both of the
20 following:

21 (A) The physician assistant.

22 (B) One or more physicians and surgeons or a physician and
23 surgeon who is authorized to approve the practice agreement on
24 behalf of the staff of the physicians and surgeons on the staff of
25 an organized health care system.

26 (3) ~~For purposes of the act adding this subdivision, a~~ A
27 delegation of services agreement in effect prior to January 1, 2020,
28 shall be deemed to meet the requirements of this subdivision.

29 (4) Nothing in this section shall be construed to require approval
30 of a practice agreement by the board.

31 (b) Notwithstanding any other law, in addition to any other
32 practices that meet the general criteria set forth in this chapter or
33 regulations adopted by the board or the Medical Board of ~~California~~
34 ~~for inclusion in a practice agreement,~~ *California*, a practice
35 agreement may authorize a PA to do any of the following:

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

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

5 (3) After performance of a physical examination by the PA
6 under the supervision of a physician and surgeon consistent with
7 this chapter, certify disability pursuant to Section 2708 of the
8 Unemployment Insurance Code. The Employment Development
9 Department shall implement this paragraph on or before January
10 1, 2017.

11 (c) This section shall not be construed to affect the validity of
12 any practice agreement in effect prior to the effective date of this
13 section or those adopted subsequent to the effective date of this
14 section.

15 *SEC. 6. Section 3509 of the Business and Professions Code is*
16 *amended to read:*

17 3509. It shall be the duty of the board to:

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

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

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

26 ~~(d)~~

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

29 ~~SEC. 6.~~

30 *SEC. 7. Section 3516 of the Business and Professions Code is*
31 *amended to read:*

32 3516. (a) Notwithstanding any other provision of law, a
33 physician assistant licensed by the board shall be eligible for
34 employment or supervision by a physician and surgeon who is not
35 subject to a disciplinary condition imposed by the Medical Board
36 of California prohibiting that employment or supervision.

37 (b) The Medical Board of California may restrict a physician
38 and surgeon to supervising specific types of physician assistants
39 including, but not limited to, restricting a physician and surgeon

1 from supervising physician assistants outside of the field of
2 specialty of the physician and surgeon.

3 ~~SEC. 7.~~

4 *SEC. 8.* Section 3516.5 of the Business and Professions Code
5 is repealed.

6 ~~SEC. 8.~~

7 *SEC. 9.* Section 3518 of the Business and Professions Code is
8 amended to read:

9 3518. The board shall keep a current register for licensed PAs,
10 by specialty if applicable. The register shall show the name of each
11 licensee, the licensee's last known address of record, and the date
12 of the licensee's licensure. Any interested person is entitled to
13 obtain a copy of the register in accordance with the Information
14 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
15 of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon
16 application to the board together with a sum as may be fixed by
17 the board, which amount shall not exceed the cost of this list so
18 furnished.

19 ~~SEC. 9.~~

20 *SEC. 10.* Section 3521 of the Business and Professions Code
21 is repealed.

22 ~~SEC. 10.~~

23 *SEC. 11.* Section 3522 of the Business and Professions Code
24 is repealed.

25 ~~SEC. 11.~~

26 *SEC. 12.* Section 3527 of the Business and Professions Code
27 is amended to read:

28 3527. (a) The board may order the denial of an application
29 for, or the issuance subject to terms and conditions of, or the
30 suspension or revocation of, or the imposition of probationary
31 conditions upon a PA license after a hearing as required in Section
32 3528 for unprofessional conduct that includes, but is not limited
33 to, a violation of this chapter, a violation of the Medical Practice
34 Act, or a violation of the regulations adopted by the board or the
35 Medical Board of California.

36 (b) The board may order the denial of an application for, or the
37 suspension or revocation of, or the imposition of probationary
38 conditions upon, an approved program after a hearing as required
39 in Section 3528 for a violation of this chapter or the regulations
40 adopted pursuant thereto.

1 (c) The Medical Board of California may order the imposition
2 of probationary conditions upon a physician and surgeon's
3 authority to supervise a PA, after a hearing as required in Section
4 3528, for unprofessional conduct, which includes, but is not limited
5 to, a violation of this chapter, a violation of the Medical Practice
6 Act, or a violation of the regulations adopted by the board or the
7 Medical Board of California.

8 (d) The board may order the denial of an application for, or the
9 suspension or revocation of, or the imposition of probationary
10 conditions upon, a PA license, after a hearing as required in Section
11 3528 for unprofessional conduct that includes, except for good
12 cause, the knowing failure of a licensee to protect patients by
13 failing to follow infection control guidelines of the board, thereby
14 risking transmission of bloodborne infectious diseases from
15 licensee to patient, from patient to patient, and from patient to
16 licensee. In administering this subdivision, the board shall consider
17 referencing the standards, regulations, and guidelines of the State
18 Department of Public Health developed pursuant to Section
19 1250.11 of the Health and Safety Code and the standards,
20 regulations, and guidelines pursuant to the California Occupational
21 Safety and Health Act of 1973 (Part 1 (commencing with Section
22 6300) of Division 5 of the Labor Code) for preventing the
23 transmission of HIV, hepatitis B, and other bloodborne pathogens
24 in health care settings. As necessary, the board shall consult with
25 the Medical Board of California, the Osteopathic Medical Board,
26 the Podiatric Medical Board of California, the Dental Board of
27 California, the Board of Registered Nursing, and the Board of
28 Vocational Nursing and Psychiatric Technicians of the State of
29 California to encourage appropriate consistency in the
30 implementation of this subdivision.

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

36 (e) The board may order the licensee to pay the costs of
37 monitoring the probationary conditions imposed on the license.

38 (f) The expiration, cancellation, forfeiture, or suspension of a
39 PA license by operation of law or by order or decision of the board
40 or a court of law, the placement of a license on a retired status, or

1 the voluntary surrender of a license by a licensee shall not deprive
2 the board of jurisdiction to commence or proceed with any
3 investigation of, or action or disciplinary proceeding against, the
4 licensee or to render a decision suspending or revoking the license.

5 ~~SEC. 12.~~

6 *SEC. 13.* Section 3528 of the Business and Professions Code
7 is amended to read:

8 3528. Any proceedings involving the denial, suspension, or
9 revocation of the application for licensure or the license of a PA
10 or the application for approval or the approval of an approved
11 program under this chapter shall be conducted in accordance with
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division
13 3 of Title 2 of the Government Code.

14 ~~SEC. 13.~~

15 *SEC. 14.* The provisions of this measure are severable. If any
16 provision of this measure or its application is held invalid, that
17 invalidity shall not affect other provisions or applications that can
18 be given effect without the invalid provision or application.

19 ~~SEC. 14.~~

20 *SEC. 15.* No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

Tab 8

Executive Director - Report



MEMORANDUM

DATE	May 7, 2019
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Executive Director's Report – Agenda Item 12

This report provides the Board Members with information on the following topics:

- Licensing Statistics
- Staffing
- Budget
- Student Survey
- CURES
- Enforcement Report/Discipline

Licensing Statistics:

The table below shows the OMBC's total licensee count as of May 8, 2019. The table shows the total number of licensees practicing or residing in California, and also the total number of licensees under the OMBC's jurisdiction. At the end of Fiscal Year 2017-18, the total number of licensees under the OMBC's jurisdiction was 10,770. Therefore, the OMBC's license total continues to be on an upward trend.

License Status	Practicing/Residing in CA	Total Licensees
Active/Current	8,803	9,191
Inactive/Current	298	578
Delinquent		1,163
Total:	9,101	10,932*

* Total licensees under the OMBC's jurisdiction

The table below shows the Licensing Unit's workload for 2017-18 and 2018-19. The workload for 2018-19 is from July 1, 2018 – May 8, 2019. The licensing workload for the OMBC continues to increase and we are looking into different ways to increase efficiency in the Licensing Unit. Creating efficiencies will allow the OMBC to process this increasing workload within our existing resources.

Licensing Workload				
	Fiscal Year 2017-18		Fiscal Year 2018-19*	
	Total	Monthly Average	Total	Monthly Average
Applications Received	873	73	893	89
Applications Approved	876	73	604	60
Certificates Issued	891	75	582	58
Licenses Renewed	3,976	331	4,374	437
Fictitious Name Permits Received	142	12	125	13
Fictitious Name Permits Approved	118	10	86	9
Fictitious Name Permits Renewed	652	54	663	66

* Fiscal Year 2018-19 data is from July 1, 2018 – May 8, 2019

The number of days to approve a license application during the current fiscal year is 58 days. Applications with missing documents took an average of 117 days to complete and approve.

