AGENDA ITEM: 8.1
DATE: April 14, 2016

ACTION REQUESTED: Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

REQUESTED BY: Imelda Ceja-Butkiewicz, Public Member, Chairperson

BACKGROUND: Assembly Bills
             Senate Bills
             AB 12  AB 1748  SB 319  SB 800
             AB 26  AB 1939  SB 323  SB 960
             AB 85  AB 1992  SB 390  SB 1039
             AB 172 AB 2079  SB 408  SB 1139
             AB 611 AB 2209  SB 464  SB 1155
             AB 637 AB 2399  SB 466  SB 1217
             AB 840 AB 2507  SB 467  SB 1334
             AB 1060 AB 2606  SB 482  SB 1348
             AB 1306 AB 2701
             AB 1351 AB 2744
             AB 1352 AB 2859
             AB 1386

NEXT STEP: Follow direction from the Board

FINANCIAL IMPLICATIONS, IF ANY: As reflected by proposed legislation

PERSON TO CONTACT: Kay Weinkam
Nursing Education Consultant
Phone: (916) 574-7600
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SUMMARY:
Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

Under existing law, the governing board of any school district is required to give diligent care to the health and physical development of pupils, and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

ANALYSIS:
This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or
another opioid antagonist and trained personnel available at its school and to designate one or more
school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid
antagonist from individuals in specified positions.

The bill would require the Superintendent of Public Instruction to establish minimum standards of
training for the administration of naloxone hydrochloride or another opioid antagonist, to review
these standards every 5 years or sooner as specified, and to consult with organizations and
providers with expertise in administering naloxone hydrochloride or another opioid antagonist and
administering medication in a school environment in developing and reviewing those standards.

The bill would require a qualified supervisor of health or administrator at a school district, county
office of education, or charter school electing to utilize naloxone hydrochloride or another opioid
antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or
another opioid antagonist from an authorizing physician and surgeon, as defined, and would
authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride
or another opioid antagonist manufacturers.

The bill would authorize school nurses or, if the school does not have a school nurse, a person who
has received training regarding naloxone hydrochloride or another opioid antagonist, to
immediately administer naloxone hydrochloride or another opioid antagonist under certain
circumstances. The bill would require those individuals to initiate emergency medical services or
other appropriate medical followup in accordance with written training materials.

The bill would prohibit an authorizing physician and surgeon from being subject to professional
review, being liable in a civil action, or being subject to criminal prosecution for any act in the
issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross
negligence or willful or malicious conduct.

The bill would prohibit a person trained under these provisions, who acts with reasonable care in
administering naloxone hydrochloride or another opioid antagonist, in good faith, to a person who
is experiencing or is suspected of experiencing an opioid overdose from being subject to
professional review, being liable in a civil action, or being subject to criminal prosecution for this
administration.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:

OPPOSE:

(1) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

(2) Under existing law, the governing board of any school district is required to give diligent care to the health and physical development
of pupils, and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering or reasonably believed to be suffering, from an anaphylactic reaction, as provided. This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions. The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers. The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist, to immediately administer naloxone hydrochloride or another opioid antagonist under certain circumstances. The bill would require those individuals to initiate
emergency medical services or other appropriate medical followup in accordance with written training materials. The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions, who acts with reasonable care in administering naloxone hydrochloride or another opioid antagonist, in good faith, to a person who is experiencing or is suspected of experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

Existing law authorizes the teacher of any class from which a pupil is suspended to require the suspended pupil to complete any assignments and tests missed during the suspension.

This bill would make a nonsubstantive change to this provision.


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

1 SECTION 1. Section 4119.8 is added to the Business and Professions Code, to read:
2 4119.8. (a) Notwithstanding any other law, a pharmacy may furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school pursuant to Section 49414.3 of the Education Code if all of the following are met:
3 (1) The naloxone hydrochloride or another opioid antagonist is furnished exclusively for use at a school district schoolsite, county office of education schoolsite, or charter school.
4 (2) A physician and surgeon provides a written order that specifies the quantity of naloxone hydrochloride or another opioid antagonist to be furnished.
5 (b) Records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished pursuant to subdivision (a) shall be maintained by the school district, county office of education, or charter school for a period of three years from the date the records were created. The school
district, county office of education, or charter school shall be
responsible for monitoring the supply of naloxone hydrochloride
or another opioid antagonist and ensuring the destruction of
expired naloxone hydrochloride or another opioid antagonist.

SEC. 2. Section 49414.3 is added to the Education Code, to
read:

49414.3. (a) School districts, county offices of education, and
charter schools may provide emergency naloxone hydrochloride
or another opioid antagonist to school nurses or trained personnel
who have volunteered pursuant to subdivision (d), and school
nurses or trained personnel may use naloxone hydrochloride or
another opioid antagonist to provide emergency medical aid to
persons suffering, or reasonably believed to be suffering, from an
opioid overdose. Any school district, county office of education,
or charter school choosing to exercise the authority provided under
this subdivision shall not receive state funds specifically for
purposes of this subdivision.

(b) For purposes of this section, the following terms have the
following meanings:

(1) “Authorizing physician and surgeon” may include, but is
not limited to, a physician and surgeon employed by, or contracting
with, a local educational agency, a medical director of the local
health department, or a local emergency medical services director.

(2) “Opioid antagonist” means naloxone hydrochloride or
another drug approved by the federal Food and Drug
Administration that, when administered, negates or neutralizes in
whole or in part the pharmacological effects of an opioid in the
body, and has been approved for the treatment of an opioid
overdose.

(3) “Qualified supervisor of health” may include, but is not
limited to, a school nurse.

(4) “Volunteer” or “trained personnel” means an employee
who has volunteered to administer naloxone hydrochloride or
another opioid antagonist to a person if the person is suffering,
or reasonably believed to be suffering, from an opioid overdose,
has been designated by a school, and has received training
pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state
may voluntarily determine whether or not to make emergency
naloxone hydrochloride or another opioid antagonist and trained
personnel available at its school. In making this determination, a private school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to naloxone hydrochloride or another opioid antagonist and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of naloxone hydrochloride or another opioid antagonist from the school nurse or other qualified person designated by an authorizing physician and surgeon. Any school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(e) (1) The Superintendent shall establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist that satisfies the requirements of paragraph (2). Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of naloxone hydrochloride or other opioid antagonists that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, and others.

(2) Training established pursuant to this subdivision shall include all of the following:
   (A) Techniques for recognizing symptoms of an opioid overdose.
   (B) Standards and procedures for the storage, restocking, and emergency use of naloxone hydrochloride or another opioid antagonist.
(C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil’s parent and physician.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (E) of paragraph (2).

(f) Any school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to be suffering, from an opioid overdose.

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall obtain from an authorizing physician and surgeon a prescription for each school for naloxone hydrochloride or another opioid antagonist. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the naloxone hydrochloride or another opioid antagonist and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.
(4) An authorizing physician and surgeon shall not be subject
to professional review, be liable in a civil action, or be subject to
criminal prosecution for the issuance of a prescription or order
pursuant to this section, unless the physician and surgeon’s
issuance of the prescription or order constitutes gross negligence
or willful or malicious conduct.

(h) A school nurse or, if the school does not have a school nurse
or the school nurse is not onsite or available, a volunteer may
administer naloxone hydrochloride or another opioid antagonist
to a person exhibiting potentially life-threatening symptoms of an
opioid overdose at school or a school activity when a physician
is not immediately available. If the naloxone hydrochloride or
another opioid antagonist is used it shall be restocked as soon as
reasonably possible, but no later than two weeks after it is used.
Naloxone hydrochloride or another opioid antagonist shall be
restocked before their expiration date.

(i) A volunteer shall initiate emergency medical services or
other appropriate medical followup in accordance with the training
materials retained pursuant to paragraph (4) of subdivision (e).

(j) A school district, county office of education, or charter school
electing to utilize naloxone hydrochloride or another opioid
antagonist for emergency aid shall ensure that each employee who
volunteers under this section will be provided defense and
indemnification by the school district, county office of education,
or charter school for any and all civil liability, in accordance with,
but not limited to, that provided in Division 3.6 (commencing with
Section 810) of Title 1 of the Government Code. This information
shall be reduced to writing, provided to the volunteer, and retained
in the volunteer’s personnel file.

(k) Notwithstanding any other law, a person trained as required
under subdivision (d), who acts with reasonable care in
administering naloxone hydrochloride or another opioid
antagonist, in good faith, to a person who is experiencing or is
suspected of experiencing an opioid overdose shall not be subject
to professional review, be liable in a civil action, or be subject to
criminal prosecution for this administration.

(l) A state agency, the department, or a public school may accept
gifts, grants, and donations from any source for the support of the
public school carrying out the provisions of this section, including,
but not limited to, the acceptance of naloxone hydrochloride or
another opioid antagonist from a manufacturer or wholesaler.

SECTION 1. Section 48913 of the Education Code is amended
to read:

48913. The teacher of a class from which a pupil is suspended
may require the suspended pupil to complete any assignments and
tests missed during the suspension.
SUMMARY:
Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. Existing law requires each of these entities to submit annually to the director of the department its methods for ensuring that every licensing examination it administers is subject to periodic evaluation.

ANALYSIS:
This bill would require the director of the department to conduct a study and submit to the Legislature by July 1, 2017, a report identifying, exploring, and addressing occupational licensing requirements that create unnecessary barriers to labor market entry or mobility.

Amended analysis as of 3/29/16:
Section 312.3 of the Business and Professions Code would be amended as shown by the words in italics:

(a) The director shall conduct a study and submit to the Legislature by July 1, 2017, a report identifying, exploring, and addressing areas where occupational licensing requirements create an unnecessary barrier to labor market entry or labor mobility, particularly for dislocated workers, individuals who have moved to California from another state, transitioning service members, and military spouses.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:
Fresno Chamber of Commerce
Center for Public Interest Law

OPPOSE: None to date
An act to add Section 312.3 to the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL’S DIGEST

AB 1939, as amended, Patterson. Licensing—Requirements.

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. Existing law requires each of these entities to submit annually to the director of the department its methods for ensuring that every licensing examination it administers is subject to periodic evaluation.

This bill would require the director of the department to conduct a study and submit to the Legislature by July 1, 2017, a report identifying, exploring, and addressing occupational licensing requirements that create unnecessary barriers to labor market entry or mobility.


