2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 11/4/2022

JANUARY						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
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29	30	31				

FEBRUARY						
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MARCH						
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APRIL						
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MAY						
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DEADLINES

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 4 Legislature **reconvenes** (J.R. 51(a)(1)).

Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12(a)).

Jan. 16 Martin Luther King, Jr. Day

Jan. 20 Last day to submit **bill requests** to the Office of Legislative Counsel

Feb. 17 Last day for bills to **be introduced** (J.R. 61(a),(1)(J.R. 54(a)).

Feb. 20 Presidents' Day.

Mar. 30 **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).

Mar. 31 Cesar Chavez Day.

Apr. 10 Legislature reconvenes from **Spring recess** (J.R. 51(a)(2)).

Apr. 28 Last day for **policy committees** to hear and report to **fiscal committees fiscal bills** introduced in their house (J.R. 61(a)(2)).

May 5 Last day for **policy committees** to hear and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3))

May 12 Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).

May 19 Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).

Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).

May 29 Memorial Day.

May 30-June 2 **Floor Session Only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

*Holiday schedule subject to Senate Rules committee approval

2023 TENTATIVE LEGISLATIVE CALENDAR

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Revised 11/4/2022

JUNE						
S	M	T	W	TH	F	S
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June 2 Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

June 5 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

JULY						
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July 4 Independence Day.

July 14 Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).

Summer Recess begins upon adjournment of session provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
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Aug. 14 Legislature reconvenes from **Summer Recess** (J.R. 51(a)(3)).

SEPTEMBER						
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Sept. 1 Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(11)).

Sept. 4 Labor Day.

Sept. 5-14 **Floor session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(12)).

Sept. 8 Last day to **amend** on the floor (J.R. 61(a)(13)).

Sept. 14 Last day for **each house to pass bills** (J.R. 61(a)(14)).
Interim Study Recess begins at the end of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2023

Oct. 14 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in his possession after Sept. 14 (Art. IV, Sec.10(b)(1)).

2024

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

The Osteopathic Medical Board of CA (Board) may adopt the following positions regarding pending or proposed legislation.

Legislative Positions	Definitions
Oppose	The Board will actively oppose proposed legislation and demonstrate opposition through letters, testimony, and other action necessary to communicate the oppose position taken by the Board.
Oppose, unless amended	The Board will take an oppose position and actively lobby the legislature to amend the proposed legislation by requesting specific amendments to alter the text of the bill after it has been introduced.
Neutral	The Board neither supports nor opposes the addition/amendment/repeal of the statutory provision(s) set forth by the bill.
Neutral, if amended	The Board will take a neutral position and actively lobby the legislature to amend the proposed legislation by requesting specific amendments to alter the text of the bill after it has been introduced.
Watch	The watch position adopted by the Board will indicate interest regarding the proposed legislation. The Board staff and members will closely monitor the progress of the proposed legislation and amendments.
Support	The Board will actively support proposed legislation and demonstrate support through letters, testimony, and any other action necessary to communicate the support position taken by the Board.
Support, if amended	The Board will take a support position and actively lobby the legislature to amend the proposed legislation by requesting specific amendments to alter the text of the bill after it has been introduced.

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
1300 National Drive, Suite 150, Sacramento, CA 95834
P (916) 928-8390 | F (916) 928-8392 | www.ombc.ca.gov

MEMORANDUM

DATE	June 6, 2023
TO	OMBC Board Members
FROM	Terri Thorfinnson, Administrative Services Program Manager
RE:	Agenda Item 6 - Discussion and Possible Action on Senate Bill 815 (Roth) Healing Arts and Proposed Amendments

Background.

Senate Bill 815 (SB 815) is the sunset bill for the Medical Board of California (MBC). As currently drafted, SB 815 reflects various MBC requests and their priorities their 2022 Sunset Report. The bill includes their highest priorities which are a fee increase, changes to the burden of proof in disciplinary matters, the establishment of a complainant liaison unit, and a four-year sunset extension.

For purposes of this discussion, please refer to Attachment A, the Board's legislative analysis of SB 815, which discusses each provision within the bill and includes staff's recommendations on each statutory change. In summary, staff recommends that the Board support SB 815, except for the changes to existing law relating to the burden of proof in disciplinary matters. Staff also recommends that the Board proposed two amendments to SB 815, which are changes related to other items in the bill and have been discussed with the staff of MBC.

A. Eliminate the requirement that 24 of the 36 months of board-approved postgraduate training must be in the same program.

Background.

The board has observed that applicants that are training for specialties such as surgery tend to enroll in multiple guest rotations at different training programs or locations in order to obtain highly specialized training not otherwise offered within their training program location. The 24-month training in one program licensure requirement is an obstacle to a resident enrolling in multiple guest rotations outside their training program. It also makes the resident ineligible to apply for a Physician and Surgeon license in California if their guest rotations are considered outside their training program and they do not have 24 months within the same training program. Those who do not have 24 months in the same program have to either obtain a license in another state or add additional year of residency in the same program which sometimes is possible and sometimes is not.

Discussion.

From a competency perspective, training in multiple training programs that offer unique training or surgical techniques would increase competency of residents and for this reason should be allowed. The original intent of requiring a resident complete 24 months in one training program was to prevent residents from jumping around from program to program so that the training programs could have sufficient time to evaluate their competency. A series of short rotations may not facilitate this effective evaluation by the training programs.

In deciding whether to eliminate the 24-month requirement in one training program, the Board must weigh the value of allowing unique rotations at world class teaching hospitals to increase competency against the concern that if the 24-month requirement is removed it may impact a training program's ability to effectively evaluate given residents that enroll in multiple guest rotations outside the training program. In weighing the two concerns, it is clear that the guest rotations outside the training program contribute to increased competency through learning cutting edge techniques for diagnostics and treatment. Whereas it is unclear whether the 24-month requirement truly contributes to improved competency evaluation of residents. In this context, the 24 months could be seen as an arbitrary time frame to ensure training programs are given the opportunity to effectively evaluation competency of their residents.

So far, the Board has observed this 24-month requirement as a barrier to promoting competency rather than a barrier to effective competency evaluation because those who do not meet this requirement still receive glowing certification of their completion of residency training. For this reason, the Board proposes to eliminate this 24-month requirement for U.S. trained physicians and surgeons.

Proposed Statutory Amendment: Note: Strikeouts identify language proposed for deletion from the statute. Underline identifies language proposed for addition to the statute.

BPC section 2097

(a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be renewed, at the time of initial renewal, a physician and surgeon shall show evidence satisfactory to the board that the applicant has received credit for at least 36 months of board-approved postgraduate training ~~which includes successful progression through 24 months in the same program~~, pursuant to the attestation of the program director, designated institutional official, or delegated authority for the approved postgraduate training program in California the applicant participated in.

(b) A physician's and surgeon's certificate shall be automatically placed in delinquent status by the board if the holder of a physician's and surgeon's certificate does not show evidence satisfactory to the board that the physician and surgeon has received credit for at least 36 months of board-approved postgraduate training ~~which includes successful progression through~~

~~24 months in the same program~~ within 60 days of the date of the licensee's initial license expiration.

Recommendation:

Approve the proposed amendment that eliminates the requirement that a physician and surgeon must complete 24 months of residency training in the same program.

B. Expand the deadline for out of state and in-state applicants from 90 days to 6 months

Background.

The Board has observed that the 90-day application window for out of state residents who have completed 12 months residency training is insufficient time for them to obtain their license and prevent having to cease practice in their residency due to not having a license. SB 806 created this new group of applicants who are otherwise eligible for licensure but do not need to apply for the PTL because they have completed 12 months of postgraduate training and are thus eligible for a full license. The problem is that the 90-day application window for out of state residents in not enough time for them to obtain a license and continue practicing medicine within their California residency program. As a result, many of these out of state residents enrolled in California residency programs are required to cease practice after the 90- day window when they have failed to obtain licensure. This problem could be easily solved with an extension of the licensure deadline.