Staffing:

During the fall budget cycle, the Board submitted a Budget Change Proposal (BCP) requesting one Administrative Governmental Program Analyst (AGPA) and one Staff Services Analyst (SSA) position to process the workload associated with the implementation of the Postgraduate Training License (PTL). The SSA will process the licensing workload and the AGPA will process the enforcement workload associated with the PTL. The BCP has been approved by the Assembly and Senate and is awaiting final approval from the Governor. The OMBC will immediately begin recruiting for these two positions in lieu of final approval from the Governor.

Budget:

In addition to the BCP mentioned in the previous section, the OMBC also submitted a request for \$250,000 to adequately fund our enforcement duties. Specifically, the OMBC requested \$200,000 for enforcement investigations and \$50,000 for expert witness costs. This will make the OMBC's budget appropriately aligned and will allow the OMBC to properly investigate complaints without factoring in budget constraints.

The OMBC's current spending authority is \$2,586,000. It is anticipated that the OMBC will spend well within our spending authority this fiscal year. The attached Fund Condition shows that the OMBC is structurally imbalanced in that our total expenditures are greater than the total revenue being collected each fiscal year. Due to this structural imbalance, the OMBC's months in reserve continue to decrease. The OMBC is anticipating receiving our General Fund Loan Repayment of \$1,500,000 in 2019-20. This will provide a temporary increase in our months in reserve. A resolution to the OMBC's structural imbalance will need to be identified to ensure that the OMBC remains solvent moving forward.

Student Survey:

The OMBC sent a survey to the students who attended our last meeting on January 17, 2019. The OMBC received the survey results back from ten of the students that attended. The results of the student survey are attached.

CURES:

The CURES March 2018 Statistics report is attached to this report. As of March 2018, there are 6,912 osteopathic physicians registered as CURES users. Osteopathic physicians ran 92,490 separate patient activity reports while accessing the system 50,541 times.

This report also identifies the number of Scheduled prescriptions filled by dispensers on page 5.

Budget

0264 - Osteopathic Medical Board of California Contingent Analysis of Fund Condition

Prepared May 7, 2019

(Dollars in Thousands)

Governor's Budget 2019-20

	PY 2017-18	CY 2018-19	GOVERNORS BUDGET	
			BY 2019-20	BY+1 2020-21
BEGINNING BALANCE	\$ 3,136	\$ 2,837	\$ 2,373	\$ 2,962
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,136	\$ 2,837	\$ 2,373	\$ 2,962
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 17	\$ 15	\$ 15	\$ 15
4127400 Renewal fees	\$ 1,696	\$ 1,680	\$ 1,680	\$ 1,680
4129200 Other regulatory fees	\$ 26	\$ 31	\$ 33	\$ 33
4129400 Other regulatory licenses and permits	\$ 429	\$ 531	\$ 546	\$ 546
4163000 Income from surplus money investments	\$ 9	\$ 37	\$ 24	\$ 29
Totals, Revenues	\$ 2,177	\$ 2,294	\$ 2,298	\$ 2,303
Transfers from Other Funds				
F00001 GF loan repayment per Item 1485-011-0264, BA of 2002	\$ -	\$ -	\$ 1,500	\$ -
Totals, Revenues and Transfers	\$ 2,177	\$ 2,294	\$ 3,798	\$ 2,303
Totals, Resources	\$ 5,313	\$ 5,131	\$ 6,171	\$ 5,265
EXPENDITURES				
Disbursements:				
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 2,353	\$ 2,572	\$ 2,997	\$ 3,057
8880 Financial Information System for California (State Operations)	\$ 4	\$ -	\$ -1	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 25	\$ 53	\$ 53
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 119	\$ 161	\$ 160	\$ 160
Total Disbursements	\$ 2,476	\$ 2,758	\$ 3,209	\$ 3,270
FUND BALANCE				
Reserve for economic uncertainties	\$ 2,837	\$ 2,373	\$ 2,962	\$ 1,995
Months in Reserve	12.3	8.9	10.9	7.2

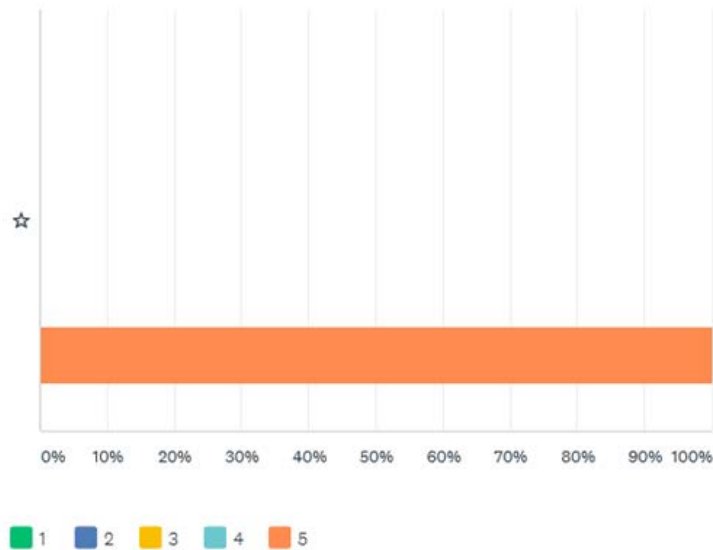
Student Survey



STUDENT SURVEY

❖ Were you satisfied with the overall meeting experience?

Answered: 9 Skipped: 1



	1	2	3	4	5	TOTAL	WEIGHTED AVERAGE
☆	0.00% 0	0.00% 0	0.00% 0	0.00% 0	100.00% 9	9	5.00

❖ What did you like most about the Board Meeting?

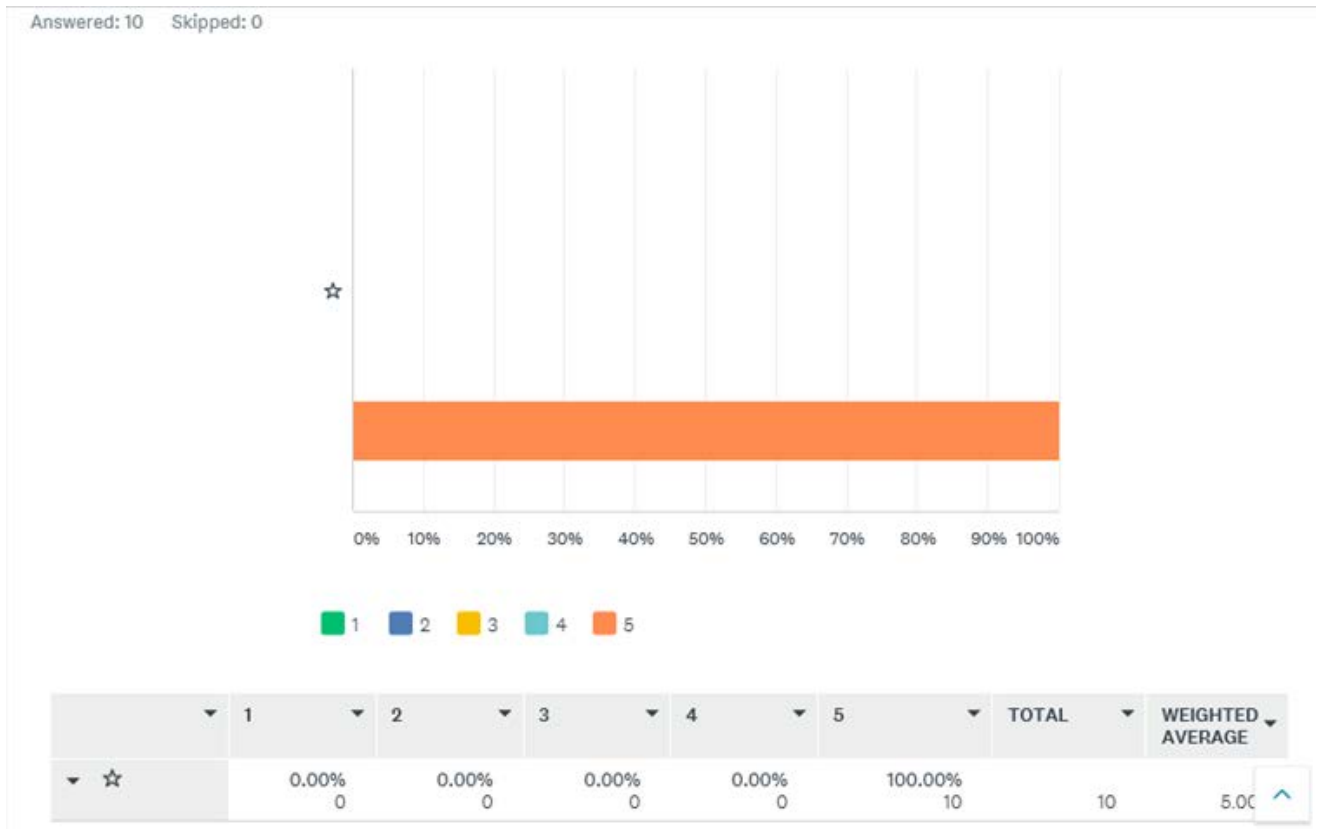
- Discussions with board members after the cases were presented
- The opportunity to see what the board does because I previously was unaware!
- talking to board members directly about the most common reasons physicians must report to the board and the tips/advice they provided to avoid these issues - hearing about the types of deadlines/changes that physicians are expected to stay up to date with (prescription pad changes from the board of pharmacy) I also appreciated the opportunity to learn more about the importance of CURES database and proper documentation.