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

1 SECTION 1. Section 312.3 is added to the Business and Professions Code, to read:
312.3. (a) The director shall conduct a study and submit to the Legislature by July 1, 2017, a report identifying, exploring, and addressing areas where occupational licensing requirements create an unnecessary barrier to labor market entry or labor mobility, particularly for dislocated workers, *individuals who have moved to California from another state*, transitioning service members, and military spouses.

(b) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
BILL ANALYSIS

AUTHOR: Jones                      BILL NUMBER: AB 1992

SPONSOR: California Chiropractic Association          BILL STATUS: Assembly Committee on Arts, Entertainment, Sports, Tourism & Internet Media

SUBJECT: Pupil health: physical examinations       DATE LAST AMENDED: Introduced 2/16/16

SUMMARY:
Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for participation in an interscholastic athletic program, as specified.

ANALYSIS:
This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: California Chiropractic Association

OPPOSE:
ASSEMBLY BILL No. 1992

Introduced by Assembly Member Jones

February 16, 2016

An act to amend Section 49458 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL’S DIGEST

AB 1992, as introduced, Jones. Pupil health: physical examinations.
Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for participation in an interscholastic athletic program, as specified.
This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession.

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

SECTION 1. Section 49458 of the Education Code is amended to read:

49458. When a school district or a county superintendent of schools requires a physical examination as a condition of participation in an interscholastic athletic program, the physical examination may be performed by a physician and surgeon or surgeon, physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. doctor of chiropractic practicing in
compliance with Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, naturopathic doctor practicing in compliance with Chapter 8.2 (commencing with Section 3610) of Division 2 of the Business and Professions Code, or nurse practitioner practicing in compliance with Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.
SUMMARY:
Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities, including skilled nursing facilities. Existing law requires the department to develop regulations that become effective August 1, 2003, that establish staff-to-patient ratios for direct caregivers working in a skilled nursing facility. Existing law requires that these ratios include separate licensed nurse staff-to-patient ratios in addition to the ratios established for other direct caregivers. Existing law also requires every skilled nursing facility to post information about staffing levels in the manner specified by federal requirements. Existing law makes it a misdemeanor for any person to willfully or repeatedly violate these provisions.

Existing law generally requires that skilled nursing facilities have a minimum number of nursing hours per patient day of 3.2 hours.

Sections (3) and (4): please refer to the bill

ANALYSIS:
This bill would require the department to develop regulations that become effective July 1, 2017, and include a minimum overall staff-to-patient ratio that includes specific staff-to-patient ratios for certified nurse assistants and for licensed nurses that comply with specified requirements. The bill would require the posted information to include a resident census and an accurate report of the number of staff working each shift and to be posted in specified locations, including an area used for employee breaks. The bill would require a skilled nursing facility to make staffing data available, upon oral or written request and at a reasonable cost, within 15 days of receiving a request. By expanding the scope of a crime, this bill would impose a state-mandated local program.

This bill would substitute the term “direct care service hours” for the term “nursing hours” and, commencing July 1, 2017, except as specified, increase the minimum number of direct care service hours per patient day to 4.1 hours.
BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:
SEIU California (cosponsor)
SEIU Local 2015 (cosponsor)
California Labor Federation
California Long-Term Care Association
Congress of California Seniors

OPPOSE:
Association of California Healthcare Districts
California Association of Health Facilities
LeadingAge California
An act to amend Sections 1276.5 and 1276.65 of the Health and Safety Code, and to amend Section 14126.022 of, and to repeal and add Section 14110.7 of, the Welfare and Institutions Code, relating to health facilities.

LEGISLATIVE COUNSEL’S DIGEST

AB 2079, as introduced, Calderon. Skilled nursing facilities: staffing.

(1) Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities, including skilled nursing facilities. Existing law requires the department to develop regulations that become effective August 1, 2003, that establish staff-to-patient ratios for direct caregivers working in a skilled nursing facility. Existing law requires that these ratios include separate licensed nurse staff-to-patient ratios in addition to the ratios established for other direct caregivers. Existing law also requires every skilled nursing facility to post information about staffing levels in the manner specified by federal requirements. Existing law makes it a misdemeanor for any person to willfully or repeatedly violate these provisions.

This bill would require the department to develop regulations that become effective July 1, 2017, and include a minimum overall staff-to-patient ratio that includes specific staff-to-patient ratios for certified nurse assistants and for licensed nurses that comply with specified requirements. The bill would require the posted information to include a resident census and an accurate report of the number of staff working each shift and to be posted in specified locations, including
an area used for employee breaks. The bill would require a skilled nursing facility to make staffing data available, upon oral or written request and at a reasonable cost, within 15 days of receiving a request. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law generally requires that skilled nursing facilities have a minimum number of nursing hours per patient day of 3.2 hours.

This bill would substitute the term “direct care service hours” for the term “nursing hours” and, commencing July 1, 2017, except as specified, increase the minimum number of direct care service hours per patient day to 4.1 hours.

(3) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Existing law, the Medi-Cal Long-Term Care Reimbursement Act, operative until August 1, 2020, requires the department to make a supplemental payment to skilled nursing facilities based on specified criteria and according to performance measure benchmarks. Existing law requires the department to establish and publish quality and accountability measures, which are used to determine supplemental payments. Existing law requires, beginning in the 2011–12 fiscal year, the measures to include, among others, compliance with specified nursing hours per patient per day requirements.

This bill would also require, beginning in the 2017–18 fiscal year, the measures to include compliance with specified direct care service hour requirements for skilled nursing facilities.

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

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


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

1 SECTION 1. Section 1276.5 of the Health and Safety Code is amended to read:
1276.5. (a) (1) The department shall adopt regulations setting forth the minimum number of equivalent nursing direct care service hours per patient required in skilled nursing and intermediate care facilities, subject to the specific requirements of Section 14110.7 of the Welfare and Institutions Code. However, notwithstanding Section 14110.7 or any other law, commencing January 1, 2000, the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, except as provided in Section 1276.9.

(b) (1) For the purposes of this section, “nursing subdivision, direct care service hours” means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for persons with developmental disabilities or mental health disorders by licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital, and except that nursing hours for skilled nursing facilities means the actual hours of work, without doubling the hours performed per patient day by registered nurses and licensed vocational nurses.

(2) Concurrent with implementation of the first year of rates established under the Medi-Cal Long Term Care Reimbursement Act of 1990 (Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code), for the purposes of this section, “nursing hours” means the number of hours of work performed per patient day by aides, nursing assistants, registered nurses, and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for persons with developmental disabilities or mental health disorders, by licensed psychiatric technicians who performed direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.
(b) (1) The department shall adopt regulations setting forth the minimum number of equivalent direct care service hours per patient required in skilled nursing facilities, subject to the specific requirements of Section 14110.7 of the Welfare and Institutions Code. However, notwithstanding Section 14110.7 of the Welfare and Institutions Code or any other law, the minimum number of direct care service hours per patient required in a skilled nursing facility shall be 3.2 hours, and, commencing July 1, 2017, shall be 4.1 hours, except as provided in paragraph (2) or Section 1276.9.

(2) Notwithstanding Section 14110.7 or any other law, the minimum number of direct care service hours per patient required in a skilled nursing facility that is a distinct part of a facility licensed as a general acute care hospital shall be 3.2 hours, except as provided in Section 1276.9.

(3) For the purposes of this subdivision “direct care service hours” means the numbers of hours of work performed per patient day by a direct caregiver, as defined in Section 1276.65.

(c) Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

(d) (1) Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, or an intermediate care facility/developmentally disabled—nursing shall be either a licensed nursing home administrator or a qualified intellectual disability professional as defined in Section 483.430 of Title 42 of the Code of Federal Regulations.

(2) To qualify as an administrator for an intermediate care facility for the developmentally disabled, a qualified intellectual disability professional shall complete at least six months of administrative training or demonstrate six months of experience in an administrative capacity in a licensed health facility, as defined in Section 1250, excluding those facilities specified in subdivisions (e), (h), and (i).

SEC. 2. Section 1276.65 of the Health and Safety Code is amended to read:

1276.65. (a) For purposes of this section, the following definitions shall apply:
“Direct caregiver” means a registered nurse, as referred to in Section 2732 of the Business and Professions Code, a licensed vocational nurse, as referred to in Section 2864 of the Business and Professions Code, a psychiatric technician, as referred to in Section 4516 of the Business and Professions Code, and a certified nurse assistant, as defined in Section 1337 of the Business and Professions Code, or a nurse assistant in an approved training program, as defined in Section 1337, while the nurse assistant in an approved training program is performing nursing services as described in Sections 72309, 72311, and 72315 of Title 22 of the California Code of Regulations.

(B) “Direct caregiver” also includes (i) a licensed nurse serving as a minimum data set coordinator and (ii) a person serving as the director of nursing services in a facility with 60 or more licensed beds and a person serving as the director of staff development when that person is providing nursing services in the hours beyond those required to carry out the duties of these positions, as long as these direct care service hours are separately documented.

(2) “Licensed nurse” means a registered nurse, as referred to in Section 2732 of the Business and Professions Code, a licensed vocational nurse, as referred to in Section 2864 of the Business and Professions Code, and a psychiatric technician, as referred to in Section 4516 of the Business and Professions Code.

(3) “Skilled nursing facility” means a skilled nursing facility as defined in subdivision (c) of Section 1250.

(b) A person employed to provide services such as food preparation, housekeeping, laundry, or maintenance services shall not provide nursing care to residents and shall not be counted in determining ratios under this section.

(c) (1) (A) Notwithstanding any other provision of law, the State Department of Public Health Services shall develop regulations that become effective August 1, 2003, July 1, 2017, that establish a minimum staff-to-patient ratio for direct caregivers working in a skilled nursing facility. These ratios shall include separate licensed nurse staff-to-patient ratios in addition to the ratios established for other direct caregivers. The ratio shall include as a part of the overall staff-to-patient ratio, specific
staff-to-patient ratios for licensed nurses and certified nurse assistants.

(B) (i) For a skilled nursing facility that is not a distinct part of a general acute care hospital, the certified nurse assistant staff-to-patient ratios developed pursuant to subparagraph (A) shall be no less than the following:

(I) During the day shift, a minimum of one certified nurse assistant for every six patients, or fraction thereof.

(II) During the evening shift, a minimum of one certified nurse assistant for every eight patients, or fraction thereof.

(III) During the night shift, a minimum of one certified nurse assistant for every 17 patients, or fraction thereof.

(ii) For the purposes of this subparagraph, the following terms have the following meanings:

(I) “Day shift” means the 8-hour period during which the facility’s patients require the greatest amount of care.