Discussion.

Out of state residents enrolled in California residency programs face more delays than instate applicants in assembling their required license application documents for the Board. The most common delay is fingerprint issues. When they are unable to obtain their Physician and Surgeon license within the 90-day application window, they must cease practice within their residency. To resolve this problem, extending the application window from 90 days to 180 days would provide more time for residents to become licensed and the Board would still retain jurisdiction over the resident for the 180 days duration of the application window. This 180 days application window is the same as afforded the PTL applicants who are residents enrolled in California residency programs that have 180 days to obtain their PTL.

This proposed extension of time to obtain a license protects public safety because the Board has jurisdiction over the resident during the application window. This solution would eliminate the situation in which out of state residents enrolled in a California residency program would have to cease practice within their residency because they failed to obtain the required license in time. Extending the application deadline would reduce stress for everyone and facilitate timely

licensure to residents within California residency programs.

At the May 11th Board meeting there was a Board member recommendation to include in-state residents as well, which makes sense to extend the deadline for all residents. This extension would only apply to residents enrolled in California residency programs at the time of application for licensure. This would not apply to applicants for the Physician and Surgeon license who have completed 36 months of residency and are applying for licensure to for employment.

Proposed Amendment for SB 815: Note: Strikeouts identify language proposed for deletion from the statute. Underline identifies language proposed for addition to the statute.

BPC section 2065
(g) An applicant for a physician's and surgeon's license who has received credit for 12 months of approved postgraduate training in California, another state or in Canada and who is accepted into an approved postgraduate training program in California shall obtain their physician's and surgeon's license within ~~90~~ 180 days after beginning that postgraduate training program or all privileges and exemptions under this section shall automatically cease.

Conclusion and Suggested Motion Language.

In summary, staff recommends that the Board adopt a support if amended position on SB 815 consistent with this Memorandum. Should the Board wish to take this action, staff recommends the following motion language:

"Motion to support SB 815, if amended as follows:
1. Remove the amendments to Business and Professions Code Section 2334.5, relating to the standard of proof for disciplinary matters.
2. Amend Business and Professions Code section 2097 as described in this memorandum, relating to the requirement that 24 of the 36 months of board-approved postgraduate training must be in the same program.
3. Amend Business and Professions Code section 2065 as described in this memo, relating to extending the deadline for out of state and in-state applicants from 90 days to 6 months.

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER:	SB 815
AUTHOR:	Roth
BILL DATE:	May 8, 2023, Amended
SUBJECT:	Healing Arts
SPONSOR:	None

DESCRIPTION OF CURRENT LEGISLATION

This is the sunset bill for the Medical Board of California (MBC). The bill includes various statutory changes requested by MBC, most notably, a physician fee increase and the establishment of a complainant liaison unit.

BACKGROUND

Sunset review is the Legislature's regular process to review the operations, budget, and other laws related to the boards and bureaus within the Department of Consumer Affairs (DCA). To extend the authority to appoint the Members of the Board and the Board's Executive Director, the Legislature and Governor must enact a bill this year. The current sunset date for MBC is January 1, 2024.

In December 2022, MBC approved its Sunset Review Report, which contained various statutory requests for the Legislature to consider enacting into law, which are discussed in priority order in Section 12, New Issues.

Why is OMBC being asked to take a position on this bill:

This bill affects the Osteopathic Medical Board of California due to the linkage between MBC and the Board in the Medical Practice Act. B&P code section 2451 states the following: The words "Medical Board of California," the term "board," or any reference to a division of the Medical Board of California as used in this chapter shall be deemed to mean the Osteopathic Medical Board of California, where that board exercises the functions granted to it by the Osteopathic Act.

Furthermore, B&P code section 2452 states the following: This chapter applies to the Osteopathic Medical Board of California so far as consistent with the Osteopathic Act. Unless otherwise provided, this article is administered by the board.

ANALYSIS: The bill provides for the following, the strikethrough texts do not apply to the OMBC.

1. ~~Extends the Medical Board of CA sunset date by four years, to January 1, 2028.~~
2. ~~Adds two public members to the Board to create a public-member majority.~~
3. Requires creation of a complainant liaison unit, with specified duties.
4. States that a postgraduate training license (PTL) shall be valid for a 36-month period after issuance.
5. Requires, for all quality-of-care complaints, that the complainant, patient, or patient representative be interviewed before a case is referred for a field investigation.
6. Tolls the statute of limitations when seeking to enforce a subpoena for medical records against a licensee.
7. Requires pharmacy records to be provided to the Board within three days of a Board request.
8. States that for certain felony convictions, the Board does not require an expert witness to prove the relationship between that conviction and the practice of medicine.
9. States that the following actions constitute unprofessional conduct:
    a. Not sitting for an investigational interview within 30 days after notification by the Board.
    b. Any action by the licensee, or someone acting on their behalf, intended to cause their patient or the patient's representative to rescind their consent to release medical records.
    c. Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.
10. Requires physician to maintain patient records for at least seven years after the last date of service to their patient.
11. Increases wait times for those petitioning the Board for penalty relief (i.e., modify probation terms or license reinstatement); automatic denial of a petition to modify/terminate probation if the Board files a petition to revoke probation.
12. Authorizes the Board to establish a fee to be paid by a petitioner seeking license reinstatement or modification of their probation.
13. Requires the Board to provide a statement from a complainant to the Board's disciplinary panels, when relevant.
14. Requires expert witness reports to be exchanged 90 days prior to a hearing before an administrative law judge (ALJ).
15. Established a bifurcated burden of proof related to enforcement and certain initial licensure decisions.
16. ~~Authorizes the Board to distribute physician renewal applications electronically and restricted ability to ask certain questions related to physician disorders on those applications.~~
17. ~~Increases the physician initial and renewal license fees to $1,350.~~
18. ~~Eliminates the language that limits the Board's reserves to four months' operating expenses.~~
19. ~~Transfers the regulation of research psychoanalysts to the Board of Psychology.~~
20. Includes various technical licensing and enforcement changes requested by the Board MBC.

Staff Comments on the Current Language

As currently drafted, SB 815 includes various MBC requests and their priorities from their Medical Board's 2022 Sunset Report. Which includes their highest Board priorities which are a fee increase and direction to establish a complainant liaison unit, and a four-year sunset extension.

Based upon the numbered items listed above that affect the OMBC, staff offer the following comments and suggested changes for the Board to consider:

No. 3- Creation of a complainant liaison unit (sec 3, BPC section 2024.5)

The OMBC would not necessarily require an entire unit like MBC due to the lower number of complaints received but would however require at least 1 analyst. This analyst as required by the bill will respond to communications from the public regarding the complaint review and enforcement process. The OMBC has determined this need based on the number of calls/emails and requests currently received by the Board and the number of complaints received yearly.

BPC section 2024.5.

(a) The board shall establish a Complainant Liaison Unit comprised of board staff responsible for the following:

(1) Respond to communications from the public about the complaint review and enforcement process.

(2) After a complaint has been referred to a field investigation, assist with coordinating communications between the complainant and investigators, as necessary.

(3) Following a disciplinary decision, respond to questions from the complainant regarding any appeals process available to the disciplined licensee.

(4) Conduct and support public outreach activities to improve the public's understanding of the board's enforcement process, including related laws and policies.

(5) Evaluate and respond to requests from complainants to review a complaint closure that the complainant believes was made in error.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 4 – Reinstituting a 36-month Postgraduate Training License (sec 4 BPC section 2064.5)

The bill includes the language requested by the Board so that a PTL is valid for a 36-month period after issuance. To provide the same benefits to current PTL holders, staff suggest making these provisions retroactive. This would cause all expiration dates for current licensees to be automatically extended out to 36 months from the date their PTL was issued. The staff workload associated with this change is expected to be minor and absorbable.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 5 – Interviews for Quality-of-Care Complaints (sec 8, BPC section 2220.08)

This proposal amends Business and Professions Code (BPC) section 2220.08, which sets forth the requirements for a Board medical consultant to review a quality-of-care complaint to determine if it is appropriate for a field investigation. The language in SB 815 would require all such reviews to include an interview with the complainant, patient, or patient representative before it is referred for a field investigation. This would include cases that, under current law, would already be referred to the field.