- I appreciated how each member explained their role and outlined the structure of the meeting. I especially enjoyed hearing from the judge and lawyers specifically regarding their past experiences in cases and what we should be aware of as future physicians.
- the cases
- I appreciated how much attention the board members and staff gave us. They were very willing to teach and answer questions
- Sitting and listening to the cases was very interesting. I also really enjoyed getting to meet with the members of the board as well.
- How interactive they allowed the 2nd yr medical students to be with the board. They were right in front of us to answer our questions and help us understand what was going on
- The willingness of the board members to educate and enlighten us before, during, and after the meeting
- The interaction with the Board members and their willingness to teach us.

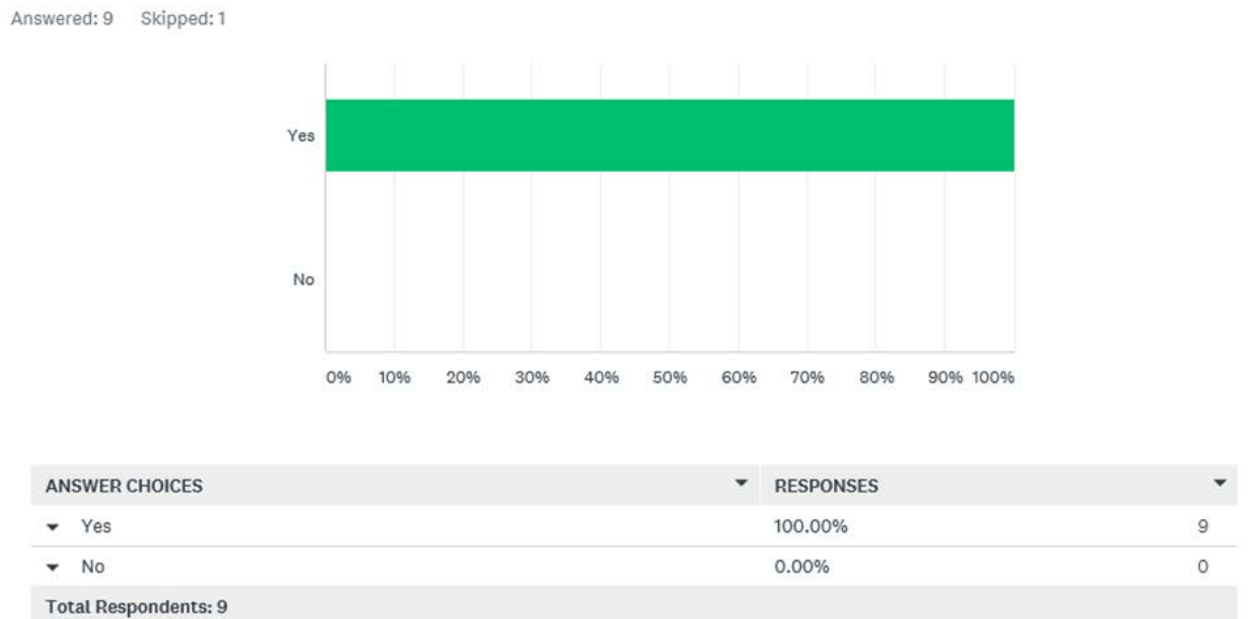
❖ What changes would most improve Board Meeting proceedings?

- The housekeeping components seemed a bit irrelevant to us since they dealt with internal matters
- Nothing I can think of!
- A short introduction to all board members describing their position, how long they have served on the board, and what they appreciate/enjoy most about the job.
- as students, I don't think it was necessary to attend the entire board meeting about budgeting, swearing in of new members, etc.
- I remember the board mentioning they were trying to raise awareness about DO's, but it's harder for us to engage with that in Visalia. Perhaps next year, the students could get the ball rolling before coming to the meeting and be more proactive/collaborate on projects during their visit.
- Maybe a Q and A session with the board at the end. I know everyone is very busy, but it would be nice to do it afterwards...once we get an idea of what it is the board truly does.
- From what I experienced, it was a very fulfilling experience. Not sure if this would be allowed or there would be time for this but perhaps maybe a pre and post debriefing before each hearing would be nice so that we have a functional understanding about what we're about to listen to.
- I cannot say what changes would most improve these meetings, as I have never been to other ones before.
- None

❖ **How would you rate the customer service provided to you by the Board Members & Staff?**

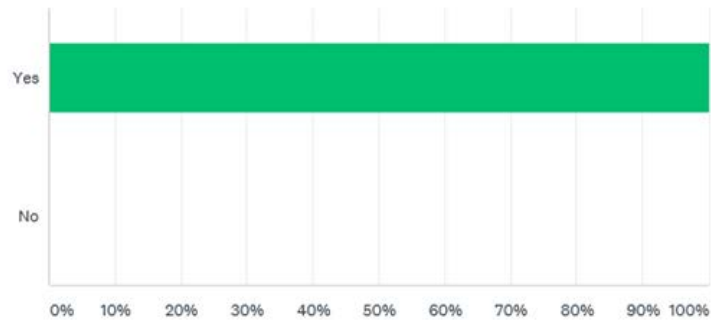


❖ **Was the location of the Board Meeting within a reasonable distance?**



❖ Would you recommend attendance of the Board Meeting to other students?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	100.00% 10
No	0.00% 0
Total Respondents: 10	

❖ Are there any other comments that you would like to add?

- Thank you again for hosting us! It was an incredibly informative session that led to many continued discussions
- Thank you for having us!
- I greatly appreciated the opportunity to attend this board meeting and I came away with a much greater appreciation for the legal implications of poor documentation. At this point in our education, we have learned about documentation regarding communication with other health professionals, creating assessments, etc. I know understand why documentation is important from a legal aspect. Several board members approached us directly and talked to us over lunch, and the judge also took a very direct role in giving us advice. I really appreciated them taking this time to speak to us and elucidate how they make decisions, etc. I highly recommend this to all medical students that are able to attend. Thank you for this amazing learning opportunity.
- I appreciate the opportunity to observe and learn about the different aspects and responsibilities of being an upstanding physician inside and outside the context of patients!
- No
- No, thanks for the valuable experience!
- Overall, the experience was a great one and I would encourage all students to attend.
- I'd like to thank the board and the ENTIRE staff for being so hospitable to our entire class of 2nd yr medical students. It's experiences like these that allow students from our

school to stand out and be different from other graduating DOs, but NONE of that would be possible without the inclusive nature of organizations like yours. From the bottom of my heart, thank you for letting us witness this. It really was inspiring to see you all do your jobs so well, it's set a standard for how I will uphold myself and I intend to make you all proud.

- Very eye opening!
- Thank You!