(II) “Evening shift” means the 8-hour period when the facility’s patients require a moderate amount of care.

(III) “Night shift” means the 8-hour period during which a facility’s patients require the least amount of care.

(2) The department, in developing staff-to-patient ratios for direct caregivers an overall staff-to-patient ratio for direct caregivers, and in developing specific staff-to-patient ratios for certified nurse assistants and licensed nurses as required by this section, shall convert the existing requirement under Section 1276.5 of this code and Section 14110.7 of the Welfare and Institutions Code for 3.2 nursing direct care hours per patient day, and commencing July 1, 2017, except as specified in paragraph (2) of subdivision (b) of Section 1276.5, for 4.1 direct care service hours per patient day, including a minimum of 2.8 direct care service hours per patient day for certified nurse assistants, and a minimum of 1.3 direct care service hours per patient day for licensed nurses, and shall ensure that no less care is given than is required pursuant to Section 1276.5 of this code and Section 14110.7 of the Welfare and Institutions Code. Further, the department shall develop the ratios in a manner that minimizes additional state costs, maximizes resident access to care, and takes into account the length of the shift worked. In developing the regulations, the department shall develop a procedure for facilities to apply for a waiver that addresses individual patient needs except
that in no instance shall the minimum staff-to-patient ratios be less
than the 3.2 nursing direct care service hours per patient day,
and, commencing July 1, 2017, except as specified in paragraph
(2) of subdivision (b) of Section 1276.5, be less than the 4.1 direct
care service hours per patient day, required under Section 1276.5
of this code and Section 14110.7 of the Welfare and Institutions
Code.
(d) The staffing ratios to be developed pursuant to this section
shall be minimum standards only and shall be satisfied daily.
Skilled nursing facilities shall employ and schedule additional staff
as needed to ensure quality resident care based on the needs of
individual residents and to ensure compliance with all relevant
state and federal staffing requirements.
(e) No later than January 1, 2006, and every five years
thereafter, the department shall consult with consumers, consumer
advocates, recognized collective bargaining agents, and providers
to determine the sufficiency of the staffing standards provided in
this section and may adopt regulations to increase the minimum
staffing ratios to adequate levels.
(f) (1) In a manner pursuant to federal requirements, effective
January 1, 2003, every skilled nursing facility shall post
information about resident census and staffing levels that includes
the current number of licensed and unlicensed nursing staff directly
responsible for resident care in the facility. This posting shall
include staffing requirements developed pursuant to this section,
section and an accurate report of the number of direct care staff
working during the current shift, including a report of the number
of registered nurses, licensed vocational nurses, psychiatric
technicians, and certified nurse assistants. The information shall
be posted on paper that is at least 8.5 inches by 14 inches and
shall be printed in a type of at least 16 point.
(2) The information described in paragraph (1) shall be posted
daily, at a minimum, in the following locations:
(A) An area readily accessible to members of the public.
(B) An area used for employee breaks.
(C) An area used by residents for communal functions,
including, but not limited to, dining, resident council meetings, or
activities.
(3) (A) Upon oral or written request, every skilled nursing
facility shall make direct caregiver staffing data available to the
public for review at a reasonable cost. A skilled nursing facility shall provide the data to the requestor within 15 days after receiving a request.

(B) For the purpose of this paragraph, “reasonable cost” includes, but is not limited to, a ten-cent ($0.10) per page fee for standard reproduction of documents that are 8.5 inches by 14 inches or smaller or a retrieval or processing fee not exceeding sixty dollars ($60) if the requested data is provided on a digital or other electronic medium and the requestor requests delivery of the data in a digital or other electronic medium, including electronic mail.

(g) (1) Notwithstanding any other provision of law, the department shall inspect for compliance with this section during state and federal periodic inspections, including, but not limited to, those inspections required under Section 1422. This inspection requirement shall not limit the department’s authority in other circumstances to cite for violations of this section or to inspect for compliance with this section.

(2) A violation of the regulations developed pursuant to this section may constitute a class “B,” “A,” or “AA” violation pursuant to the standards set forth in Section 1424.

(h) The requirements of this section are in addition to any requirement set forth in Section 1276.5 of this code and Section 14110.7 of the Welfare and Institutions Code.

(i) Initial implementation of the staffing ratio developed pursuant to requirements set forth in this section shall be contingent on an appropriation in the annual Budget Act or another statute.

(j) In implementing this section, the department may contract as necessary, on a bid or nonbid basis, for professional consulting services from nationally recognized higher education and research institutions, or other qualified individuals and entities not associated with a skilled nursing facility, with demonstrated expertise in long-term care. This subdivision establishes an accelerated process for issuing contracts pursuant to this section and contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.
(j) This section shall not apply to facilities defined in Section 1276.9.

SEC. 3. Section 14110.7 of the Welfare and Institutions Code is repealed.

14110.7. (a) The director shall adopt regulations increasing the minimum number of equivalent nursing hours per patient required in skilled nursing facilities to 3.2, in skilled nursing facilities with special treatment programs to 2.3, in intermediate care facilities to 1.1, and in intermediate care facilities/developmentally disabled to 2.7.

(b)(1) The director shall adopt regulations that shall establish the minimum number of equivalent nursing hours per patient required in the following, for the first year of implementation of the first year of rates established pursuant to this article:

(A) 2.6 hours for skilled nursing facilities.

(B) 1.9 hours for skilled nursing facilities with special treatment programs.

(C) 0.9 hours for intermediate care facilities.

(D) 2.2 hours for intermediate care facilities/developmentally disabled.

(2) The staffing standards established by paragraph (1) shall become effective concurrently with the establishment of the first reimbursement rates under this article.

(3) The director shall adopt regulations that establish the minimum number of equivalent nursing hours per patient required in skilled nursing facilities at 2.7 for the second year of implementation of rates established pursuant to this article.

(c)(1) The Legislature finds and declares all of the following:

(A) The one-year transition phase from 2.6 to 2.7 equivalent nursing hours allows ample time to restructure staffing.

(B) The 4 percent augmentation to reimburse for direct patient care, as defined in paragraph (2) of subdivision (b) of Section 14126.60, provides funds to cover additional expenses, if any, incurred by facilities to implement this staffing standard.

(2) Subject to the appropriation of sufficient funds, the department may adopt regulations to increase the minimum number of equivalent nursing hours required of facilities subject to this section per patient beyond 2.7 nursing hours per patient day.

(d)(1) The department shall identify those skilled nursing facilities that are in compliance with the 3.0 minimum double
nursing hour standards, as defined in subdivision (a) of Section 1276.5 of the Health and Safety Code, but have actual staffing ratios below 2.5, as of July 1, 1990, and shall not enforce the 2.7 equivalent nursing hours with respect to those facilities until the third year of implementation of the rates established under this article.

(2) The department shall periodically review facilities that have actual staffing ratios described in paragraph (1) to ensure that they are making sufficient progress toward 2.7 hours.

(e) Notwithstanding paragraph (1) of subdivision (d), commencing January 1, 2000, the minimum number of nursing hours per patient day required in skilled nursing facilities shall be 3.2, without regard to the doubling of nursing hours as described in paragraph (1) of subdivision (b) of Section 1276.5 of the Health and Safety Code, and except as set forth in Section 1276.9 of the Health and Safety Code.

SEC. 4. Section 14110.7 is added to the Welfare and Institutions Code, to read:

14110.7. (a) In skilled nursing facilities, the minimum number of equivalent direct care service hours shall be 3.2, except as set forth in Section 1276.9 of the Health and Safety Code.

(b) Commencing July 1, 2017, in skilled nursing facilities, except those skilled nursing facilities that are a distinct part of a general acute care facility, the minimum number of equivalent direct care service hours shall be 4.1, except as set forth in Section 1276.9 of the Health and Safety Code.

(c) In skilled nursing facilities with special treatment programs, the minimum number of equivalent direct care service hours shall be 2.3.

(d) In intermediate care facilities, the minimum number of equivalent direct care service hours shall be 1.1.

(e) In intermediate care facilities/developmentally disabled, the minimum number of equivalent direct care service hours shall be 2.7.

SEC. 5. Section 14126.022 of the Welfare and Institutions Code is amended to read:

14126.022. (a) (1) By August 1, 2011, the department shall develop the Skilled Nursing Facility Quality and Accountability Supplemental Payment System, subject to approval by the federal
Centers for Medicare and Medicaid Services, and the availability of federal, state, or other funds.

(2) (A) The system shall be utilized to provide supplemental payments to skilled nursing facilities that improve the quality and accountability of care rendered to residents in skilled nursing facilities, as defined in subdivision (c) of Section 1250 of the Health and Safety Code, and to penalize those facilities that do not meet measurable standards.

(B) A freestanding pediatric subacute care facility, as defined in Section 51215.8 of Title 22 of the California Code of Regulations, shall be exempt from the Skilled Nursing Facility Quality and Accountability Supplemental Payment System.

(3) The system shall be phased in, beginning with the 2010–11 rate year.

(4) The department may utilize the system to do all of the following:

(A) Assess overall facility quality of care and quality of care improvement, and assign quality and accountability payments to skilled nursing facilities pursuant to performance measures described in subdivision (i).

(B) Assign quality and accountability payments or penalties relating to quality of care, or direct care staffing levels, wages, and benefits, or both.

(C) Limit the reimbursement of legal fees incurred by skilled nursing facilities engaged in the defense of governmental legal actions filed against the facilities.

(D) Publish each facility’s quality assessment and quality and accountability payments in a manner and form determined by the director, or his or her designee.

(E) Beginning with the 2011–12 fiscal year, establish a base year to collect performance measures described in subdivision (i).

(F) Beginning with the 2011–12 fiscal year, in coordination with the State Department of Public Health, publish the direct care staffing level data and the performance measures required pursuant to subdivision (i).