To implement this change, the Board would require 2 additional staff members. An analyst and a Staff Services Manager 1, to oversee the operations of the enforcement unit in order to fulfill these requirements. As the Board is aware the operations of the enforcement unit are being handled by the executive director and this added workload will no longer be absorbable with the current staff.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 6 -Tolls the statute of limitations when seeking to enforce a subpoena. (sec 10, BPC section 2225.5)

One of the worst consequences in enforcement is to lose statute of limitations (SOL) for a critical case caused by various delays, some out of the Board's control. Any delay poses a risk that the board will lose statute of limitations in a case. As mentioned earlier, delays in receiving records requested to licensees can result in losing the statute of limitations and being unable to prosecute the case further. One narrowly constructed solution is to modify the current tolling provisions in Business and Professions Code 2225.5(b)(1).This is what the MBC is proposing in their sunset hearing proposal. Here is the explanation they provided in their sunset report and legislature explaining the reason for the change.

With certain exemptions, the Board generally must file an accusation against a licensee either within three years after it discovers the alleged act or omission or within seven years (10 years for sexual misconduct) following the date the alleged act or omission occurred. If the Board is unable to meet the statute of limitations (SOL), then the complaint must be closed, in accordance with BPC section 2230.5.

If a licensee fails to produce medical records pursuant to a lawful subpoena of the Board, the investigative process is needlessly drawn out. During this often-lengthy process, the Board faces a growing risk that it will fail to meet the SOL as the Board litigates a petition for subpoena enforcement in superior court. Even where the Board proceeds at the quickest pace possible to obtain a superior court order compelling production, this litigation often severely delays resolution of the case, sometimes leaving very little time to fully develop an investigation, obtain expert review of the subpoenaed records, and draft and file an Accusation. Under current law, the SOL is paused (known as tolling) if the licensee is out of compliance with a court order to produce records. The proposed amendment is to have the statute of limitations toll earlier—specifically, upon service of the order to show cause.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 7 – Submission of Pharmacy Records to the Board (sec. 11, BPC 2225.7 is added)

This proposal requires pharmacies to respond to a Board request for records in the same timeframe as they would, under current law, pursuant to a request from the Board of Pharmacy, which is three days. This proposal would add the three-day requirement to the Board's statute.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 8 – Expert Witnesses and Felony Convictions (sec 12, BPC section 2232.5)

This proposal is intended to remove the requirement to use an expert witness to prove the relationship between certain types of felonies committed by a licensee and the practice of medicine. The proposal describes felonies related to certain topics (e.g., moral turpitude, dishonesty, corruption) that would qualify.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 9 - States that the following actions constitute unprofessional conduct (sec 13, BPC section 2234)

a. Not sitting for an investigational interview within 30 days after notification by the Board. See section 2234 (g).

b. Any action by the licensee, or someone acting on their behalf, intended to cause their patient or the patient's representative to rescind their consent to release medical records. See section 2234 (h).

c. Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee. See section 2234 (i).

Recommendation: Staff recommends that the Board support this section of the bill.

No.10 - Requires physician to maintain patient records for at least seven years after the last date of service to their patient (sec 15. BPC section 2266)

This amendment would align the required physician record retention with the statute of limitations that ranges from 3 to 7 years in some cases. Currently, records are only required to be retained for 3 years, which would mean records would not be available for cases with longer than 3 years statute of limitations. This proposal resolves this problem by extending record retention for patient medical records to 7 years. Failure to retain records 7 years would constitute unprofessional conduct.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 11 – Timeframes to File a Petition for Penalty Relief/License Reinstatement (sec.16 BPC section 2307).

This proposal requires those petitioning the Board for license reinstatement to wait at least five years to file their petition and authorizes the Board to deny a petition, without a hearing, filed within three years of the effective date of a prior decision on a petition for reinstatement, modification of penalty, or termination of probation. It also requires a petition for termination of their probation to wait at least two years or for half of their term to elapse, whichever is greater.

Recommendation: Staff recommends that the Board support this section of the bill.

No.12 - Authorizes the Board to establish a fee to be paid by a petitioner seeking license reinstatement or modification of their probation. (sec. 17 adds BPC section 2307.5)

Even though the Board receives cost recovery for a portion of its enforcement work, those cost recovery amounts are often determined by Administrative Law Judges (ALJ) hearing cases, or the amount of cost recovery amount is a negotiated term in a stipulated settlement. Either way, the amount of cost recovery is far less than the cost of enforcement. The nature of enforcement that requires expert reviewers, expert witnesses, investigators, the Attorney General (AG), ALJ, Court Reporters and transcripts of hearings is expensive. As such, enforcement is a major cost driver for the Board. Over the past several years, the Board has weathered unexpected increases in the hourly rates charged for formal investigations and the Attorney General costs. Authorized budget augmentations had to be pursued to balance the budget.

In evaluating enforcement cost drivers, petitions by disciplined licensees seeking to modify, terminate probation or reinstate their license was identified as a cost driver for the Board for which there is no authorized cost recovery as there is with formal discipline. Petitions are much more expensive than simply holding a Board meeting because they involve a hearing that generates AG costs, ALJ costs and court reporter costs and travel. Charging a fee for petitions not to exceed “reasonable costs” would provide the Board with a portion of reimbursement for its petition hearing costs. The MBC has similarly come to the same conclusion and is proposing statutory language that would authorize the establishment of a fee not to exceed the “reasonable cost” for licensees requesting to modify or terminate probation or reinstate their license in their sunset report.

In reviewing the past three years of petition, the Board heard 8 petitions with total costs averaging $40,000/ year for a three-year total of $117,000. The licensees petitioning the Board do not have to bear any of the costs incurred as a result of the petition beyond their own attorney fees. To mitigate the petition costs the Board incurs for petition hearings, staff is recommending that a request similar to the MBC request that a section be added to the Medical Practice Act that authorizes the Board to establish an application fee for petitioners, not to exceed the Board’s “reasonable costs” to process and adjudicate petitions for reinstatement, early termination of probation, or modification of probation.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 13 – Providing Complainant Statements to the Board's Disciplinary Panels (sec.18, BPC section 2330)

This would amend BPC section 2330 to require a statement from the complainant to be provided to, and considered by the Board, where relevant. This code section includes the Board of Podiatric Medicine, and possibly other licensing boards. The proposal does not make clear whether these statements would be subject to legal review through the administrative adjudication process that the Board is required to follow. To improve this process staff suggest recasting this proposal in a new code section that would do the following:

- At the time that a complaint has been referred for a field investigation, require the Board to ask the relevant complainant, or their representative, to provide a statement for the members of the Board to consider, relative to the harm they have experienced.

- Set a 60-day deadline for the complainant or representative to provide such a statement.

- Provide that the statement shall be subject to discovery by the respondent licensee and legal review, pursuant to existing law.

- Clarify, as necessary, that these provisions only apply to the Board.

The change in language that now allows these statements to be considered for adjudication could lead to a decrease in the number of cases resolved through a stipulated settlement, if the respondent challenges the content of the statement. If so, the Board may face a higher volume of cases that are heard before an ALJ, which would increase legal costs and enforcement timeframes for those cases.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 14 - Requires expert witness reports to be exchanged 90 days prior to a hearing before an administrative law judge (ALJ). (sec. 19 BPC section 2334 (b).

Once an accusation has been served and is in effect on the respondent, negotiations between legal counsel begins in an attempt to come to agreement on terms of the final order. For cases that are proceeding to trial in which there are dueling experts witnesses scheduled, the need to exchange expert evaluations that will be introduced into evidence is critical for both sides of the case. The current law does not leave enough time for this exchange and the MBC is proposing to extend the time from trial for this exchange from 30 days to 90 days in the interest of justice and effective litigation. The MBC proposed this extension of time for exchange of expert testimony information in their sunset report with the following explanation.