CURES

CURES 2.0

March 2019 Statistics

Registered Users		MARCH
Total Registered Users		213,880
Clinical Roles		
	Prescribers	160,662
	Dispensers	43,677
Sub-Total A		204,339
License Type		
	Doctor of Podiatric Medicine	1,397
	Registered Nurse Practitioner/Nurse Midwife	15,355
	Medical Doctor	107,664
	Naturopathic Doctor	329
	Osteopathic Doctor	6,912
	Physician Assistant	9,847
	Doctor of Optometry	673
	Pharmacist	43,211
	Doctor of Dental Surgery/Dental Medicine	14,952
	Doctor of Veterinary Medicine	2,986
	Other (Out of State)	1,013
Sub-Total B		204,339
Other Roles		
	LEAs	1,370
	Delegates	7,922
	DOJ Administrators	13
	DOJ Analysts	81
	Regulatory Board	155
Sub-Total C		9,541

NOTE:

1. Subtotal A = Subtotal B
2. Subtotal A + Subtotal C = Total Registered Users
3. Stats are from the 1st of the month to the last day of the month

CURES 2.0

March 2019 Statistics

Number of PARs Ran		MARCH
Total PARs Ran		2,023,092
Clinical Roles		
Prescribers		1,194,843
Dispensers		826,640
Sub-Total A		2,021,483
License Type		
Doctor of Podiatric Medicine		2,812
Registered Nurse Practitioner/Nurse Midwife		157,282
Medical Doctor		795,118
Naturopathic Doctor		1,251
Osteopathic Doctor		92,490
Physician Assistant		137,024
Doctor of Optometry		5
Pharmacist		823,612
Doctor of Dental Surgery/Dental Medicine		6,448
Doctor of Veterinary Medicine		126
Other (Out of State)		5,315
Sub-Total B		2,021,483
Other Roles		
LEAs		341
DOJ Administrators		43
DOJ Analysts		102
Regulatory Board		1,123
Sub-Total C		1,609
Delegate Initiated Searches		
Delegates		41,950

NOTE:

1. Subtotal A = Subtotal B
2. Subtotal A + Subtotal C = Total PARs Ran
3. Stats are from the 1st of the month to the last day of the month

CURES 2.0

March 2019 Statistics

Times System was Accessed		MARCH
Total Times System was Accessed		1,045,187
Clinical Roles		
	Prescribers	637,019
	Dispensers	390,542
Sub-Total A		1,027,561
License Type		
	Doctor of Podiatric Medicine	1,804
	Registered Nurse Practitioner/Nurse Midwife	73,042
	Medical Doctor	442,239
	Naturopathic Doctor	490
	Osteopathic Doctor	50,541
	Physician Assistant	61,461
	Doctor of Optometry	63
	Pharmacist	388,766
	Doctor of Dental Surgery/Dental Medicine	5,776
	Doctor of Veterinary Medicine	319
	Other (Out of State)	3,060
Sub-Total B		1,027,561
Other Roles		
	LEAs	399
	Delegates	15,735
	DOJ Administrators	233
	DOJ Analysts	808
	Regulatory Board	451
Sub-Total C		17,626

NOTE:

1. Subtotal A = Subtotal B
2. Subtotal A + Subtotal C = Total Times System was Accessed
3. Stats are from the 1st of the month to the last day of the month



March 2019 Statistics

Number of CURES Help Desk Requests		
		MARCH
Emails [Note: Email requests are not included in the breakdown below]		1,574
Total Phone Calls		3,113
Clinical Roles		
	Prescribers	2,288
	Dispensers	570
Sub-Total A		2,858
License Type		
	Doctor of Podiatric Medicine	14
	Registered Nurse Practitioner/Nurse Midwife	290
	Medical Doctor	1,559
	Naturopathic Doctor	35
	Osteopathic Doctor	82
	Physician Assistant	139
	Doctor of Optometry	2
	Pharmacist	570
	Doctor of Dental Surgery/Dental Medicine	140
	Doctor of Veterinary Medicine	27
	Other (Out of State)	0
Sub-Total B		2,858
Other Roles		
	LEAs	184
	Delegates	66
	DOJ Administrators	0
	DOJ Analysts	0
	Regulatory Board	5
Sub-Total C		255
NOTE:		
1. Subtotal A = Subtotal B		
2. Subtotal A + Subtotal C = Total Help Desk Phone Calls		

CURES 2.0

March 2019 Statistics

	MARCH
Number of Distinct Prescriptions	3,276,827
Number of Prescriptions Filled by Schedule	
Schedule III	275,130
Schedule IV	1,457,355
Schedule V	53,202
R	13,965
Over-the-counter product	29,243
TOTAL	3,278,208

NOTE:

- 1. Each component of a compound is submitted as a separate prescription record. The number of distinct prescriptions rolls compound prescriptions into a single count*
- 2. The number of distinct prescriptions and the number of prescriptions filled by schedule will not be equal because a compound can consist of multiple drugs with varying schedules*
- 2. R = Not classified under the Controlled Substances Act; includes all other prescription drugs*
- 3. Over-the-counter product*

Enforcement - Report

OMBC Enforcement Report

May 16, 2019

The following OMBC Enforcement Report covers a 12-month period starting from April 1, 2018 through March 31, 2019. The OMBC Enforcement Report is divided into five sections; Intake, Investigations, Enforcement, Performance Measures, and Probation. The data is collected from the Breeze Enforcement Reports and DCA QBIRT (IBM Cognos Analytics).

COMPLAINT INTAKE

	2Q 2018			3Q 2018			4Q 2018			1Q 2019			
COMPLAINTS	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	Totals
Received	55	46	36	44	37	41	65	43	49	40	31	33	520
Assigned	29	26	106	25	7	53	105	70	36	27	47	29	560
Aging	37	41	64	18	13	93	33	17	11	29	26	22	34
CONV/ARRESTS	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	Totals
Received	2	3	1	2	4	3	0	2	3	3	3	0	26
Assigned	2	2	2	2	4	3	0	1	2	3	4	1	26
Aging	4	4	7	11	5	1	0	17	10	22	16	57	13
TOTAL INTAKE	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	Totals
Received	57	49	37	46	41	44	65	45	52	43	34	33	546
Assigned	31	28	108	27	11	56	106	71	38	30	51	30	587
Aging	35	38	63	17	10	88	33	17	11	28	25	24	32
Pending	93	114	42	61	91	79	39	13	27	40	23	26	

Data Table 1: Complaint Intake with Convictions/Arrests

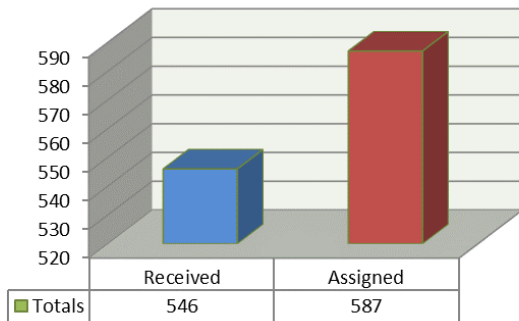


Figure 1.1: Intake Totals

In Data Table 1 above, under TOTAL INTAKE, OMBC received 546 complaints. 26 of these cases were convictions/arrests. During this period, 587 cases were assigned to desk investigations. The aging for intake measures the period from the date the complaint was received (date stamped) to the date the complaint was assigned. In Figure 1.2 below we see an increase of pending cases in April and May 2018 and then a spike in assigned cases in June. This was the result of a backlog and was immediately addressed. Another increase in pending cases occurred in August and then an increase in assigned cases in October. The backlog was addressed by the new analyst, starting as early as Nov 2018 through the end of 1Q2019.

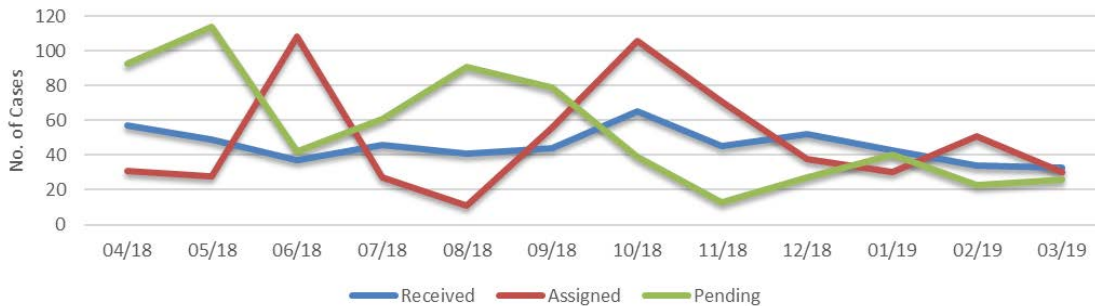


Figure 1.2: Intake Totals Per Month

OMBC Enforcement Report

May 16, 2019

In Figure 1.3 below, the bar graph illustrates the monthly average number of days for the intake process (the date received to the date referred to investigations). The performance target for intake is 30 days. The Board did not meet the performance target from April through June and September due to a staff shortage. The overall average for the last 12 months was 32 days.