(5) The department, in coordination with the State Department of Public Health, shall report to the relevant Assembly and Senate budget subcommittees by May 1, 2016, information regarding the quality and accountability supplemental payments, including, but
not limited to, its assessment of whether the payments are adequate
to incentivize quality care and to sustain the program.
(b) (1) There is hereby created in the State Treasury, the Skilled
Nursing Facility Quality and Accountability Special Fund. The
fund shall contain moneys deposited pursuant to subdivisions (g)
and (j) to (m), inclusive. Notwithstanding Section 16305.7 of the
Government Code, the fund shall contain all interest and dividends
earned on moneys in the fund.
(2) Notwithstanding Section 13340 of the Government Code,
the fund shall be continuously appropriated without regard to fiscal
year to the department for making quality and accountability
payments, in accordance with subdivision (n), to facilities that
meet or exceed predefined measures as established by this section.
(3) Upon appropriation by the Legislature, moneys in the fund
may also be used for any of the following purposes:
(A) To cover the administrative costs incurred by the State
Department of Public Health for positions and contract funding
required to implement this section.
(B) To cover the administrative costs incurred by the State
Department of Health Care Services for positions and contract
funding required to implement this section.
(C) To provide funding assistance for the Long-Term Care
Ombudsman Program pursuant to Chapter 11
(commencing with Section 9700) of Division 8.5.
(c) No appropriation associated with this bill is intended to
implement the provisions of Section 1276.65 of the Health and
Safety Code.
(d) (1) There is hereby appropriated for the 2010–11 fiscal year,
one million nine hundred thousand dollars ($1,900,000) from the
Skilled Nursing Facility Quality and Accountability Special Fund
to the California Department of Aging for the Long-Term Care
Ombudsman Program pursuant to Chapter 11
(commencing with Section 9700) of Division 8.5. It is the intent
of the Legislature for the one million nine hundred thousand dollars
($1,900,000) from the fund to be in addition to the four million
one hundred sixty-eight thousand dollars ($4,168,000) proposed
in the Governor’s May Revision for the 2010–11 Budget. It is
further the intent of the Legislature to increase this level of
appropriation in subsequent years to provide support sufficient to
carry out the mandates and activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(2) The department, in partnership with the California Department of Aging, shall seek approval from the federal Centers for Medicare and Medicaid Services to obtain federal Medicaid reimbursement for activities conducted by the Long-Term Care Ombudsman Program. The department shall report to the fiscal committees of the Legislature during budget hearings on progress being made and any unresolved issues during the 2011–12 budget deliberations.

(e) There is hereby created in the Special Deposit Fund established pursuant to Section 16370 of the Government Code, the Skilled Nursing Facility Minimum Staffing Penalty Account. The account shall contain all moneys deposited pursuant to subdivision (f).

(f) (1) Beginning with the 2010–11 fiscal year, the State Department of Public Health shall use the direct care staffing level data it collects to determine whether a skilled nursing facility has met the nursing direct care services hours per patient per day requirements pursuant to Section 1276.5 of the Health and Safety Code.

(2) (A) Beginning with the 2010–11 fiscal year, the State Department of Public Health shall assess a skilled nursing facility, licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code, an administrative penalty if the State Department of Public Health determines that the skilled nursing facility fails to meet the nursing direct care service hours per patient per day requirements pursuant to Section 1276.5 of the Health and Safety Code as follows:

(i) Fifteen thousand dollars ($15,000) if the facility fails to meet the requirements for 5 percent or more of the audited days up to 49 percent.

(ii) Thirty thousand dollars ($30,000) if the facility fails to meet the requirements for over 49 percent or more of the audited days.

(B) (i) If the skilled nursing facility does not dispute the determination or assessment, the penalties shall be paid in full by the licensee to the State Department of Public Health within 30 days of the facility’s receipt of the notice of penalty and deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.
(ii) The State Department of Public Health may, upon written notification to the licensee, request that the department offset any moneys owed to the licensee by the Medi-Cal program or any other payment program administered by the department to recoup the penalty provided for in this section.

(C) (i) If a facility disputes the determination or assessment made pursuant to this paragraph, the facility shall, within 15 days of the facility’s receipt of the determination and assessment, simultaneously submit a request for appeal to both the department and the State Department of Public Health. The request shall include a detailed statement describing the reason for appeal and include all supporting documents the facility will present at the hearing.

(ii) Within 10 days of the State Department of Public Health’s receipt of the facility’s request for appeal, the State Department of Public Health shall submit, to both the facility and the department, all supporting documents that will be presented at the hearing.

(D) The department shall hear a timely appeal and issue a decision as follows:

(i) The hearing shall commence within 60 days from the date of receipt by the department of the facility’s timely request for appeal.

(ii) The department shall issue a decision within 120 days from the date of receipt by the department of the facility’s timely request for appeal.

(iii) The decision of the department’s hearing officer, when issued, shall be the final decision of the State Department of Public Health.

(E) The appeals process set forth in this paragraph shall be exempt from Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code. The provisions of Sections 100171 and 131071 of the Health and Safety Code shall not apply to appeals under this paragraph.

(F) If a hearing decision issued pursuant to subparagraph (D) is in favor of the State Department of Public Health, the skilled nursing facility shall pay the penalties to the State Department of Public Health within 30 days of the facility’s receipt of the
decision. The penalties collected shall be deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.

(G) The assessment of a penalty under this subdivision does not supplant the State Department of Public Health’s investigation process or issuance of deficiencies or citations under Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code.

(g) The State Department of Public Health shall transfer, on a monthly basis, all penalty payments collected pursuant to subdivision (f) into the Skilled Nursing Facility Quality and Accountability Special Fund.

(h) Nothing in this section shall impact the effectiveness or utilization of Section 1278.5 or 1432 of the Health and Safety Code relating to whistleblower protections, or Section 1420 of the Health and Safety Code relating to complaints.

(i) (1) Beginning in the 2010–11 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall establish and publish quality and accountability measures, benchmarks, and data submission deadlines by November 30, 2010.

(2) The methodology developed pursuant to this section shall include, but not be limited to, the following requirements and performance measures:

(A) Beginning in the 2011–12 fiscal year:

(i) Immunization rates.

(ii) Facility acquired pressure ulcer incidence.

(iii) The use of physical restraints.

(iv) Compliance with the direct care service hours per patient per day requirements pursuant to Section 1276.5 of the Health and Safety Code.

(v) Resident and family satisfaction.

(vi) Direct care staff retention, if sufficient data is available.

(B) Beginning in the 2017–18 fiscal year, compliance with the direct care service hour requirements for skilled nursing facilities established pursuant to Section 1276.65 of the Health and Safety Code and Section 14110.7 of this code.

(B) If this act is extended beyond the dates on which it becomes inoperative and is repealed, in accordance with Section 14126.033, the department, in consultation with representatives from the
long-term care industry, organized labor, and consumers, beginning in the 2013–14 rate year, shall incorporate additional measures into the system, including, but not limited to, quality and accountability measures required by federal health care reform that are identified by the federal Centers for Medicare and Medicaid Services.

(D) The department, in consultation with representatives from the long-term care industry, organized labor, and consumers, may incorporate additional performance measures, including, but not limited to, the following:


(ii) Direct care staff retention, if not addressed in the 2012–13 rate year.

(iii) The use of chemical restraints.

(E) Beginning with the 2015–16 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall incorporate direct care staff retention as a performance measure in the methodology developed pursuant to this section.

(j) (1) Beginning with the 2010–11 rate year, and pursuant to subparagraph (B) of paragraph (5) of subdivision (a) of Section 14126.023, the department shall set aside savings achieved from setting the professional liability insurance cost category, including any insurance deductible costs paid by the facility, at the 75th percentile. From this amount, the department shall transfer the General Fund portion into the Skilled Nursing Facility Quality and Accountability Special Fund. A skilled nursing facility shall provide supplemental data on insurance deductible costs to facilitate this adjustment, in the format and by the deadlines determined by the department. If this data is not provided, a facility’s insurance deductible costs will remain in the administrative costs category.

(2) Notwithstanding paragraph (1), for the 2012–13 rate year only, savings from capping the professional liability insurance cost category pursuant to paragraph (1) shall remain in the General
Fund and shall not be transferred to the Skilled Nursing Facility
Quality and Accountability Special Fund.

(k) For the 2013–14 rate year, if there is a rate increase in the
weighted average Medi-Cal reimbursement rate, the department
shall set aside the first 1 percent of the weighted average Medi-Cal
reimbursement rate increase for the Skilled Nursing Facility Quality
and Accountability Special Fund.

(l) If this act is extended beyond the dates on which it becomes
inoperative and is repealed, for the 2014–15 rate year, in addition
to the amount set aside pursuant to subdivision (k), if there is a
rate increase in the weighted average Medi-Cal reimbursement
rate, the department shall set aside at least one-third of the weighted
average Medi-Cal reimbursement rate increase, up to a maximum
of 1 percent, from which the department shall transfer the General
Fund portion of this amount into the Skilled Nursing Facility
Quality and Accountability Special Fund.

(m) Beginning with the 2015–16 rate year, and each subsequent
rate year thereafter for which this article is operative, an amount
equal to the amount deposited in the fund pursuant to subdivisions
(k) and (l) for the 2014–15 rate year shall be deposited into the
Skilled Nursing Facility Quality and Accountability Special Fund,
for the purposes specified in this section.

(n) (1) (A) Beginning with the 2013–14 rate year, the
department shall pay a supplemental payment, by April 30, 2014,
to skilled nursing facilities based on all of the criteria in subdivision
(i), as published by the department, and according to performance
measure benchmarks determined by the department in consultation
with stakeholders.

(B) (i) The department may convene a diverse stakeholder
group, including, but not limited to, representatives from consumer
groups and organizations, labor, nursing home providers, advocacy
organizations involved with the aging community, staff from the
Legislature, and other interested parties, to discuss and analyze
alternative mechanisms to implement the quality and accountability
payments provided to nursing homes for reimbursement.

(ii) The department shall articulate in a report to the fiscal and
appropriate policy committees of the Legislature the
implementation of an alternative mechanism as described in clause
(i) at least 90 days prior to any policy or budgetary changes, and
seek subsequent legislation in order to enact the proposed changes.
(2) Skilled nursing facilities that do not submit required performance data by the department’s specified data submission deadlines pursuant to subdivision (i) shall not be eligible to receive supplemental payments.

(3) Notwithstanding paragraph (1), if a facility appeals the performance measure of compliance with the nursing direct care service hours per patient per day requirements, pursuant to Section 1276.5 of the Health and Safety Code, to the State Department of Public Health, and it is unresolved by the department’s published due date, the department shall not use that performance measure when determining the facility’s supplemental payment.

(4) Notwithstanding paragraph (1), if the department is unable to pay the supplemental payments by April 30, 2014, then on May 1, 2014, the department shall use the funds available in the Skilled Nursing Facility Quality and Accountability Special Fund as a result of savings identified in subdivisions (k) and (l), less the administrative costs required to implement subparagraphs (A) and (B) of paragraph (3) of subdivision (b), in addition to any Medicaid funds that are available as of December 31, 2013, to increase provider rates retroactively to August 1, 2013.