The use of expert testimony is foundational in disciplinary proceedings. Experts retained by the Board and licensees under investigation may conflict with one another, which may lead to a hearing before an administrative law judge. BPC section 2334 requires the Board and counsel for the licensee to exchange expert opinions, and related information, no later than 30 calendar days prior to the originally scheduled hearing date. The Board feels that 90 days is a more reasonable time frame for each side to review expert testimony.

In the interest of justice, the solution is to amend BPC section 2334 to require the exchange of this information no later than 90 calendar days prior to the original hearing date. This change is expected to support the timely resolution of cases by requiring an earlier exchange of expert opinions which can result in productive settlement negotiations or provide grounds for an accusation being withdrawn. An earlier exchange of expert reports is also expected to reduce the number of delayed hearings. SB 815 makes this change.

Recommendation: Staff recommends that the Board support this section of the bill.

No. 15 –Burden of Proof Changes

The Medical Board proposed to reduce the burden of proof for its disciplinary actions from "clear and convincing evidence", per current case law, to preponderance of the evidence. The standard of "clear and convincing" evidence is too high for regulatory board cases. The appropriate standard is preponderance of the evidence. Typically, the "clear and convincing" standard is reserved to protect individual rights. Applicants and licensees do not have a right to a medical license, they must apply and meet the licensure requirements. For this reason, their license does not constitute an individual right that would need to be protected by the higher standard. Individual rights are inalienable and are not conditioned nor obtained through application.

The language in SB 815 codifies the standard at "clear and convincing" for licensure denials and revocations, but for all other matters the standard would be set at "preponderance of the evidence." This language does not lower the burden of proof as the Board would support. It is unclear whether since all disciplinary orders use the word revoke but stay the revocation to order probation under the wording in the bill would require all orders to apply the "clear and convincing" evidence standard of proof or not. Additionally, it is unclear how this standard can be bifurcated because the outcome of a case i.e... revocation or probation is not known until the end of the case. The standard of proof is used to determine the outcome and order so by the time it is known that a disciplinary decision orders probation, it is too late to feasibly apply a lower standard.

Recommendation: Staff recommends that the Board decline support for this section of the bill.

SUPPORT: None identified.

OPPOSITION: California Medical Association (unless amended)

POSITION: Staff recommendation: Support, if Amended

ATTACHMENT: SB 815, Roth – Healing Arts.
Version: 5/08/23 – Amended

AMENDED IN SENATE MAY 25, 2023

AMENDED IN SENATE MAY 8, 2023

AMENDED IN SENATE APRIL 27, 2023

SENATE BILL No. 815

Introduced by Senator Roth
(Principal coauthor: Assembly Member Berman)

February 17, 2023

An act to amend Sections 2001, 2020, 2064.5, 2065, 2096, 2097, 2220.08, 2224, 2225.5, 2234, 2236, 2266, 2307, 2330, 2334, 2425, and 2435 of, to amend and renumber Sections 2529, 2529.1, 2529.5, and 2529.6 of, to add Sections 2024.5, 2225.7, 2232.5, 2307.5, and 2334.5 to, and to add the heading of Article 3.5 (commencing with Section 2950) to Chapter 6.6 of Division 2 of, the Business and Professions Code, and to amend Section 123110 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 815, as amended, Roth. Healing arts.

(1) Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs for the licensure, regulation, and discipline of physicians and surgeons. Under existing law, the board consists of 15 members, 7 of whom are public members. Existing law requires the Senate Committee on Rules and the Speaker of the Assembly to each appoint one public member.

This bill would, until January 1, 2028, increase the total number of board members from 15 to 17 members. The bill would increase the number of public members who are appointed by the Senate Committee on Rules and the Speaker of the Assembly to 2 public members each.

(2) Existing law authorizes the board to employ and fix the compensation of an executive director, and other specified staff, as provided. Existing law authorizes the Attorney General to act as legal counsel for the board for any judicial and administrative proceedings. Existing law repeals these provisions on January 1, 2022.

This bill would extend that date to January 1, 2028. The bill would also establish a Complainant Liaison Unit comprised of board staff responsible for, among other things, responding to communications from the public about the complaint review and enforcement process.

(3) Existing law requires medical school graduates to obtain a physician's and surgeon's postgraduate training license within 180 days after enrollment in a board-approved training program, as specified. Existing law establishes that the physician's and surgeon's postgraduate training license shall be valid until 90 days after the holder has received 12 months' credit of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools approved by the board, as specified.

This bill would instead establish that the physician's and surgeon's postgraduate training license shall be valid for a period of 36 months.

(4) Existing law prohibits a postgraduate training licensee, intern, resident, postdoctoral fellow, or instructor from engaging in the practice of medicine, or receiving compensation for that practice, unless they hold a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board, except as provided. Existing law authorizes a graduate who has completed the first year of postgraduate training, in an approved residency or fellowship, to engage in the practice of medicine as part of that residency or fellowship, and to receive compensation for that practice. If the resident or fellow fails to receive a license to practice medicine within 27 months from the commencement of the residency or fellowship, except as otherwise specified, or if the board denies their application for licensure, existing law specifies that these privileges and exemptions automatically cease.

Existing law establishes that all approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the 15-month license exemption for graduates of medical schools in the United States and Canada or the 27-month license exemption for graduates of board-approved foreign medical schools, except as otherwise allowed. Existing law permits the board, in its discretion and upon review of supporting documentation,

to grant an extension beyond the 15 months to a postgraduate training licensee who graduated from a medical school in the United States or Canada, or beyond 27 months to a postgraduate training licensee who graduated from a foreign medical school approved by the board, as specified.

This bill would delete the authorization provisions described above. The bill would instead establish that all approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the postgraduate training requirement to obtain a physician's and surgeon's license. The bill would modify requirements related to an applicant for a physician's and surgeon's license, who has either graduated from medical school in the United States or Canada to require the applicant to have received 12 months of board-approved postgraduate training in another state or in Canada, or has graduated from a foreign medical school approved by the board and has received 24 months credit of board-approved postgraduate training and who is accepted into an approved postgraduate program in California, to obtain their physician's and surgeon's license within 90 days after beginning that postgraduate program or all privileges and exemptions would automatically cease. The bill would also authorize the board, in its discretion and upon review of supporting documentation, to grant an extension beyond 36 months to a postgraduate training licensee who graduated from a medical school approved by the board, as specified.

(5) Existing law requires an applicant for a physician's and surgeon's license to successfully complete at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools other than Canadian medical schools. Existing law authorizes an applicant who has received credit for at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools, as specified, and not less than 12 months of which was completed as part of an oral and maxillofacial surgery postgraduate training program as a resident after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation (CODA) or approved by the board, to be eligible for licensure.

This bill would delete the provision regarding eligibility for licensure for applicants who participated in an oral and maxillofacial surgery postgraduate training program.

(6) For individuals issued a physician and surgeon license by the board on or after January 1, 2022, existing law requires a physician and surgeon to show satisfactory evidence to the board of postgraduate training, as specified, before a physician's and surgeon's license may be renewed. If a holder of a physician's and surgeon's certificate does not show evidence satisfactory to the board of the receipt of credit, as specified, of board-approved postgraduate training, as specified, existing law authorizes the board to automatically place a physician's and surgeon's certificate in delinquent status.

The bill would require a physician and surgeon to show evidence satisfactory to the board of postgraduate training, as specified, before a physician's and surgeon's license may be renewed, except licensees or applicants who meet specified requirements, including among others, that the licensee or applicant holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of 4 years prior to the date of application and meets other requirements. The bill would, in addition to the authority to automatically place a physician's and surgeon's certificate in delinquent status, authorize the board to grant an additional 60 days to the initial license expiration date, as specified. For a licensee who has received credit for at least 24 months of approved postgraduate training in an oral and maxillofacial surgery postgraduate training program, as specified, the bill would require, at the time of initial renewal, a licensee to show evidence satisfactory to the board, pursuant to the attestation of specified individuals before their physician's and surgeon's license may be renewed. For a physician whose license is canceled or who surrenders their license prior to meeting the renewal requirements described above, this bill would prohibit a physician from having their license reinstated, except as specified.