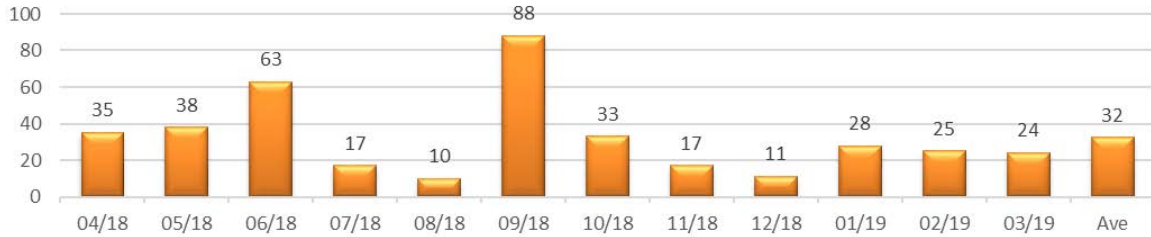


Figure 1.3: Average Number of Days to Assign

INVESTIGATIONS

Desk (internal) Investigations

	2Q 2018			3Q 2018			4Q 2018			1Q 2019			Totals
Desk Inv.	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	
Assigned	30	27	37	62	12	89	107	72	38	30	51	30	585
Completed	43	55	46	34	39	34	77	59	84	49	48	61	629
Aging	110	118	89	87	200	73	52	74	75	73	78	86	93
Pending	150	124	116	145	117	172	206	218	173	156	160	132	132

Data Table 2: Desk Investigations

For all desk investigations during this period, Data Table 2 above breaks down the monthly totals for how many complaints were assigned and completed; the monthly aging and cases pending. During this period, a total of 585 cases were assigned to enforcement and 629 were completed. The average number of days to complete a desk investigation was 93 days. In Figure 2.2 below, the assigned and pending caseloads increased in the latter part of 2018 but decreased in the 1Q 2019 due to completed cases increasing in 4Q 2018.

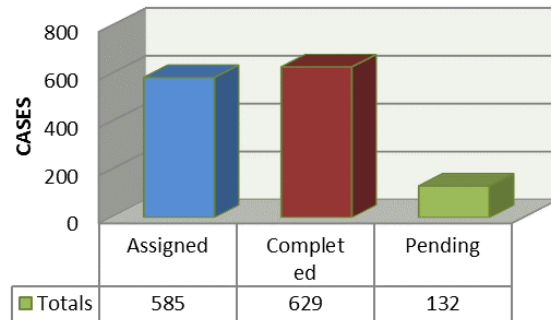
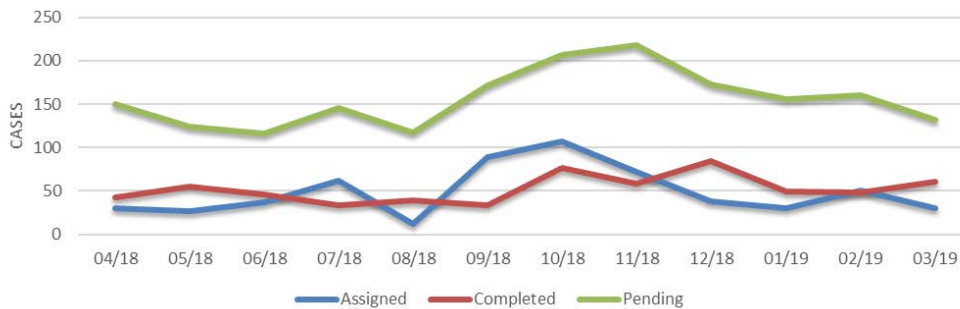


Figure 2.1: Desk Inv. Totals



OMBC Enforcement Report

May 16, 2019

Figure 2.2: Desk Investigations Monthly Totals

Division of Investigation (DOI) Field Investigations

Field Inv.	2Q 2018			3Q 2018			4Q 2018			1Q 2019			Totals
	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	
Assigned	3	2	0	3	3	2	2	1	2	0	5	5	28
Completed	1	3	1	1	2	1	2	2	0	4	0	4	21
Aging	37	450	49	946	402	604	870	129	0	191	0	119	316
Pending	29	28	28	30	31	32	32	31	33	31	37	42	42

Data Table 3: Field Investigations

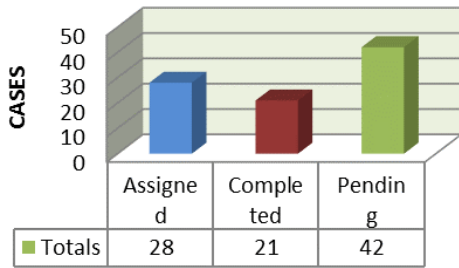


Figure 3.1: DOI Inv. Totals

Data Table 3 above breaks down the monthly totals for cases assigned to the Division of Investigations. Completed cases are either closed with insufficient evidence or referred to the Attorney General’s office for disciplinary action. During this 12-month period, 28 cases were assigned to field investigations; 21 were completed; and 42 cases were pending at the end of 1Q 2019. The average number of days to complete a field investigation was 316 (down from 452 from last report).

The case complexity is the breakdown of the specific allegations. In Figure 3.2, for all completed field investigations (21 cases), there were 9 excessive prescribing cases (43%); 1 Hospital Discipline case (5%); 3 sexual misconduct cases (14%); No criminal/DA cases (0%); 3 fraud cases (14%); 2 negligent/injury cases (10%); and 3 substance abuse cases (14%).

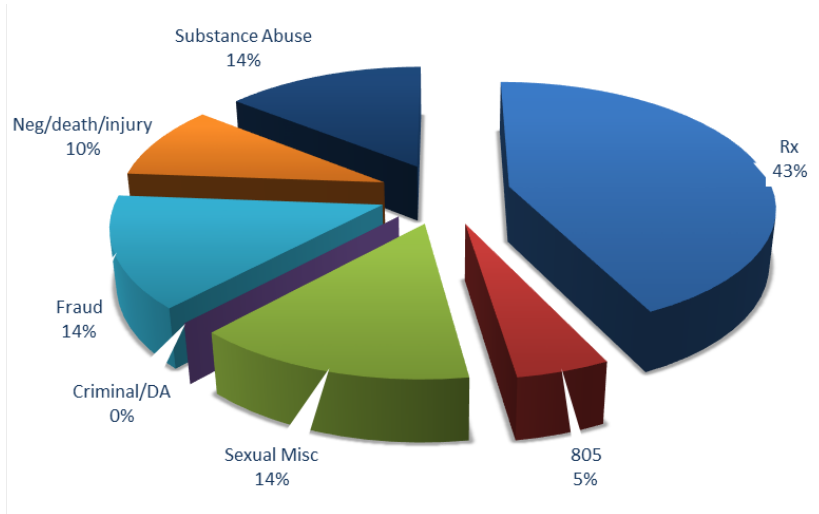


Figure 3.2 Complexity for completed Field Investigations

OMBC Enforcement Report

May 16, 2019

Figure 3.3 below compares the aging of completed Desk and Field Investigations per month. The aging is the average number of days to complete an investigation starting from the complaint received date to the date that the investigation is completed. Of the 629 desk investigations completed, the average number of days was 93. Of the 21 field investigations completed, the average number of days was 316.