(o) The department shall seek necessary approvals from the federal Centers for Medicare and Medicaid Services to implement this section. The department shall implement this section only in a manner that is consistent with federal Medicaid law and regulations, and only to the extent that approval is obtained from the federal Centers for Medicare and Medicaid Services and federal financial participation is available.

(p) In implementing this section, the department and the State Department of Public Health may contract as necessary, with California’s Medicare Quality Improvement Organization, or other entities deemed qualified by the department or the State Department of Public Health, not associated with a skilled nursing facility, to assist with development, collection, analysis, and reporting of the performance data pursuant to subdivision (i), and with demonstrated expertise in long-term care quality, data collection or analysis, and accountability performance measurement models pursuant to subdivision (i). This subdivision establishes an accelerated process for issuing any contract pursuant to this section. Any contract entered into pursuant to this subdivision shall
be exempt from the requirements of the Public Contract Code, through December 31, 2020.

(q) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the following shall apply:

(1) The director shall implement this section, in whole or in part, by means of provider bulletins, or other similar instructions without taking regulatory action.

(2) The State Public Health Officer may implement this section by means of all-facility letters, or other similar instructions without taking regulatory action.

(r) Notwithstanding paragraph (1) of subdivision (n), if a final judicial determination is made by any state or federal court that is not appealed, in any action by any party, or a final determination is made by the administrator of the federal Centers for Medicare and Medicaid Services, that any payments pursuant to subdivisions (a) and (n), are invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law, these subdivisions shall become inoperative, and for the 2011–12 rate year, the rate increase provided under subparagraph (A) of paragraph (4) of subdivision (c) of Section 14126.033 shall be reduced by the amounts described in subdivision (j). For the 2013–14 and 2014–15 rate years, any rate increase shall be reduced by the amounts described in subdivisions (j) to (l), inclusive.

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

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### SUMMARY:
Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of the act is a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for specified benefits.

### ANALYSIS:
This bill would prohibit, on and after January 1, 2017, a health care service plan or health insurer that provides hospital, medical, or surgical expenses from implementing clinical care pathways, as defined, for use by providers in order to manage an enrollee’s or insured’s care. Because a willful violation of this prohibition by a health care service plan would be a crime, this bill would impose a state-mandated local program.

### BOARD POSITION:

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Watch (3/10/16)

**SUPPORT:**

**OPPOSE:**
ASSEMBLY BILL No. 2209

Introduced by Assembly Member Bonilla

February 18, 2016

An act to add Section 1372.5 of the Health and Safety Code, and to add Section 10123.25 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 2209, as introduced, Bonilla. Health care coverage: clinical care pathways.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of the act is a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for specified benefits.

This bill would prohibit, on and after January 1, 2017, a health care service plan or health insurer that provides hospital, medical, or surgical expenses from implementing clinical care pathways, as defined, for use by providers in order to manage an enrollee’s or insured’s care. Because a willful violation of this prohibition by a health care service plan would be a crime, this bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.
The people of the State of California do enact as follows:

SECTION 1. Section 1372.5 is added to the Health and Safety Code, to read:

1372.5. (a) On and after January 1, 2017, a health care service plan that provides coverage for hospital, medical, or surgical expenses shall not implement clinical care pathways for use by providers in order to manage an enrollee’s care.

(b) For purposes of this section, “clinical care pathways” means a multidisciplinary management tool based on evidence-based practices used by providers involved in patient care to manage the enrollee’s care, in which the different tasks, interventions, or treatment regimens used by the provider involved in the enrollee’s care are defined, optimized, and sequenced.

SEC. 2. Section 10123.25 is added to the Insurance Code, to read:

10123.25. (a) On and after January 1, 2017, a health insurer that provides coverage for hospital, medical, or surgical expenses shall not implement clinical care pathways for use by providers in order to manage an insured’s care.

(b) For purposes of this section, “clinical care pathways” means a multidisciplinary management tool based on evidence-based practices used by providers involved in patient care to manage the insured’s care, in which the different tasks, interventions, or treatment regimens used by the provider involved in the insured’s care are defined, optimized, and sequenced.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California Constitution.
SUMMARY:
Existing law requires the State Department of Public Health to develop standardized, objective information about umbilical cord blood donation to enable a pregnant woman to make an informed decision regarding what she wants to do with the umbilical cord blood.

Existing law requires that this information be made available in Cantonese, English, Spanish, and Vietnamese. Existing law prohibits public funds from being used by the department to provide awareness, assistance, and information regarding umbilical cord blood banking options and creates the Umbilical Cord Blood Education Account within the State Treasury, which is funded by private donations, to be used by the department for these purposes, as specified.

Existing law also requires a licensed physician and surgeon, or other person engaged in the prenatal care of a pregnant woman, to obtain a blood specimen from the woman for purposes of determining the presence of hepatitis B or human immunodeficiency virus (HIV).

Existing law requires the State Department of Public Health to develop culturally sensitive informational material in English, Spanish, and other languages, to inform a pregnant woman about the purpose of obtaining this blood sample.

ANALYSIS:
This bill would change the language requirements for the umbilical cord blood informational material and the prenatal testing informational material from those languages to languages that meet a specified numeric threshold. The bill would also delete provisions that create the Umbilical Cord Blood Education Account and remove the prohibition against using public funds to provide information about umbilical cord blood banking.

Amended summary and analysis as of 3/28:
Existing law requires the department to develop an education program designed to educate physicians and the public concerning the uses of prenatal testing and the availability of
California Prenatal Screening Program. Existing law requires the department to include specified information in the patient educational information.

This bill would change the language requirements for the umbilical cord blood informational material, the prenatal testing informational material, and the patient educational information material to require the information to be provided in languages that meet a specified numeric threshold. The bill would also delete provisions that create the Umbilical Cord Blood Education Account and remove the prohibition against using public funds to provide information about umbilical cord blood banking.

Existing law requests the University of California to establish and administer the Umbilical Cord Blood Collection Program for the purpose of collecting units of umbilical cord blood for public use, as defined, in transplantation and providing nonclinical units for specified research. Existing law provides that any funds made available for purposes of the program shall be deposited into the Umbilical Cord Blood Collection Program Fund and that moneys in the fund shall be made available, upon appropriation by the Legislature, for purposes of the program. Existing law provides the program and the program fund shall conclude no later than January 1, 2018.

This bill would extend the existence of the program and the program fund until January 1, 2023.

Existing law requires, until January 1, 2018, the collection of an $18 fee for certified copies of birth certificates. Existing law requires $2 of this $18 fee to be paid to the Umbilical Cord Blood Collection Program Fund.

This bill would extend the $18 fee for certified copies of birth certificates until January 1, 2023. The bill would also extend the collection and deposit of the $2 portion of the fee into the Umbilical Cord Blood Collection Program Fund until January 1, 2023

Existing law creates the Health Statistics Special Fund which consists of revenues from several sources, including many funds collected by the State Registrar. Until January 1, 2018, Umbilical Cord Blood Program Fund fees are excluded from that fund. Existing law provides that moneys in the Health Statistics Special Fund shall be expended by the State Registrar, as specified, upon appropriation by the Legislature.

This bill would extend the existence of the fund until January 1, 2023.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:
American Congress of Obstetricians and Gynecologists, District IX - California
Breast Cancer Fund
University of California

**OPPOSE:** None on file
An act to amend Sections 123371 and 1627, 1630, 102247, 103625, 123371, 125055, and 125092 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 2399, as amended, Nazarian. Pregnancy: umbilical cord blood: blood testing.

Existing law requires the State Department of Public Health to develop standardized, objective information about umbilical cord blood donation to enable a pregnant woman to make an informed decision regarding what she wants to do with the umbilical cord blood. Existing law requires that this information be made available in Cantonese, English, Spanish, and Vietnamese. Existing law prohibits public funds from being used by the department to provide awareness, assistance, and information regarding umbilical cord blood banking options and creates the Umbilical Cord Blood Education Account within the State Treasury, which is funded by private donations, to be used by the department for these purposes, as specified.

Existing law also requires a licensed physician and surgeon, or other person engaged in the prenatal care of a pregnant woman, to obtain a blood specimen from the woman for purposes of determining the presence of hepatitis B or human immunodeficiency virus (HIV). Existing law requires the State Department of Public Health department...
to develop culturally sensitive informational material in English, Spanish, and other languages to inform a pregnant woman about the purpose of obtaining this blood sample.

Existing law requires the department to develop an education program designed to educate physicians and the public concerning the uses of prenatal testing and the availability of the California Prenatal Screening Program. Existing law requires the department to include specified information in the patient educational information.

This bill would change the language requirements for the umbilical cord blood informational material and the prenatal testing informational material and the patient educational information material to require the information to be provided in languages that meet a specified numeric threshold. The bill would also delete provisions that create the Umbilical Cord Blood Education Account and remove the prohibition against using public funds to provide information about umbilical cord blood banking.

(2) Existing law requests the University of California to establish and administer the Umbilical Cord Blood Collection Program for the purpose of collecting units of umbilical cord blood for public use, as defined, in transplantation and providing nonclinical units for specified research. Existing law provides that any funds made available for purposes of the program shall be deposited into the Umbilical Cord Blood Collection Program Fund and that moneys in the fund shall be made available, upon appropriation by the Legislature, for purposes of the program. Existing law provides the program and the program fund shall conclude no later than January 1, 2018.

This bill would extend the existence of the program and the program fund until January 1, 2023.

(3) Existing law requires, until January 1, 2018, the collection of an $18 fee for certified copies of birth certificates. Existing law requires $2 of this $18 fee to be paid to the Umbilical Cord Blood Collection Program Fund.

This bill would extend the $18 fee for certified copies of birth certificates until January 1, 2023. The bill would also extend the collection and deposit of the $2 portion of the fee into the Umbilical Cord Blood Collection Program Fund until January 1, 2023.

(4) Existing law creates the Health Statistics Special Fund which consists of revenues from several sources, including many funds collected by the State Registrar. Until January 1, 2018, Umbilical Cord Blood Program Fund fees are excluded from that fund. Existing law
provides that moneys in the Health Statistics Special Fund shall be expended by the State Registrar, as specified, upon appropriation by the Legislature.

This bill would extend the existence of the fund until January 1, 2023.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $2/3 of the membership of each house of the Legislature.