Existing law authorizes the Division of Licensing to prepare and mail a questionnaire, as specified, to every licensed physician at the time of license renewal.

This bill would authorize the Division of Licensing to prepare and provide electronically or mail a questionnaire, as specified, to every licensed physician at the time of license renewal.

(7) Existing law requires any complaint determined to involve the quality of care rendered by a physician and surgeon, except as provided,

before complaint closure or referral to a field office for further investigation, to be reviewed by one or more medical experts with the pertinent education, training, and expertise to evaluate the specific standard of care issues raised by the complaint to determine if further field investigation is required. Existing law requires that review to include specified information, as requested by the board.

This bill would additionally require the review of the complaint to include an interview of the complainant, patient, or patient representative, if that information is provided.

(8) Existing law authorizes the board to delegate its specified authority to conduct investigations and inspections and to institute proceedings to the executive director of the board or other specified personnel, but prohibits specified delegations of authority. Existing law requires the board to delegate to the executive director the authority to adopt a decision entered by default and a stipulation for surrender of a license.

This bill would additionally require the board to delegate to the executive director the authority to adopt automatic revocations.

(9) Existing law requires a licensee who fails or refuses to comply with a request for the certified medical records of a patient, as specified, to pay to the board a civil penalty, as specified. Existing law requires a licensee or health care facility to pay the board a civil penalty, as specified, if a licensee or health care facility refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board. Existing law establishes that any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

This bill would require that the statute of limitations relating to the licensee as described above be tolled upon the service of an order to show cause, as specified, until such time as the subpoenaed records are produced, including any period the licensee is out of compliance with the court order and during any related appeals, or until the court declines to issue an order mandating release of the records to the board. This bill would require that the statute of limitations relating to the health care facility as described above be tolled during the period the health care facility is out of compliance with the court order and during any related appeals, or until the court declines to issue an order mandating release of records to the board.

The bill would require the owner, corporate officer, or manager of an entity licensed by the Board of Pharmacy to provide the ~~Board of Pharmacy,~~ *board,* or its authorized representatives, records requested by an authorized officer of law or authorized representative of the board, within 3 business days of the time the request was made. The bill would permit the entity to request an extension of this timeframe, as specified.

(10) Existing law requires the board to take action against any licensee who is charged with unprofessional conduct, defined as, among other things, including the failure of a certificate holder, who is the subject of an investigation of the board, to attend and participate in an interview by the board, as specified, and the failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients.

This bill would specify the failure to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board constitutes unprofessional conduct. The bill would specify that the failure of a physician and surgeon to maintain adequate and accurate records as described above for at least 7 years after the last date of service to a patient constitutes unprofessional conduct.

The bill would include as unprofessional conduct any action of the licensee intended to cause their patient to rescind consent to the release of the patient's medical records to the board of the Health Quality Investigation Unit of the Department of Consumer Affairs and dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

This bill would establish that the conviction of certain felonies by a licensee constitutes cause for license revocation. If the board takes action to issue an order of revocation, the bill would require the board to notify the licensee of the license revocation and of their right to elect to have a hearing, as specified. Upon revocation of the physician's and surgeon's certificate, the bill would authorize the holder of the certificate to request a hearing within 30 days of the revocation. The bill would provide for suspension during the pendency of the conviction, as provided.

The bill would provide that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon except those offenses that constitute cause for license revocation, as provided above, constitutes unprofessional conduct.

Existing law specifies the time period before a person whose certificate has been surrendered or revoked or placed on probation may petition the board for reinstatement of a license. Existing law specifies a period of 3 years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after 2 years.

This bill would update certain of those time periods, including specifying a period of 5 years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after 3 years.

The bill would require the board to automatically reject a petition for early termination of modification, as specified. The bill would authorize the board to establish a fee paid by a person seeking license reinstatement or modification of penalty, as specified. The bill would require the board to adopt regulations pursuant to the Administrative Procedure Act to implement this provision.

(11) Existing law requires complainants against licensees of the board, as specified, who are subject to formal disciplinary proceedings to be notified of the actions proposed to be taken against the licensee. Existing law requires complainants to be given an opportunity to provide a statement to the deputy attorney general from the Health Quality Enforcement Section who is assigned the case. Existing law prohibits these statements from being considered, as specified, for purposes of adjudicating the case to which the statement pertains, but authorizes them to be considered, as specified, after the case is finally adjudicated for specified purposes.

This bill would instead require those statements to be considered, where relevant, for purposes of adjudicating the case to which the statement pertains, as specified.

(12) Existing law prohibits the use of expert testimony in matters brought by the board unless specified information is exchanged with counsel for the other party, and requires the exchange of the information to be completed 30 calendar days prior to the commencement date of the hearing or as specified.

This bill would require the exchange of the information to be completed 90 days prior to the commencement date of the hearing or as specified.

The bill would establish the standards of proof required for obtaining an order on a statement of issues or accusation for violation that would result in license suspension or revocation and for any other violation.

(13) Under existing law, all moneys paid to and received by the board are required to be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California. Under existing law, moneys in the contingent fund shall be available, upon appropriation by the Legislature, as provided. Existing law, applicable to the licensure of physicians and surgeons, requires an applicant for a certificate based upon a national board diplomate certificate, an applicant for a certificate based on reciprocity, and an applicant for a certificate based upon written examination to pay a nonrefundable application and processing fee at the time the application is filed. Existing law requires an applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other required fees, to pay an initial license fee in an amount not to exceed $863. ~~Existing~~ *For licenses that expire on or after January 1, 2022, existing* law requires the board to fix the biennial renewal fee not to exceed $863.

This bill would instead require the initial license fee to be ~~$1,350,~~ *$1,289*, and for licenses that expire on or after January 1, ~~2022,~~ *2024*, the biennial renewal fee to be ~~$1,350.~~ *$1,289*.

(14) Existing law authorizes graduates of specified institutes who have completed clinical training in psychoanalysis to engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and authorizes students in those institutes to engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating specified words or that they do not state or imply that they are licensed to practice psychology. Existing law requires those students and graduates seeking to engage in psychoanalysis to register with the Medical Board of California, presenting evidence of their student or graduate status. Existing law requires each person to whom registration is granted under those provisions to pay specified fees into the Contingent Fund of the Medical Board of California. Existing law, the Psychology Law, makes a violation of its provisions a crime.

This bill would transfer the administration and enforcement duties of those provisions from the Medical Board of California to the Board of Psychology. The bill would require that any moneys within the Contingent Fund of the Medical Board of California collected pursuant

to those provisions be deposited in the Psychology Fund, and would require a registrant to pay into the Psychology Fund those fees fixed by the Board of Psychology. The bill would authorize the Board of Psychology to employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of these provisions. By placing these provisions in the Psychology Law, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

(15) Existing law establishes procedures for providing access to health care records or summaries of those records by patients and those persons having responsibility for decisions respecting the health care of others. Existing law entitles an adult patient of a health care provider, minor patient authorized by law to consent to medical treatment, and patient's personal representative to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs, except as specified.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

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

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

SECTION 1. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 17 members, 9 of whom shall be public members.

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

(c) This section shall remain in effect only until January 1, 2028, and as of that date is repealed. Notwithstanding any other law, the

repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 2. Section 2020 of the Business and Professions Code is amended to read:

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

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

(c) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 2024.5 is added to the Business and Professions Code, to read:

2024.5. (a) The board shall establish a Complainant Liaison Unit comprised of board staff responsible for the following:

(1) Respond to communications from the public about the complaint review and enforcement process.