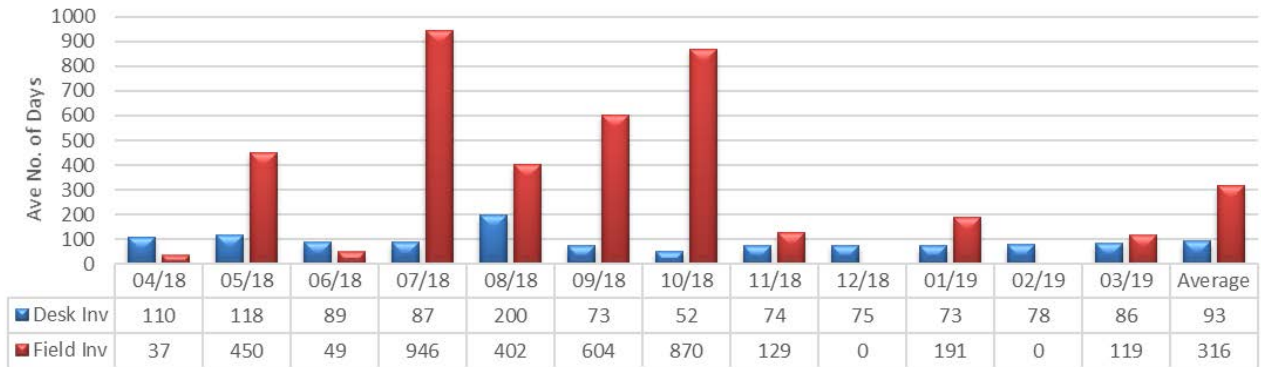


Figure 3.3: Completed Investigations Monthly Aging

Aging for Desk and Field Investigations

	2Q 2018			3Q 2018			4Q 2018			1Q 2019			Totals
All Inv Aging	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	
90 days	18	21	33	19	17	6	43	39	65	37	25	29	352
91-180 days	17	24	8	13	6	22	26	13	12	6	15	17	179
181-1 yr	5	7	3	0	2	3	3	4	7	6	6	6	52
1 yr-2 yrs	0	3	2	1	9	0	2	2	0	1	0	0	20
2 yrs-3 yrs	1	1	0	1	1	0	3	1	1	0	0	0	9
Totals	41	56	46	34	35	31	77	59	85	50	46	52	612

Data Table 4: All Investigations Aging

In Data Table 4 and Figure 4.1 we see the aging matrix for the number of all investigations that were closed per month within a specific time-period. 352 cases (58%) were completed within 90 days; 179 cases (29%) were completed between 91-180 days; 52 cases (9%) were completed between 181-365 days; 20 cases (3%) were completed between 1 – 2 years; and 9 cases (1%) were completed between 2-3 years. 87% of the investigations were completed within 6 months; and 96% were completed within a year.

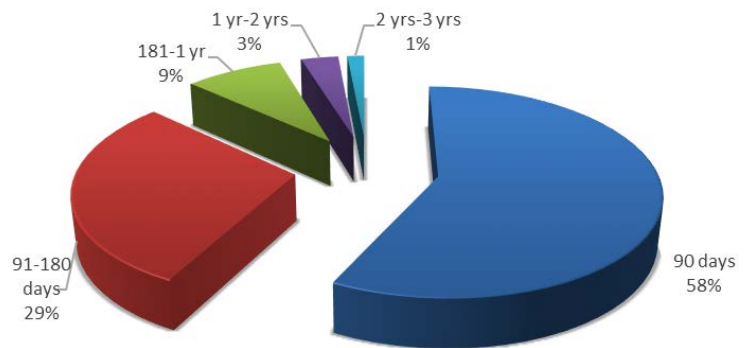


Figure 4.1 All Investigations Aging

OMBC Enforcement Report

May 16, 2019

ENFORCEMENT ACTIONS

	2Q 2018			3Q 2018			4Q 2018			1Q 2019			Totals
	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	
AG Cases Initiated	2	3	2	2	0	1	3	0	1	0	0	1	15
Acc/SOI Filed	2	2	2	2	2	0	2	0	2	1	2	0	17
Final Disciplinary Order	0	3	0	3	3	2	3	3	1	1	2	2	23
Acc W/drawn/declined	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed w/out Disc Actio	0	0	0	0	0	0	0	0	1	0	1	1	3
Citations	1	0	0	0	1	0	0	0	1	2	0	0	5
Suspension Orders	0	0	1	0	0	0	0	0	0	0	0	0	1
AG Cases Pending	27	27	29	28	25	24	23	21	19	18	16	15	15

Data Table 5: Enforcement Actions

For all enforcement actions, Data Table 5 above breaks down the monthly totals for each disciplinary action. During this 12-month period, 15 cases were transmitted to the Attorney General’s Office for disciplinary actions; 17 Accusations were filed; 23 Final Disciplinary Orders were filed; no accusations withdrawn; 3 cases were closed without disciplinary action; 5 citations issued; and 1 Suspension Order was filed. Currently 15 AG cases are pending. Figure 5.1 below illustrates the enforcement action totals.



Figure 5.1: Enforcement Actions Totals

OMBC Enforcement Report

May 16, 2019

Aging for Final Disciplinary Orders

Total Orders Aging	2Q 2018			3Q 2018			4Q 2018			1Q 2019			Totals
	04/18	05/18	06/18	07/18	08/18	09/18	10/18	11/18	12/18	01/19	02/19	03/19	
90 Days	0	1	0	0	0	0	0	0	0	0	0	0	1
91-180 Days	0	0	0	1	0	0	0	0	0	0	1	0	2
181 - 1 Yr	0	2	0	0	1	1	0	1	1	0	1	0	7
1 - 2 Yrs	0	0	0	0	1	1	1	1	0	0	0	0	4
2 - 3 Yrs	0	0	0	1	0	0	1	1	0	0	0	0	3
3-4 Yrs	0	0	0	0	1	0	1	0	0	1	0	2	5
4 yrs	0	0	0	1	0	0	0	0	0	0	0	0	1
Totals	0	3	0	3	3	2	3	3	1	1	2	2	23

Data Table 6: Final Orders Aging Matrix

In Data Table 6 and Figure 6.1 we see the aging matrix of the 23 Final Disciplinary Orders that were completed during this 12-month period. The chart shows the percentage of cases distributed within each aging period. Of the 23 final disciplinary orders, 1 case (4%) was completed in 90 days; 2 cases (9%) within 180 days; 7 cases (31%) within 181-365 days; 4 cases (17%) within 1-2 years; 3 cases (13%) within 2-3 years; 5 cases (22%) within 3-4 years, and 1 case (4%) completed over 4 years. Of the 23 Disciplinary Orders imposed (Figure 6.2 below), there were 8 probationary orders; 2 revocations; 8 surrenders; 3 reprimands; 1 Pre-PLR, and 1 license denial (SOI Denied).

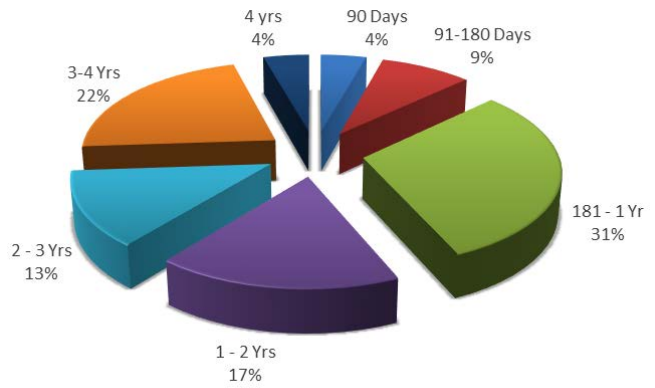


Figure 6.1: Final Orders Aging

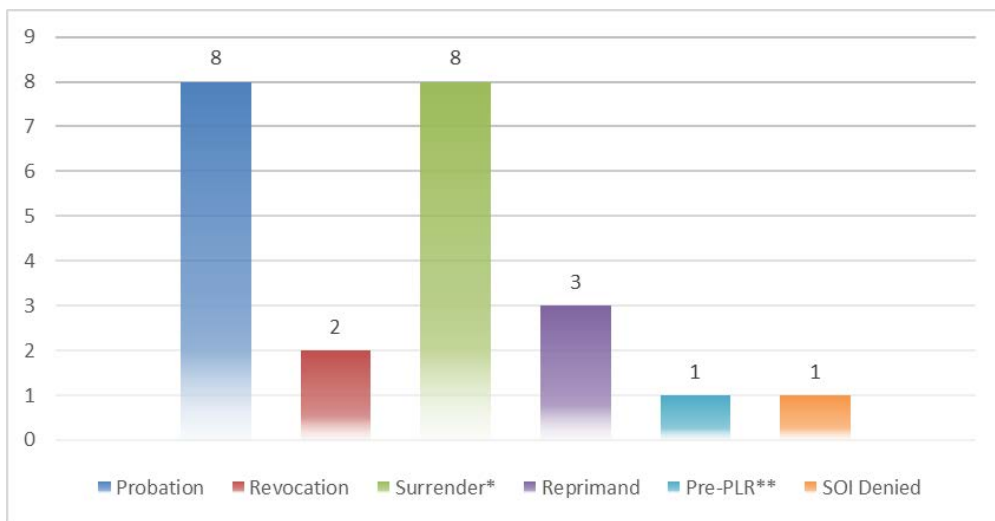


Figure 6.2: Final Disciplinary Actions Imposed

*includes surrender while on probation

** Pre-accusation public letter for reprimand

OMBC Enforcement Report

May 16, 2019

PERFORMANCE MEASURES

PM2: CYCLE TIME-INTAKE: Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Performance Measures 2: Cycle Time - Intake