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

SECTION 1. Section 1627 of the Health and Safety Code is amended to read:

1627. (a) (1) On or before July 1, 2011, the University of California is requested to develop a plan to establish and administer the Umbilical Cord Blood Collection Program for the purpose of collecting units of umbilical cord blood for public use in transplantation and providing nonclinical units for research pertaining to biology and new clinical utilization of stem cells derived from the blood and tissue of the placenta and umbilical cord. The program shall conclude no later than January 1, 2018.

(2) For purposes of this article, “public use” means both of the following:

(A) The collection of umbilical cord blood units from genetically diverse donors that will be owned by the University of California. This inventory shall be accessible by the National Registry and by qualified California-based and other United States and international registries and transplant centers to increase the likelihood of providing suitably matched donor cord blood units to patients or research participants who are in need of a transplant.

(B) Cord blood units with a lower number of cells than deemed necessary for clinical transplantation and units that meet clinical requirements, but for other reasons are unsuitable, unlikely to be transplanted, or otherwise unnecessary for clinical use, may be made available for research.

(b) (1) In order to implement the collection goals of this program, the University of California may, commensurate with
available funds appropriated to the University of California for
this program, contract with one or more selected applicant entities
that have demonstrated the competence to collect and ship cord
blood units in compliance with federal guidelines and regulations.

(2) It is the intent of the Legislature that, if the University of
California contracts with another entity pursuant to this subdivision,
the following shall apply:

(A) The University of California may use a competitive process
to identify the best proposals submitted by applicant entities to
administer the collection and research objectives of the program,
to the extent that the University of California chooses not to
undertake these activities itself.

(B) In order to qualify for selection under this section to receive,
process, cryopreserve, or bank cord blood units, the entity shall,
at a minimum, have obtained an investigational new drug (IND)
exemption from the FDA or a biologic license from the FDA, as
appropriate, to manufacture clinical grade cord blood stem cell
units for clinical indications.

(C) In order to qualify to receive appropriate cord blood units
and placental tissue to advance the research goals of this program,
an entity shall, at a minimum, be a laboratory recognized as having
performed peer-reviewed research on stem and progenitor cells,
including those derived from placental or umbilical cord blood
and postnatal tissue.

(3) A medical provider or research facility shall comply with,
and shall be subject to, existing penalties for violations of all
applicable state and federal laws with respect to the protection of
any medical information, as defined in Section 56.05 of the Civil
Code, and any personally identifiable information contained in the
umbilical cord blood inventory.

(c) The University of California is encouraged to make every
effort to avoid duplication or conflicts with existing and ongoing
programs and to leverage existing resources.

(d) (1) All information collected pursuant to the program shall
be confidential, and shall be used solely for the purposes of the
program, including research. Access to confidential information
shall be limited to authorized persons who are bound by appropriate
institutional policies or who otherwise agree, in writing, to maintain
the confidentiality of that information.
(2) Any person who, in violation of applicable institutional policies or a written agreement to maintain confidentiality, discloses any information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section, may be denied further access to any confidential information maintained by the University of California, and shall be subject to a civil penalty not exceeding one thousand dollars ($1,000). The penalty provided for in this section shall not be construed to limit or otherwise restrict any remedy, provisional or otherwise, provided by law for the benefit of the University of California or any other person covered by this section.

(3) Notwithstanding the restrictions of this section, an individual to whom the confidential information pertains shall have access to his or her own personal information.

(e) It is the intent of the Legislature that the plan and implementation of the program provide for both of the following:

(1) Limit fees for access to cord blood units to the reasonable and actual costs of storage, handling, and providing units, as well as for related services such as donor matching and testing of cord blood and other programs and services typically provided by cord blood banks and public use programs.

(2) The submittal of the plan developed pursuant to subdivision (a) to the health and fiscal committees of the Legislature.

(f) It is additionally the intent of the Legislature that the plan and implementation of the program attempt to provide for all of the following:

(1) Development of a strategy to increase voluntary participation by hospitals in the collection and storage of umbilical cord blood and identify funding sources to offset the financial impact on hospitals.

(2) Consideration of a medical contingency response program to prepare for and respond effectively to biological, chemical, or radiological attacks, accidents, and other public health emergencies where victims potentially benefit from treatment.

(3) Exploration of the feasibility of operating the program as a self-funding program, including the potential for charging users a reimbursement fee.

SEC. 2. Section 1630 of the Health and Safety Code is amended to read:
1630. This article shall remain in effect only until January 1, 2018, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, 2023, deletes or extends that date.

SEC. 3. Section 102247 of the Health and Safety Code, as amended by Section 169 of Chapter 296 of the Statutes of 2011, is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues, including, but not limited to, all of the following:

1. Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600) of Part 1 of Division 102 of this code.

2. Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

3. Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

4. Any other funds collected by the State Registrar, except Children’s Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, Umbilical Cord Blood Collection Program Fund fees collected pursuant to Section 103625, and fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.
(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

1. Registration and preservation of vital event records and dissemination of vital event information to the public.
2. Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.
3. Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

(e) This section shall remain in effect only until January 1, 2018, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, 2023, deletes or extends that date.

SEC. 4. Section 102247 of the Health and Safety Code, as amended by Section 170 of Chapter 296 of the Statutes of 2011, is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues, including, but not limited to, all of the following:

1. Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600) of Part 1 of Division 102 of this code.

2. Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

3. Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

4. Any other funds collected by the State Registrar, except Children’s Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code and fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, all of which shall be deposited into the General Fund.
(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

1. Registration and preservation of vital event records and dissemination of vital event information to the public.
2. Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.
3. Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

(e) This section shall become operative on January 1, 2018:

SEC. 5. Section 103625 of the Health and Safety Code, as amended by Section 5 of Chapter 402 of the Statutes of 2011, is amended to read:

103625. (a) A fee of twelve dollars ($12) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) (1) A fee of twelve dollars ($12) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of eighteen dollars ($18) shall be paid by any other applicant for a certified birth certificate. Four dollars ($4) of any eighteen-dollar ($18) fee is exempt from subdivision (e) and shall be paid either to a county children’s trust fund or to the State Children’s Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code. Two dollars ($2) of any eighteen-dollar ($18) fee is exempt from subdivision (e) and shall be paid to the Umbilical Cord Blood Collection Program Fund in conformity with Section 1628.

(2) The board of supervisors of any county that has established a county children’s trust fund may increase the fee for a certified
copy of a birth certificate by up to three dollars ($3) for deposit in the county children’s trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following:

(1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars ($3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by
local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency’s vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f)
applies to the State Registrar by the 10th day of the month
following the month in which the fee was received.

(l) The nine dollar ($9) increase to the base fee authorized in
subdivision (a) for a certified copy of a fetal death record or death
record and subdivision (b) for a certified copy of a birth certificate
shall be applied incrementally as follows:

(1) A five dollar ($5) increase applied as of January 1, 2012.
(2) An additional two dollar ($2) increase applied as of January
1, 2013.
(3) An additional two dollar ($2) increase applied as of January
1, 2014.

(m) In providing for the expiration of the surcharge on birth
certificate fees on June 30, 1999, the Legislature intends that
juvenile dependency mediation programs pursue ancillary funding
sources after that date.

(n) This section shall remain in effect only until January 1, 2018;
2023, and as of that date is repealed, unless a later enacted statute,
that is enacted before January 1, 2018, 2023, deletes or extends
that date.

SEC. 6. Section 103625 of the Health and Safety Code, as
amended by Section 6 of Chapter 402 of the Statutes of 2011, is
amended to read:

103625. (a) A fee of twelve dollars ($12) shall be paid by the
applicant for a certified copy of a fetal death or death record.
(b) (1) A fee of twelve dollars ($12) shall be paid by a public
agency or licensed private adoption agency applicant for a certified
copy of a birth certificate that the agency is required to obtain in
the ordinary course of business. A fee of sixteen dollars ($16) shall
be paid by any other applicant for a certified copy of a birth
certificate. Four dollars ($4) of any sixteen-dollar ($16) fee is
exempt from subdivision (e) and shall be paid either to a county
children’s trust fund or to the State Children’s Trust Fund, in
conformity with Article 5 (commencing with Section 18965) of
Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions
Code.
(2) The board of supervisors of any county that has established
a county children’s trust fund may increase the fee for a certified
copy of a birth certificate by up to three dollars ($3) for deposit in
the county children’s trust fund in conformity with Article 5
(commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following:

(1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars ($3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:
(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency’s vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.
(l) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(m) This section shall become operative on January 1, 2018.

SECTION 1.

SEC. 7. Section 123371 of the Health and Safety Code is amended to read:

123371. (a) (1) The State Department of Public Health shall develop standardized, objective information about umbilical cord blood donation that is sufficient to allow a pregnant woman to make an informed decision on whether to participate in a private or public umbilical cord blood banking program. The information developed by the department shall enable a pregnant woman to be informed of her option to do any of the following:

(A) Discard umbilical cord blood.

(B) Donate umbilical cord blood to a public umbilical cord blood bank.

(C) Store the umbilical cord blood in a family umbilical cord blood bank for the use by immediate and extended family members.

(D) Donate umbilical cord blood to research.

(2) The information developed pursuant to paragraph (1) shall include, but not be limited to, all of the following:

(A) The current and potential future medical uses of stored umbilical cord blood.

(B) The benefits and risks involved in umbilical cord blood banking.

(C) The medical process involved in umbilical cord blood banking.

(D) Medical or family history criteria that can impact a family’s consideration of umbilical cord banking.

(E) An explanation of the differences between public and private umbilical cord blood banking.

(F) The availability and costs of public or private umbilical cord blood banks.