(2) After a complaint has been referred to a field investigation, assist with coordinating communications between the complainant and investigators, as necessary.

(3) Following a disciplinary decision, respond to questions from the complainant regarding any appeals process available to the disciplined licensee.

(4) Conduct and support public outreach activities to improve the public's understanding of the board's enforcement process, including related laws and policies.

(5) Evaluate and respond to requests from complainants to review a complaint closure that the complainant believes was made in error.

SEC. 4. Section 2064.5 of the Business and Professions Code is amended to read:

2064.5. (a) Within 180 days after enrollment in a board-approved postgraduate training program pursuant to Section 2065, medical school graduates shall obtain a physician's and surgeon's postgraduate training license. To be considered for a postgraduate training license, the applicant shall submit the application forms and primary source documents required by the board, shall successfully pass all required licensing examinations, shall pay a nonrefundable application and processing fee, and shall not have committed any act that would be grounds for denial.

(1) Each application submitted pursuant to this section shall be made upon an online electronic form, or another form provided by the board, and each application form shall contain a legal verification by the applicant certifying under penalty of perjury that the information provided by the applicant is true and correct and that any information in supporting documents provided by the applicant is true and correct.

(2) Each application shall include the following:

(A) A diploma issued by a board-approved medical school. The requirements of the school shall not have been less than those required under this chapter at the time the diploma was granted or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

(B) An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

(C) Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

(D) An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that the applicant submits, that the applicant is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

(E) Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a

record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221 of this code.

(F) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign Medical Graduates (ECFMG) Certification Status Report confirming the graduate is ECFMG certified.

(b) The physician's and surgeon's postgraduate training license shall be valid for a period of 36 months. The physician's and surgeon's postgraduate training licensee may engage in the practice of medicine only in connection with the licensee's duties as an intern or resident physician in a board-approved program, including its affiliated sites, or under those conditions as are approved in writing and maintained in the postgraduate licensee's file by the director of the program.

(c) The postgraduate training licensee may engage in the practice of medicine in locations authorized by subdivision (b), and as permitted by the Medical Practice Act and other applicable statutes and regulations, including, but not limited to, the following:

(1) Diagnose and treat patients.

(2) Prescribe medications without a cosigner, including prescriptions for controlled substances, if the licensee has the appropriate Drug Enforcement Agency registration or permit and is registered with the Department of Justice CURES program.

(3) Sign birth certificates without a cosigner.

(4) Sign death certificates without a cosigner.

(5) Sign any other forms a physician and surgeon is authorized to sign.

(d) The postgraduate training licensee may be disciplined by the board at any time for any of the grounds that would subject the holder of a physician's and surgeon's certificate to discipline.

(e) If the medical school graduate fails to obtain a postgraduate license within 180 days after enrollment in a board-approved postgraduate training program or if the board denies the graduate's

application for a postgraduate license, all privileges and exemptions under this section shall automatically cease.

(f) Each medical school graduate who was issued a postgraduate training authorization letter by the board prior to January 1, 2020, and is enrolled in a board-approved postgraduate training program by April 30, 2025, will be issued a postgraduate training license automatically by June 30, 2020, or by June 30 of the year following initial enrollment into a board-approved postgraduate training program, whichever is earlier, upon proof of enrollment in the postgraduate training program.

(g) The board shall confidentially destroy the file of each medical school graduate who was issued a postgraduate training authorization letter by the board prior to January 1, 2020, who did not enroll in a postgraduate training program by April 30, 2025.

SEC. 5. Section 2065 of the Business and Professions Code is amended to read:

2065. (a) Unless otherwise provided by law, no postgraduate training licensee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless they hold a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school may engage in the practice of medicine whenever and wherever required as a part of a postgraduate training program under the following conditions:

(1) The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

(2) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, the Educational Commission for Foreign Medical Graduates (ECFMG) has submitted an official ECFMG Certification Status Report directly to the board confirming the graduate is ECFMG certified.

(3) The medical school graduate is enrolled in a postgraduate training program approved by the board.

(4) The board-approved postgraduate training program has submitted the required board-approved form to the board

documenting the medical school graduate is enrolled in an approved postgraduate training program.

(5) The medical school graduate obtains a physician's and surgeon's postgraduate training license in accordance with Section 2064.5.

(b) A medical school graduate enrolled in an approved postgraduate training program in accordance with this section may engage in the practice of medicine whenever and wherever required as a part of the training program, and may receive compensation for that practice.

(c) All approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the postgraduate training requirement to obtain a physician's and surgeon's license under Section 2096.

(d) The program director for an approved postgraduate training program in California shall report to the board, on a form approved by the board, and provide any supporting documents as required by the board, the following actions within 30 days of the action:

(1) A postgraduate training licensee is notified that they have received partial or no credit for a period of postgraduate training, and their postgraduate training period is extended.

(2) A postgraduate training licensee takes a leave of absence or any break from their postgraduate training, and they are notified that their postgraduate training period is extended.

(3) A postgraduate training licensee is terminated from the postgraduate training program.

(4) A postgraduate training licensee resigns, dies, or otherwise leaves the postgraduate training program.

(5) A postgraduate training licensee has completed a one-year contract approved by the postgraduate training program.

(e) Upon review of supporting documentation, the board, in its discretion, may grant an extension beyond 36 months to a postgraduate training licensee who graduated from a medical school approved by the board pursuant to Section 2084 to receive credit for the 12 months of required approved postgraduate training for graduates of medical schools in the United States and Canada and 24 months of required approved postgraduate training for graduates of foreign medical schools other than Canadian medical schools.

(f) An applicant for a physician's and surgeon's license who has either graduated from medical school in the United States or

Canada and has received 12 months credit for 12 months of board-approved postgraduate training in another state or in Canada, or has graduated from a foreign medical school approved by the board pursuant to Section 2084 and has received 24 months credit of board-approved postgraduate training and who is accepted into an approved postgraduate training program in California shall obtain their physician's and surgeon's license within 90 days after beginning that postgraduate training program or all privileges and exemptions under this section shall automatically cease.

(g) Upon review of supporting documentation, the board, in its discretion, may grant a physician's and surgeon's license to an applicant who demonstrates substantial compliance with this section.

SEC. 6. Section 2096 of the Business and Professions Code is amended to read:

2096. (a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be issued, each applicant, including an applicant applying pursuant to Article 5 (commencing with Section 2105), shall show by evidence satisfactory to the board that the applicant has received credit for at least 12 months of board-approved postgraduate training for graduates of medical schools in the United States and Canada or 24 months of board-approved postgraduate training for graduates of foreign medical schools approved by the board pursuant to Section 2084 other than Canadian medical schools, pursuant to the attestation of the program director, designated institutional official, or delegated authority for the approved postgraduate training program where the applicant participated.

(b) The postgraduate training required by this section shall include at least four months of general medicine and shall be obtained in a postgraduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) in the United States, the Royal College of Physicians and Surgeons of Canada (RCPSC) in Canada, or the College of Family Physicians of Canada (CFPC) in Canada.

SEC. 7. Section 2097 of the Business and Professions Code is amended to read:

2097. (a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be renewed, at the time of initial renewal, a physician and surgeon shall show

evidence satisfactory to the board that the licensee has received credit for at least 36 months of board-approved postgraduate training which includes successful progression through 24 months in the same program, pursuant to the attestation of the program director, designated institutional official, or delegated authority for the approved postgraduate training program where the applicant participated, except licensees or applicants who meet the requirements of Section 2135, 2135.5, 2151, 2428, or by a licensee or applicant using clinical practice in an appointment under Section 2113 as qualifying time to meet the postgraduate training requirements in Section 2065.

(b) A physician's and surgeon's certificate shall be automatically placed in delinquent status by the board if the holder of a physician's and surgeon's certificate does not show evidence satisfactory to the board that the physician and surgeon has received credit for at least 36 months of board-approved postgraduate training which includes successful progression through 24 months in the same program before the licensee's initial license expiration. The board may grant an additional 60 days to the initial license expiration date authorized under Section 2423.