PM3: CYCLE TIME – INTAKE & INVESTIGATION: Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General. (Includes intake and Investigation)

Performance Measures 3: Cycle Time - Investigations (No Discipline)



PM4: CYCLE TIME – FORMAL DISCIPLINE: Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General for formal discipline. (Includes intake, investigation, and transmittal outcome)

Performance Measures 4: Cycle Time - Formal Discipline



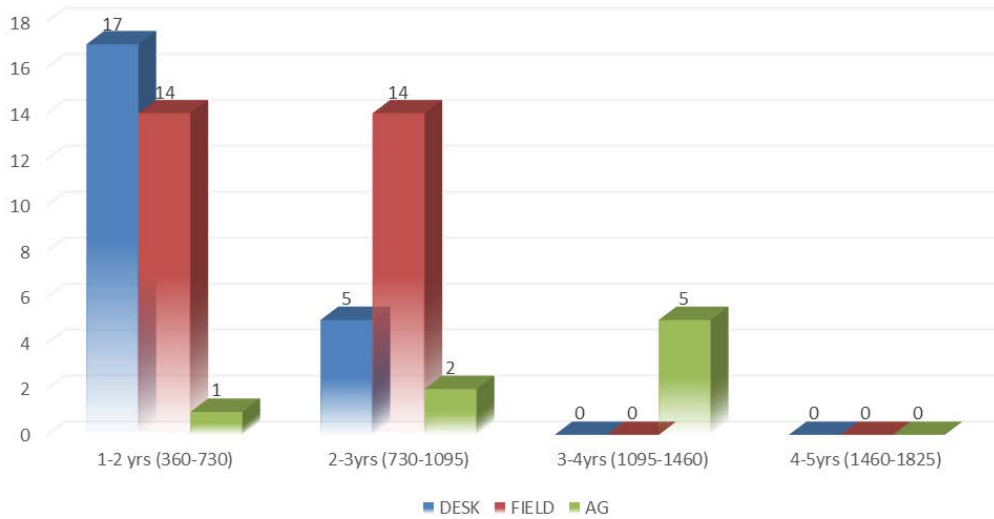
OMBC Enforcement Report

May 16, 2019

PENDING CASES EXCEEDING PERFORMANCE TARGETS

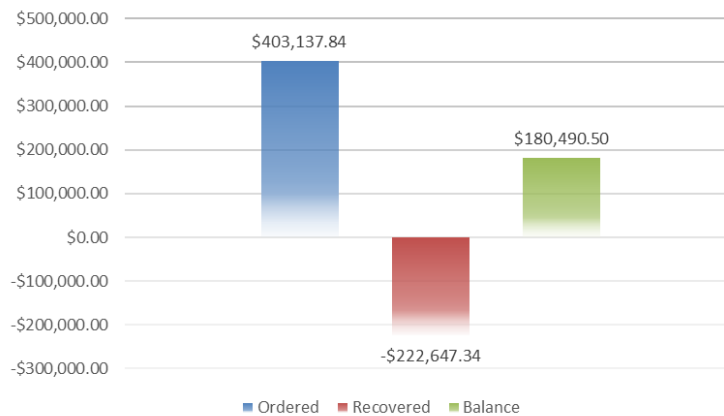
For all current pending cases exceeding the Performance Targets, there are 22 desk investigations cases, 28 field investigations cases and 8 Attorney General cases.

	Case Disposition	Target	1-2 yrs (360-730)	2-3yrs (730-1095)	3-4yrs (1095-1460)	4-5yrs (1460-1825)	Totals	Highest aging value
PM3	DESK	360 days	17	5	0	0	22	956 days
PM3	FIELD	360 days	14	14	0	0	28	992 days
PM4	AG	540 days	1	2	5	0	8	1186 days



PROBATION

There are currently 39 probation cases; of which 9 cases are tolled. During this period 8 probationary cases were closed; 7 by completion and 1 by surrender; and 9 cases opened. The total cost recovery ordered is currently \$403,137.84. As of May 1, 2019, \$222,647.34 has been paid; leaving a balance of \$180,490.50.



Tab 9



MEMORANDUM

DATE	May 9, 2019
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Revision to OMBC Board Logo – Agenda Item 13

BACKGROUND:

At the December 13, 2018 Board Meeting, Board Members requested Board staff to begin the process of revising the Osteopathic Medical Board of California's (OMBC) logo. On April 19, 2019, Board staff met with the Department of Consumer Affairs, Office of Publications, Design and Editing to kick off the process of revising the OMBC's logo. Subsequently, on May 8, 2019, the OMBC was presented with several new logo options. The logos presented are in black and white. The OMBC will make selections on the color of the logo once a final determination of the logo design is made.

Tab 10



MEMORANDUM


DATE	May 3, 2019
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Revisions to 2019 Strategic Plan – Agenda Item 14

BACKGROUND:

The Board convened for Strategic Planning on April 30, 2019. The Departments of Consumer Affairs SOLID staff drafted the attached Strategic Plan. Board staff reviewed the Strategic Plan and made edits where appropriate.

ACTION REQUESTED:

Approve the Strategic Plan as written and delegate to the Executive Director the authority to make any technical and non-substantive changes to the Strategic Plan.



**Osteopathic
Medical Board
of California**

2019 Strategic Plan

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Board Members

Joseph Zammuto, D.O., President

Cheryl Williams., Vice-President, Public Member

Cyrus Buhari, D.O., Secretary-Treasurer

Gor Adamyan, Public Member

Elizabeth Jensen-Blumberg, D.O.

Claudia Mercado, Public Member

Andrew Moreno, Public Member

GAVIN NEWSOM., GOVERNOR

ALEXIS PODESTA, SECRETARY, BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

VACANT, DIRECTOR, DEPARTMENT OF CONSUMER AFFAIRS

MARK ITO, EXECUTIVE DIRECTOR, OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Message from the Board President

On behalf of the OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA it is my sincere pleasure to present the 2019-2023 Strategic Plan. I want to thank the California Department of Consumer Affairs' SOLID Unit for their leadership in the process. I want to thank all the board members, the executive director, assistant executive director, board staff, and the public for putting together this plan.



The mission of the board is to protect the public by requiring competency, accountability and integrity in the safe practice of medicine by osteopathic physicians and surgeons. The Board continually strives to attain meaningful improvement to service our physicians, protect the public, and maintain the highest standards in healthcare.

The vision of the board is to uphold the highest standards of quality and care by our physicians; continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

The success of this strategic plan depends on an ever evolving relationship with all the stakeholders in the State of California. We look forward to our relationship involving licensure, enforcement, outreach and communication, regulation and legislation, and Board administration.

Joseph A. Zammuto, DO

President, Osteopathic Medical Board of California

About the Osteopathic Medical Board

Developed more than 130 years ago by Andrew Taylor Stills, M.D., D.O. Osteopathic medicine brings a unique philosophy to traditional medicine. Osteopathic physicians (D.O.s) are fully licensed to prescribe medication and practice in all medical specialty areas including surgery, just as any M.D. D.O.s are trained to consider the health of the whole person and use their hands to help diagnose and treat their patient.

D.O.s are one of the fastest growing segments of health care professionals in the United States. California has the 4th largest osteopathic population in the United States.

The Business and Professions (B&P) Code Section (§) 3600 (Osteopathic Initiative Act) and the California Code of Regulations (CCR) Title 16. Professional and Vocational Regulations, Division 16., §1600 et. seq., authorizes the Osteopathic Medical Board of California to license qualified osteopathic physicians and surgeons to practice osteopathic medicine, and to effectuate the enforcement of laws and regulations governing their practice (Medical Practice Act). The Act provides that consumer protection is their highest priority in exercising its licensing, regulatory and disciplinary functions.