(G) Medical or family history criteria that can impact a family’s consideration of umbilical cord blood banking.
(H) An explanation that the practices and policies of blood banks may vary with respect to accreditation, cord blood processing and storage methods, costs, and donor privacy.
(I) An explanation that pregnant women are not required to donate their umbilical cord blood for research purposes.
(b) The information provided by the department pursuant to subdivision (a) shall be made available in the languages that meet the numeric threshold described in Section 14029.91 of the Welfare and Institutions Code, and shall be updated by the department as needed.
(c) The information provided by the department pursuant to subdivision (a) shall be made available on the Internet Web sites of the licensing boards that have oversight over primary prenatal care providers.
(d) (1) A primary prenatal care provider of a woman who is known to be pregnant may, during the first prenatal visit, provide the information required by subdivision (a) to the pregnant woman.
(2) For purposes of this article, a “prenatal care provider” means a health care provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or pursuant to an initiative act referred to in that division, who provides prenatal medical care within his or her scope of practice.
SEC. 8. Section 125055 of the Health and Safety Code is amended to read:
125055. The department shall:
(a) Establish criteria for eligibility for the prenatal testing program. Eligibility shall include definition of conditions and circumstances that result in a high risk of a detectable genetic disorder or birth defect.
(b) (1) Develop an education program designed to educate physicians and surgeons and the public concerning the uses of prenatal testing and the availability of the program.
(2) (A) Include information regarding environmental health in the California Prenatal Screening Program patient educational information. This environmental health information shall include the following statement:
“We encounter chemicals and other substances in everyday life that may affect your developing fetus. Fortunately, there are steps you can take to reduce your exposure to these potentially harmful
substances at home, in the workplace, and in the environment. Many Californians are unaware that a number of everyday consumer products may pose potential harm. Prospective parents should talk to their doctor and are encouraged to read more about this topic to learn about simple actions to promote a healthy pregnancy.”

(B) The department shall include in the patient educational information links to educational materials derived from peer-reviewed materials based on the best available evidence relating to environmental health and reproductive toxins.

(C) The department shall post the environmental health information described in subparagraphs (A) and (B) on its Internet Web site.

(D) The department shall send a notice to all distributors of the patient educational information informing them of the change to that information. In the notice, the department shall encourage obstetrician-gynecologists and midwives to discuss environmental health with their patients and to direct their patients to the appropriate page or pages in the patient educational information to provide their patients with additional information.

(E) In order to minimize costs, the environmental health information described in this paragraph shall be included when the patient educational information is otherwise revised and reprinted.

(F) The department may modify the language in the patient educational information after consultation with medical and scientific experts in the field of environmental health and reproductive toxins.

(G) The patient educational information shall be made available in the languages that meet the numeric threshold described in Section 14029.91 of the Welfare and Institutions Code, and shall be updated by the department as needed.

(c) Ensure that genetic counseling be given in conjunction with prenatal testing at the approved prenatal diagnosis centers.

(d) Designate sufficient prenatal diagnosis centers to meet the need for these services. Prenatal diagnosis centers shall have equipment and staff trained and capable of providing genetic counseling and performing prenatal diagnostic procedures and
tests, including the interpretation of the results of the procedures and tests.

(e) Administer a program of subsidy grants for approved nonprofit prenatal diagnosis centers. The subsidy grants shall be awarded based on the reported number of low-income women referred to the center, the number of prenatal diagnoses performed in the previous year at that center, and the estimated size of unmet need for prenatal diagnostic procedures and tests in its service area. This subsidy shall be in addition to fees collected under other state programs.

(f) Establish any rules, regulations, and standards for prenatal diagnostic testing and the allocation of subsidies as the director deems necessary to promote and protect the public health and safety and to implement the Hereditary Disorders Act (Section 27).

(g) (1) The department shall expand prenatal screening to include all tests that meet or exceed the current standard of care as recommended by nationally recognized medical or genetic organizations, including, but not limited to, inhibin.

(2) The prenatal screening fee increase for expanding prenatal screening to include those tests described in paragraph (1) is forty dollars ($40).

(3) The department shall report to the Legislature regarding the progress of the program with regard to implementing prenatal screening for those tests described in paragraph (1) on or before July 1, 2007. The report shall include the costs of screening, followup, and treatment as compared to costs and morbidity averted by this testing under the program.

(4) (A) The expenditure of funds from the Genetic Disease Testing Fund for the expansion of the Genetic Disease Branch Screening Information System to include the expansion of prenatal screenings, pursuant to paragraph (1), may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts, and shall not be subject to Chapter 2 (commencing with Section 10290) or Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology.
projects or approval of increases in the duration or costs of
information technology projects. This paragraph shall apply to the
design, development, and implementation of the expansion, and
to the maintenance and operation of the Genetic Disease Branch
Screening Information System, including change requests, once
the expansion is implemented.

(B) (i) The department may adopt emergency regulations to
implement and make specific the amendments to this section made
during the 2006 portion of the 2005–06 Regular Session in
accordance with Chapter 3.5 (commencing with Section 11340)
of Part 1 of Division 3 of Title 2 of the Government Code. For the
purposes of the Administrative Procedure Act, the adoption of
regulations shall be deemed an emergency and necessary for the
immediate preservation of the public peace, health and safety, or
general welfare. Notwithstanding Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code, these emergency regulations shall not be subject to the
review and approval of the Office of Administrative Law.
Notwithstanding Sections 11346.1 and 11349.6 of the Government
Code, the department shall submit these regulations directly to the
Secretary of State for filing. The regulations shall become effective
immediately upon filing by the Secretary of State. Regulations
shall be subject to public hearing within 120 days of filing with
the Secretary of State and shall comply with Sections 11346.8 and
11346.9 of the Government Code or shall be repealed.

(ii) The Office of Administrative Law shall provide for the
printing and publication of these regulations in the California Code
of Regulations. Notwithstanding Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code, the regulations adopted pursuant to this chapter shall not be
repealed by the Office of Administrative Law and shall remain in
effect until revised or repealed by the department.

SEC. 2.
SEC. 9. Section 125092 of the Health and Safety Code is
amended to read:
125092. (a) The department, in consultation with the Office
of AIDS and with other stakeholders, including, but not limited
to, representatives of professional medical and public health
advocacy groups, providers of health care to women and infants
infected with or exposed to HIV, and women living with HIV,
shall develop culturally sensitive informational material adequate to fulfill the requirements of subdivisions (c) and (d) of Section 125090.

(b) This material shall be made available in the languages that meet the numeric threshold described in Section 14029.91 of the Welfare and Institutions Code when providing information to clients under the Medi-Cal program. This program, and shall be updated by the department as necessary.

(c) This material shall also include information on available referral and consultation resources of experts in prenatal HIV treatment.
SUMMARY:
Existing law defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site, and that facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. Existing law requires that prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth inform the patient about the use of telehealth and obtain documented verbal or written consent from the patient for the use of telehealth.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits health care service plans and health insurers from limiting the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee, insured, subscriber, or policyholder and the plan or insurer, and between the plan or insurer and its participating providers or provider groups.

ANALYSIS:
This bill would add video communications, telephone communications, email communications, and synchronous text or chat conferencing to the definition of telehealth. The bill would also provide that the required prior consent for telehealth services may be digital as well as oral or written.

This bill would also prohibit a health care provider from requiring the use of telehealth when a patient prefers to receive health care services in person and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified.
The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider.

The bill would prohibit a health care service plan or a health insurer from interfering with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/14)

SUPPORT:

OPPOSE:
An act to amend Section 2290.5 of the Business and Professions Code, to amend Section 1374.13 of the Health and Safety Code, and to amend Section 10123.85 of the Insurance Code, relating to telehealth.

LEGISLATIVE COUNSEL’S DIGEST

AB 2507, as introduced, Gordon. Telehealth: access.

(1) Existing law defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site, and that facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. Existing law requires that prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth inform the patient about the use of telehealth and obtain documented verbal or written consent from the patient for the use of telehealth.

This bill would add video communications, telephone communications, email communications, and synchronous text or chat conferencing to the definition of telehealth. The bill would also provide that the required prior consent for telehealth services may be digital as well as oral or written.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service
plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits health care service plans and health insurers from limiting the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee, insured, subscriber, or policyholder and the plan or insurer, and between the plan or insurer and its participating providers or provider groups.

This bill would also prohibit a health care provider from requiring the use of telehealth when a patient prefers to receive health care services in person and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified. The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider. The bill would prohibit a health care service plan or a health insurer from interfering with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

Because a willful violation of the bill’s provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

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

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


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

1 SECTION 1. Section 2290.5 of the Business and Professions Code is amended to read:
2 2290.5. (a) For purposes of this division, the following definitions shall apply:
(1) “Asynchronous store and forward” means the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient.

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

(3) “Health care provider” means either of the following:
   (A) A person who is licensed under this division.
   (B) A marriage and family therapist intern or trainee functioning pursuant to Section 4980.43.

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

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

(6) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers, including, but not limited to, video communications, telephone communications, email communications, and synchronous text or chat conferencing.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.
(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.
(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.
(f) All laws regarding the confidentiality of health care information and a patient’s rights to his or her medical information shall apply to telehealth interactions.
(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.
(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.
(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).
(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.
SEC. 2. Section 1374.13 of the Health and Safety Code is amended to read:
1374.13. (a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.
(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.
(c) No health care service plan shall not require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided
through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(d) No health care service plan shall *not* limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(e) The requirements of this section shall also apply to health care service plan and Medi-Cal managed care plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other provision, *law*, this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding any law, this section shall not be interpreted to authorize a health care provider to require the use of telehealth when a patient prefers to be treated in an in-person setting. *Telehealth services should be physician- or practitioner-guided and patient-preferred.*

(h) A health care service plan shall include in its plan contract coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means.

(i) A health care service plan shall reimburse the health care provider for the diagnosis, consultation, or treatment of the enrollee when the service is delivered through telehealth at a rate that is at least as favorable to the health care provider as those established for the equivalent services when provided in person or by some other means.

(2) A health care service plan may subject the coverage of services delivered via telehealth to copayments, coinsurance, or deductible provided that the amounts charged are at least as
favorable to the enrollee as those established for the equivalent services when provided in person or by some other means.

(i) A health care service plan shall not limit coverage or reimbursement based on a contract entered into between the health care service plan and an independent telehealth provider or interfere with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

SEC. 3. Section 10123.85 of the Insurance Code is amended to read:

10123.85. (a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.
(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.
(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups.
(d) No health insurer shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups.
(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a health insurer to require the use of telehealth when the health care provider has determined that it is not appropriate.
(f) Notwithstanding any law, this section shall not be interpreted to authorize a health care provider to require the use of telehealth when a patient prefers to be treated in an in-person setting. Telehealth services should be physician- or practitioner-guided and patient-preferred.
(g) A health insurer shall include in its policy coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means.

(1) A health insurer shall reimburse the health care provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth at a rate that is at least as favorable to the health care provider as those established for the equivalent services when provided in person or by some other means.

(2) A health insurer may subject the coverage of services delivered via telehealth to copayments, coinsurance, or deductible provided that the amounts charged are at least as favorable to the insured as those established for the equivalent services when provided in person or by some other means.