(c) A licensee who has received credit for at least 24 months of approved postgraduate training in an oral and maxillofacial surgery postgraduate training program after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation (CODA), shall show evidence satisfactory to the board at the time of initial renewal, before their physician's and surgeon's license may be renewed, pursuant to the attestation of the program director, designated institutional official, or delegated authority for the approved postgraduate training program where the licensee participated.

(d) Upon review of supporting documentation, the board, in its discretion, may renew a physician's and surgeon's license to an applicant who has demonstrated substantial compliance with this section.

(e) A physician whose license is canceled or who surrenders their license prior to meeting the renewal requirements under subdivision (a) may not have their license reinstated under Section 2428 without meeting current renewal requirements under subdivision (a), except licenses originally issued under Section 2135, 2135.5, 2151, or licensees that used qualifying time under

Section 2113 to meet the postgraduate training requirements in Section 2065.

(f) This section shall only apply to individuals issued a license by the board on or after January 1, 2022.

SEC. 8. Section 2220.08 of the Business and Professions Code is amended to read:

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

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

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

(A) Relevant patient records.

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

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

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

(3) It shall include an interview of the complainant, patient, or patient representative, if that information is provided.

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

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

SEC. 9. Section 2224 of the Business and Professions Code is amended to read:

2224. (a) The board may delegate the authority under this chapter to conduct investigations and inspections and to institute proceedings to the executive director of the board or to other personnel as set forth in Section 2020. The board shall not delegate its authority to take final disciplinary action against a licensee as provided in Section 2227 and other provisions of this chapter. The board shall not delegate any authority of the Senior Assistant Attorney General of the Health Quality Enforcement Section or any powers vested in the administrative law judges of the Office of Administrative Hearings, as designated in Section 11371 of the Government Code.

(b) Notwithstanding subdivision (a), the board shall delegate to its executive director the authority to adopt a decision entered by default, a stipulation for surrender of a license, and automatic revocations.

SEC. 10. Section 2225.5 of the Business and Professions Code is amended to read:

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

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

to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, up to ten thousand dollars ($10,000), unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled upon the service of an order to show cause pursuant to Section 11188 of the Government Code, until such time as the subpoenaed records are produced, including during any period the licensee is out of compliance with the court order and during any related appeals, or until the court declines to issue an order mandating release of records to the board.

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

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that

the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals, or until the court declines to issue an order mandating release of records to the board.

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

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

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

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

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

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

SEC. 11. Section 2225.7 is added to the Business and Professions Code, to read:

2225.7. When requested by an authorized officer of the law or by an authorized representative of the board, the owner, corporate officer, or manager of an entity licensed by the Board of Pharmacy shall provide the ~~Board of Pharmacy,~~ *board*, or its authorized representative, with the requested records within three business days of the time the request was made. The entity may request in writing an extension of this timeframe for a period not to exceed 14 calendar days from the date the records were requested. A request for an extension of time is subject to the approval of the board. An extension shall be deemed approved if the board fails to deny the extension request within two business days of the time the extension request was made directly to the board.

SEC. 12. Section 2232.5 is added to the Business and Professions Code, to read:

2232.5. (a) (1) Notwithstanding Section 2236, conviction of a felony by a licensee, where the conviction involves moral turpitude, dishonesty or corruption, fraud, or sexual assault, whether in the course of the licensee's actions as a physician and surgeon or otherwise, constitutes cause for license revocation.

(2) No expert witness testimony is required to prove the relationship between the felony conviction and the practice of medicine.

(b) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

(c) Following the conviction of a felony as described in subdivision (a), the board shall suspend the physician until the time for appeal has elapsed if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal, or has otherwise become final, and until the further order of the board. The board may decline to impose or may set aside, the suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of, and confidence

in, the profession. At such time as the time for appeal has elapsed with no appeal having been taken, or the judgment of conviction has been affirmed on appeal, or the judgment of conviction has otherwise become final, the board shall issue an order of revocation in the matter. If the related conviction of the licensee is overturned on appeal, no revocation order shall be issued as to that conviction and any suspension order issued pursuant to the above shall be rescinded. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(d) (1) If the board takes action to issue an order of revocation as provided in subdivision (c), the board shall notify the licensee of the license revocation and of their right to elect to have a hearing as provided in paragraph (2).

(2) Upon revocation of the physician's and surgeon's certificate, the holder may request a hearing within 30 days of the revocation. The proceeding shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 13. Section 2234 of the Business and Professions Code is amended to read:

2234. The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the

diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

(h) Any action of the licensee, or another person acting on behalf of the licensee, intended to cause their patient or their patient's authorized representative to rescind consent to release the patient's medical records to the board or the Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

SEC. 14. Section 2236 of the Business and Professions Code is amended to read:

2236. (a) The conviction of any offense other than those that constitute cause for license revocation pursuant to Section 2232.5 substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

SEC. 15. Section 2266 of the Business and Professions Code is amended to read:

2266. The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients for at least seven years after the last date of service to a patient constitutes unprofessional conduct.

SEC. 16. Section 2307 of the Business and Professions Code is amended to read:

2307. (a) Except as provided in subdivision (i), a person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least five years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after three years.

(2) At least two years for early termination of probation or after more than one-half of the probation term has elapsed, whichever is greater.

(3) At least one year for modification of a condition, or reinstatement of a license surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board or the California Board of Podiatric Medicine, as applicable, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge designated in Section 11371 of the Government Code reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The board shall automatically reject a petition for early termination or modification of probation if the ~~Board of Pharmacy~~ *board* files a petition to revoke probation while the petition for early termination or modification of the probation is pending. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of three years from the effective date of the prior decision following a hearing under this section.

(h) This section is applicable to and may be carried out with regard to licensees of the California Board of Podiatric Medicine. In lieu of two verified recommendations from physicians and

surgeons, the petition shall be accompanied by at least two verified recommendations from doctors of podiatric medicine licensed in any state who have personal knowledge of the activities of the petitioner since the date the disciplinary penalty was imposed.

(i) (1) The board shall not reinstate the certificate of a person under any of the following circumstances:

(A) The person's certificate has been surrendered because the person committed an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(B) The person's certificate has been revoked based on a finding by the board that the person committed an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(C) The person was convicted in a court in or outside of this state of any offense that, if committed or attempted in this state, based on the elements of the convicted offense, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290 of the Penal Code, and the person engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense.

(D) The person has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the conviction has been appealed, and the person engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense.

(2) A plea or a verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

(3) This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(j) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 17. Section 2307.5 is added to the Business and Professions Code, to read:

2307.5. (a) The board may establish a fee to be paid by a person seeking a license reinstatement or modification of penalty pursuant to Section 2307.

(b) The fee established shall not exceed the board's reasonable costs to process and adjudicate a petition submitted pursuant to Section 2307.

(c) The board shall adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement this section.

SEC. 18. Section 2330 of the Business and Professions Code is amended to read:

2330. Complainants against licensees of the board, including licensees of allied health boards within the jurisdiction of the board, and of the Board of Podiatric Medicine, who are subject to formal disciplinary proceedings shall be notified of the actions proposed to be taken against the licensee. This notification shall be provided only to complainants who are known to the boards.

Complainants shall be given an opportunity to provide a statement to the deputy attorney general from the Health Quality Enforcement Section who is assigned the case. These statements shall be considered, where relevant, by a panel of the division, the Board of Podiatric Medicine, or other board for purposes of adjudicating the case to which the statement pertains, and may be considered by the division or those boards after the case is finally adjudicated for purposes of setting generally applicable policies and standards.

SEC. 19. Section 2334 of the Business and Professions Code is amended to read:

2334. (a) Notwithstanding any other provision of law, with respect to the use of expert testimony in matters brought by the Medical Board of California, no expert testimony shall be permitted by any party unless the following information is exchanged in written form with counsel for the other party, as ordered by the Office of Administrative Hearings:

(1) A curriculum vitae setting forth the qualifications of the expert.