The Osteopathic Medical Board of California (hereinafter, “Board” or “OMBC”) is a fully functioning board within the Department of Consumer Affairs with the responsibility and sole authority to issue licenses to physicians and surgeons (hereafter Doctors of Osteopathic Medicine or D.O.s) to practice osteopathic medicine in California. The OMBC is also responsible for enforcing legal and professional standards to protect California consumers from incompetent, negligent or unprofessional D.O.s. The OMBC regulates D.O.s only. There are 6,227 D.O.s in California with active licenses at this time and another 1,006 D.O.s who maintain active licenses in California while residing in other states. There are 588 D.O.s who maintain inactive licenses. Total number of osteopathic physicians and surgeons currently holding a California license is 7,821.

D.O.s are similar to M.D.s in that both are considered to be “complete physicians,” in other words, one who has taken the prescribed amount of premedical training, graduated from an undergraduate college (typical emphasis on science courses) and received four years of training in medical school. The physician has also received at least one more year of postgraduate training (residency or rotating internship) in a hospital with an approved postgraduate training program.

After medical school, D.O.s may choose to practice in any specialty or subspecialty as do M.D.’s. Examples are, but not limited to, family practice, internal medicine, pediatrics, and any surgical specialty. These programs may range from on average 2 to 6 years of additional postgraduate training. Licensing examinations are comparable in rigor and comprehensiveness to those given to M.D.s. Whether one becomes a D.O. or an M.D., the process of receiving complete medical training is basically the same. The same laws govern the required training for D.O.s and M.D.s who are licensed in California. D.O. s utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery. D.O.s are licensed in all fifty states to perform surgery and prescribe medication. D.O.s practice in fully accredited and licensed hospitals and medical centers. Section 2453 of the Business and Professions Code states that it “is the policy of this State that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.”

Osteopathic Medical Board of California 2019-2023 Strategic Plan

A D.O. may refer himself/herself as a “Doctor” or “Dr.” but in doing so, must clearly state that he/she is a D.O. or osteopathic physician and surgeon. He or she may not state or imply that he or she is an M.D. while being licensed in California as a D.O.

A key difference between the two professions is that D.O.s have additional dimension in their training and practice, one not taught in medical schools giving M.D. degrees. Osteopathic medicine gives particular recognition to the musculoskeletal system (the muscles, bones and joints) which makes up over 60% of body mass. The osteopathic physician is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The osteopathic physician is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. D.O.s use structural diagnosis and manipulative therapy along with all of the other traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

To meet its responsibilities for regulation of the D.O. profession, the OMBC is authorized by law to:

- a. Monitor licensees for continued competency by requiring approved continuing education.
- b. Take appropriate disciplinary action whenever licensees fail to meet the standard of practice, or otherwise commit unprofessional conduct.
- c. Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
- d. Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Additionally, the OMBC is charged with enforcement of laws proscribing unlicensed osteopathic medical practice.

Our Mission

To protect the public by requiring competency, accountability and integrity in the safe practice of medicine by osteopathic physicians and surgeons.

Our Vision

The Osteopathic Medical Board upholds the highest standards of quality and care by our physicians; continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

Our Values

Collaborative
Health
Inclusion
Proactive
Diversity
Innovation
Professional

Strategic Goals

Licensure

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

Enforcement

Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.

Outreach and Communication

Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

Regulation and Legislation

Monitor and uphold the law, and participate in the regulatory and legislative process.

Board Administration

Build an excellent organization through proper Board governance, effective leadership, and responsible management.


Goal 1: Licensure

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

- 1.1 Investigate the options to implement the Interstate Medical Licensure Compact to streamline the licensing process.
- 1.2 Investigate the options available through BreEZe to reduce barriers to entry and improve functionality.
- 1.3 Develop an online portal for documentation submissions to streamline the process and reduce time for licensees.
- 1.4 Align continuing education audits with the renewal process to reduce confusion among licensees.
- 1.5 Collaborate with the Office of Information Services (OIS) to schedule a demonstration of BreEZe to view the licensee point of view and better understand how the system operates.
- 1.6 Research the feasibility of hiring additional staff to improve office efficiencies.
- 1.7 Implement a board member in-office training to improve board member understanding of office processes.

Goal 2: Enforcement


Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.



- 2.1 Create efficiencies with the Board's internal investigations to reduce case aging.
- 2.2 Research the concept of the chaperone and set parameters around who can be a chaperone to protect patients and determine best practices.
- 2.3 Implement cross-training with enforcement staff to improve morale and continuity of work.
- 2.4 Research technological opportunities to improve workflow, efficiency, and communication between staff.

Goal 3: Outreach and Communication

Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

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- 3.1 Educate licensees on personal responsibilities regarding licensure and ongoing to set expectations.
 - 3.2 Develop presentations and informational videos (e.g. for out-of-state doctors and residents who are considering applying for licensure in California) to explain the application process and provide statistics on the resident population.
 - 3.3 Create a quarterly newsletter as a way for stakeholders to get to know the Board and promote the Board's listserv and website so that important issues are disseminating to all interested parties.
 - 3.4 Recreate the branding and logo of the Board to better market and educate stakeholders.
 - 3.5 Collaborate with the Office of Public Affairs to develop a marketing plan to improve awareness of the Board, create interest for potential licensees and allow them to be more engaged with the Board and the community.
 - 3.6 Attend schools, conventions, (Medical Association events) and other outreach events to be proactive in informing the public and potential licensees about the Board.
 - 3.7 Audit the website and develop content to keep it up-to-date, innovative, and informative, and to drive stakeholders to the website.
 - 3.8 Create a budget change proposal for additional staff who would manage content for the website and update regulations and legislation.

Goal 4: Regulation and Legislation


Monitor and uphold the law, and participate in the regulatory and legislative process.



- 4.1 Research the feasibility of developing a statute for including anti-discrimination language to allow the Board to take action when complaints arise.
- 4.2 Explore hiring a consultant or pursuing a dedicated staff person to better track regulations and legislation.
- 4.3 Collaborate and build relationships with law makers and staffers in order to have a stronger voice and represent the Board.
- 4.4 Research innovative approaches to disease/medication and create advisory guidelines for legislation and regulations to support best practices.

Goal 5: Board Administration

The Board builds an excellent organization through proper Board governance, effective leadership, and responsible management.



- 5.1 Research options available to collaborate and utilize SOLID to assist in creating a more cohesive team.
- 5.2 Implement cross-training with staff for business continuity and efficiency.
- 5.3 Improve communication using available technology to promote office efficiencies and provide better customer service.
- 5.4 Create a schedule for staff to attend Board meetings to foster a greater understanding of Board processes.
- 5.5 Update procedure manuals to onboard new employees and prepare for succession planning.
- 5.6 Develop Board informational materials to provide to DCA staff & help when onboarding new employees.
- 5.7 Schedule a legal training for the Board to assist members in the decision-making process.
- 5.8 Develop a board member orientation packet to provide to new board members during onboarding.

Strategic Planning Process

To understand the environment in which the Board operates and identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- Interviews conducted with five members of the Board, the Executive Director, the Assistant Executive Director completed during the month of March & April 2019 to assess the challenges and opportunities the Board is currently facing or will face in the upcoming years.
- One focus group with Board staff on April 11, 2019 to identify the strengths and weaknesses of the Board from an internal perspective. Eight board staff participated.
- An online survey sent to randomly selected external Board stakeholders in March 2019 to identify the strengths and weaknesses of the Board from an external perspective. 211 stakeholders completed the survey.

The most significant themes and trends identified from the environmental scan were discussed by the Board executive team during a strategic planning session facilitated by SOLID on April 30, 2019. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2019–2023 strategic plan.

Osteopathic Medical Board of California
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This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Osteopathic Medical Board of California in March and April 2019. Subsequent amendments may have been made after Board adoption of this plan.



Tab 11

Osteopathic Medical Board

Future Agenda Items

Agenda Item	Requestor

Tab 12

Osteopathic Medical Board

Future Meeting Dates

Thursday September 5, 2019	TBD	10:00 am
Thursday January 16, 2020	Sacramento, CA	10:00 am

**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.*