(2) A complete expert witness report, which must include the following:

(A) A complete statement of all opinions the expert will express and the bases and reasons for each opinion.

(B) The facts or data considered by the expert in forming the opinions.

(C) Any exhibits that will be used to summarize or support the opinions.

(3) A representation that the expert has agreed to testify at the hearing.

(4) A statement of the expert's hourly and daily fee for providing testimony and for consulting with the party who retained their services.

(b) The exchange of the information described in subdivision (a) shall be completed no later than 90 calendar days prior to the originally scheduled commencement date of the hearing, or as determined by an administrative law judge when Section 11529 of the Government Code applies. Upon motion to extend the deadline based on a showing of good cause, the administrative law judge may extend the time for the exchange of information for a period not to exceed 100 calendar days cumulatively, but in no case shall the exchange take place less than 30 calendar days before the hearing date, whichever comes first.

(c) The Office of Administrative Hearings may adopt regulations governing the required exchange of the information described in this section.

SEC. 20. Section 2334.5 is added to the Business and Professions Code, to read:

2334.5. (a) The standard of proof required to obtain an order on a statement of issues or accusation for a violation that would result in license suspension or revocation shall be a clear and convincing evidence standard.

(b) The standard of proof required to obtain an order on a statement of issues or accusation for any other violation shall be a preponderance of the evidence standard.

SEC. 21. Section 2425 of the Business and Professions Code is amended to read:

2425. (a) The Division of Licensing may prepare and provide electronically or mail to every licensed physician at the time of license renewal a questionnaire containing any questions as are necessary to establish that the physician currently has no disorder

that would impair the physician's ability to practice medicine safely.

(b) Each licensed physician shall complete, sign, and return the questionnaire to the Division of Licensing as a condition of renewing their license.

SEC. 22. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

(a) Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be six hundred twenty-five dollars ($625).

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any, in an amount fixed by the board consistent with this section. The initial license fee shall be one thousand ~~three~~ *two* hundred ~~fifty~~ *eighty-nine* dollars ~~($1,350).~~ *($1,289).* An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(d) For licenses that expire on or after January 1, ~~2022,~~ *2024*, the biennial renewal fee shall be one thousand ~~three~~ *two* hundred ~~fifty~~ *eighty-nine* dollars ~~($1,350).~~ *($1,289).*

(e) Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

(f) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(g) Not later than January 1, 2012, the Office of State Audits and Evaluations within the Department of Finance shall commence a preliminary review of the board's financial status, including, but not limited to, its projections related to expenses, revenues, and reserves, and the impact of the loan from the Contingent Fund of the Medical Board of California to the General Fund made pursuant to the Budget Act of 2008. The office shall make the results of this

review available upon request by June 1, 2012. This review shall be funded from the existing resources of the office during the 2011–12 fiscal year.

SEC. 23. Section 2529 of the Business and Professions Code is amended and renumbered to read:

2950. (a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the board who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this article shall register with the board, presenting evidence of their student or graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2960, 2960.6, 2969, and 2996.

(c) Each application for registration as a research psychoanalyst or student research psychoanalyst shall be made upon an online electronic form, or other form, provided by the board, and each application form shall contain a legal verification by the applicant certifying under penalty of perjury that the information provided by the applicant is true and correct and that any information in supporting documents provided by the applicant is true and correct.

SEC. 24. Section 2529.1 of the Business and Professions Code is amended and renumbered to read:

2951. (a) The use of any controlled substance or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other person or to the public, or to the extent that this use impairs the ability of the registrant to practice safely or more than one misdemeanor or any felony conviction involving the use, consumption, or

self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of this unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order discipline of the registrant in accordance with Article 4 (commencing with Section 2960) or may order the denial of the registration when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing this person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 25. Section 2529.5 of the Business and Professions Code is amended and renumbered to read:

2952. (a) Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum of one hundred dollars ($100).

(b) The registration shall expire after two years. The registration may be renewed biennially at a fee fixed by the board at a sum not in excess of fifty dollars ($50). Students seeking to renew their registration shall present to the board evidence of their continuing student status.

(c) The money in the Contingent Fund of the Medical Board of California shall be used for the administration of this chapter. Any moneys within the Contingent Fund of the Medical Board of California collected pursuant to Section 2529.5 as it read before the enactment of the statute that amended and renumbered this section, shall be deposited in the Psychology Fund.

(d) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this article.

SEC. 26. Section 2529.6 of the Business and Professions Code is amended and renumbered to read:

2953. (a) Except as provided in subdivisions (b) and (c), the board shall revoke the registration of any person who has been

required to register as a sex offender pursuant to Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

(b) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(c) This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of their duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

(d) A proceeding to revoke a registration pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 27. The heading of Article 3.5 (commencing with Section 2950) is added to Chapter 6.6 of Division 2 of the Business and Professions Code, to read:

Article 3.5. Research Psychoanalysts

SEC. 28. Section 123110 of the Health and Safety Code is amended to read:

123110. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient's personal representative shall be entitled to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs, as specified in subdivision (j). However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the request. The inspection shall be conducted by the patient or patient's personal representative requesting the inspection, who may be accompanied by one other person of their choosing.

(b) (1) Additionally, any patient or patient's personal representative shall be entitled to a paper or electronic copy of all

or any portion of the patient records that they have a right to inspect, upon presenting a request to the health care provider specifying the records to be copied, together with a fee to defray the costs of producing the copy or summary, as specified in subdivision (j). The health care provider shall ensure that the copies are transmitted within 15 days after receiving the request.

(2) The health care provider shall provide the patient or patient's personal representative with a copy of the record in the form and format requested if it is readily producible in the requested form and format, or, if not, in a readable paper copy form or other form and format as agreed to by the health care provider and the patient or patient's personal representative. If the requested patient records are maintained electronically and if the patient or patient's personal representative requests an electronic copy of those records, the health care provider shall provide them in the electronic form and format requested if they are readily producible in that form and format, or, if not, in a readable electronic form and format as agreed to by the health care provider and the patient or patient's personal representative.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's personal representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's personal representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, a patient, employee of a nonprofit legal services entity representing the patient, or the personal representative of a patient, is entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records or supporting forms are needed to support a claim or appeal regarding eligibility for a public benefit program, a petition for U nonimmigrant status under the Victims of Trafficking and Violence

Protection Act, or a self-petition for lawful permanent residency under the Violence Against Women Act. A public benefit program includes the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, CalFresh, the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, and a government-funded housing subsidy or tenant-based housing assistance program.

(2) Although a patient shall not be limited to a single request, the patient, employee of a nonprofit legal services entity representing the patient, or patient's personal representative shall be entitled to no more than one copy of any relevant portion of their record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's claim or appeal, pending the outcome of that claim or appeal. For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If a patient, employee of a nonprofit legal services entity representing the patient, or the patient's personal representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(f) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. This section does not supersede any rights that a patient or personal representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. This chapter does not require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(g) (1) This chapter shall not be construed to render a health care provider liable for the quality of their records or the copies

provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

(2) Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(h) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(i) This section prohibits a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services is subject to the sanctions specified in subdivision (h).

(j) (1) Except as provided in subdivision (d), a health care provider may impose a reasonable, cost-based fee for providing a paper or electronic copy or summary of patient records, provided the fee includes only the cost of the following:

(A) Labor for copying the patient records requested by the patient or patient's personal representative, whether in paper or electronic form.

(B) Supplies for creating the paper copy or electronic media if the patient or patient's personal representative requests that the electronic copy be provided on portable media.

(C) Postage, if the patient or patient's personal representative has requested the copy, or the summary or explanation, be mailed.

(D) Preparing an explanation or summary of the patient record, if agreed to by the patient or patient's personal representative.

(2) The fee from a health care provider shall not exceed twenty-five cents ($0.25) per page for paper copies or fifty cents ($0.50) per page for records that are copied from microfilm.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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