(h) A health insurer shall not limit coverage or reimbursement based on a contract entered into between the health insurer and an independent telehealth provider or interfere with the physician-patient relationship based on the modality utilized for services appropriately provided through telehealth.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY:
The Child Abuse and Neglect Reporting Act requires a law enforcement agency that receives a report of child abuse to report to an appropriate licensing agency every known or suspected instance of child abuse or neglect that occurs while the child is being cared for in a child day care facility or community care facility or that involves a licensed staff person of the facility.

Existing law proscribes the commission of certain crimes against elders and dependent adults, including, but not limited to, inflicting upon an elder or dependent adult unjustifiable physical pain or mental suffering, as specified. Existing law proscribes the commission of a hate crime, as defined, against certain categories of persons, including disabled persons.

Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee engages in specified sexual acts with a patient, client, or former patient or client.

ANALYSIS:
This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state licensing agency that issued the credential, license, or permit. By imposing additional duties on law enforcement agencies, this bill would impose a state-mandated local program.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)
**SUPPORT:**
The Arc and United Cerebral Palsy California Collaboration
Disability Rights California
The Arc of Riverside County
California Advocates for Nursing Home Reform
California Church IMPACT

**OPPOSE:** None on file
ASSEMBLY BILL No. 2606

Introduced by Assembly Member Grove

February 19, 2016

An act to add Chapter 14 (commencing with Section 368.7) to Title 9 of Part 1 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL’S DIGEST

AB 2606, as introduced, Grove. Crimes against children, elders, dependent adults, and persons with disabilities.

The Child Abuse and Neglect Reporting Act requires a law enforcement agency that receives a report of child abuse to report to an appropriate licensing agency every known or suspected instance of child abuse or neglect that occurs while the child is being cared for in a child day care facility or community care facility or that involves a licensed staff person of the facility.

Existing law proscribes the commission of certain crimes against elders and dependent adults, including, but not limited to, inflicting upon an elder or dependent adult unjustifiable physical pain or mental suffering, as specified. Existing law proscribes the commission of a hate crime, as defined, against certain categories of persons, including disabled persons.

Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee...
engages in specified sexual acts with a patient, client, or former patient or client.

This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state licensing agency that issued the credential, license, or permit. By imposing additional duties on law enforcement agencies, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.


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

SECTION 1. Chapter 14 (commencing with Section 368.7) is added to Title 9 of Part 1 of the Penal Code, to read:

Chapter 14. Reporting Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities

368.7. If a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of the crimes described in subdivisions (a) to (f), inclusive, the law enforcement agency shall promptly send a copy of the report to the state agency that issued the credential, license, or permit.
(a) Sexual exploitation by a physician and surgeon, psychotherapist, or drug or alcohol abuse counselor, as described in Section 729 of the Business and Professions Code.

(b) Rape or other crimes described in Chapter 1 (commencing with Section 261).

(c) Elder or dependent adult abuse, failure to report elder or dependent adult abuse, interfering with a report of elder or dependent adult abuse or other crimes, as described in Chapter 13.

(d) A hate crime motivated by antidisability bias, as described in Chapter 1 (commencing with Section 422.55) of Title 11.6.

(e) Sexual abuse, as defined in Section 11165.1.

(f) Child abuse, failure to report child abuse, or interfering with a report of child abuse.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
SUMMARY:
Existing law provides for the licensure and regulation of various professions and vocations by various boards, as defined, within the Department of Consumer Affairs, and provides for the membership of those various boards. Existing law requires newly appointed board members, within one year of assuming office, to complete a training and orientation offered by the department regarding, among other things, the obligations of the board member. Existing law requires the department to adopt regulations necessary to establish the training and orientation program and its contents.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act) generally requires, with specified exceptions for authorized closed sessions, that the meetings of state bodies be open and public and that all persons be permitted to attend. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies, and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires every agency to adopt and promulgate a Conflict of Interest Code that contains, among other requirements, the circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of, any decision.

ANALYSIS:
This bill would additionally require the training of new board members to include, but not be limited to, information regarding the requirements of the Bagley-Keene Act, the Administrative Procedure Act, the Office of Administrative Law, and the department’s Conflict of Interest Code.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:
OPPOSE:
ASSEMBLY BILL No. 2701

Introduced by Assembly Member Jones
February 19, 2016

An act to amend Section 453 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2701, as introduced, Jones. Department of Consumer Affairs: boards: training requirements.

Existing law provides for the licensure and regulation of various professions and vocations by various boards, as defined, within the Department of Consumer Affairs, and provides for the membership of those various boards. Existing law requires newly appointed board members, within one year of assuming office, to complete a training and orientation offered by the department regarding, among other things, the obligations of the board member. Existing law requires the department to adopt regulations necessary to establish the training and orientation program and its contents.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act) generally requires, with specified exceptions for authorized closed sessions, that the meetings of state bodies be open and public and that all persons be permitted to attend. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies, and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires every agency to adopt and promulgate a Conflict of Interest Code that contains, among other requirements, the circumstances under which designated employees or categories of designated employees must disqualify
themselves from making, participating in the making, or using their official position to influence the making of, any decision.

This bill would additionally require the training of new board members to include, but not be limited to, information regarding the requirements of the Bagley-Keene Act, the Administrative Procedure Act, the Office of Administrative Law, and the department’s Conflict of Interest Code.


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

SECTION 1. Section 453 of the Business and Professions Code is amended to read:

453. Every newly appointed board member shall, within one year of assuming office, complete a training and orientation program offered by the department regarding, among other things, his or her functions, responsibilities, and obligations as a member of a board. This training shall include, but is not limited to, information about the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the Office of Administrative Law, and the department’s Conflict of Interest Code, as required pursuant to Section 87300 of the Government Code. The department shall adopt regulations necessary to establish this training and orientation program and its content.
SUMMARY:
Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding $50,000, or by imprisonment and that fine.

ANALYSIS:
This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells prepaid services, does not constitute a referral of services.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
ASSEMBLY BILL No. 2744

Introduced by Assembly Member Gordon
(Coauthor: Senator Hill)

February 19, 2016

An act to amend Section 650 of the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL’S DIGEST

AB 2744, as introduced, Gordon. Healing arts: referrals.
Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding $50,000, or by imprisonment and that fine.
This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells prepaid services, does not constitute a referral of services.
SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee’s return on investment
for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

(f) “Health care facility” means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) The payment or receipt of consideration for advertising, wherein a licensee offers or sells prepaid services, shall not constitute a referral of patients. To the extent the licensee determines, after consultation with the purchaser of the prepaid service, that a prepaid service is not appropriate for the purchaser, the licensee shall provide the purchaser a refund of the full purchase price.

(h) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by that imprisonment and a fine of fifty thousand dollars ($50,000).
SUMMARY:
Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines “board” for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

ANALYSIS:
This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession.

The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
An act to add Section 463 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2859, as introduced, Low. Professions and vocations: retired category: licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines “board” for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill
would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.


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

SECTION 1. Section 463 is added to the Business and Professions Code, to read:

463. (a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(2) The holder of a retired license shall not be required to renew that license.

(3) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

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

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts
or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.
SUMMARY:
Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, as specified. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for “teleophthalmology, teledermatology and teledentistry by store and forward,” as defined to mean the asynchronous transmission of medical information to be reviewed at a later time by a licensed physician or optometrist, as specified, at a distant site.

ANALYSIS:
This bill would enact similar provisions relating to the use of reproductive health care under the Medi-Cal program. The bill would provide that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for “reproductive health care provided by store and forward.” The bill would define that term to mean an asynchronous transmission of medical information to be reviewed at a later time by a physician, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse at a distant site, where the provider at the distant site reviews the information without the patient being present in real time, as defined and as specified.

This bill would also provide that, to the extent federal financial participation is available and any necessary federal approvals are obtained, telephonic and electronic patient management services, as defined, provided by a physician or nonphysician health care provider acting within his or her scope of licensure shall be a benefit under the Medi-Cal program in fee-for-service and managed care delivery systems, as specified. The bill would authorize the department to seek approval of any state plan amendments necessary to implement these provisions.

BOARD POSITION:
LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
Introduced by Senators Hernandez and Leno
(Coauthor: Senator McGuire)

February 8, 2016

An act to amend Section 14132.725 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL’S DIGEST

SB 960, as introduced, Hernandez. Medi-Cal: telehealth: reproductive health care.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, as specified. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for “teleophthalmology, teledermatology and teledentistry by store and forward,” as defined to mean the asynchronous transmission of medical information to be reviewed at a later time by a licensed physician or optometrist, as specified, at a distant site.

This bill would enact similar provisions relating to the use of reproductive health care under the Medi-Cal program. The bill would provide that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for “reproductive health care provided by store and forward.” The bill would define that term to mean an asynchronous transmission of medical information to be reviewed at a later time by a physician, nurse practitioner, certified
nurse midwife, licensed midwife, physician assistant, or registered nurse at a distant site, where the provider at the distant site reviews the dental information without the patient being present in real time, as defined and as specified.

This bill would also provide that, to the extent federal financial participation is available and any necessary federal approvals are obtained, telephonic and electronic patient management services, as defined, provided by a physician or nonphysician health care provider acting within his or her scope of licensure shall be a benefit under the Medi-Cal program in fee-for-service and managed care delivery systems, as specified. The bill would authorize the department to seek approval of any state plan amendments necessary to implement these provisions.


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

SECTION 1. Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725. (a) To the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teleophthalmology, teledermatology, and teledentistry, and reproductive health care provided by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department. A Medi-Cal managed care plan that contracts with the department pursuant to this chapter and Chapter 8 (commencing with Section 14200) shall be required to cover the services described in this section.

(b) For purposes of this section, “teleophthalmology, teledermatology, and teledentistry, and reproductive health care provided by store and forward” means an asynchronous transmission of medical or dental information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or a dentist, or, for reproductive health care, by a physician, nurse practitioner, certified nurse midwife,
licensed midwife, physician assistant, or registered nurse operating within his or her scope of practice, where the physician, optometrist, dentist, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse at the distant site reviews the medical or dental information without the patient being present in real time. A patient receiving teleophthalmology, teledermatology, or teledentistry or reproductive health care by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician, optometrist, or dentist, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse and shall receive an interactive communication with the distant specialist physician, optometrist, or dentist, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse upon request. If requested, communication with the distant specialist physician, optometrist, or dentist, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse may occur either at the time of the consultation, or within 30 days of the patient’s notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.

(c) (1) To the extent that federal financial participation is available and any necessary federal approvals have been obtained, telephonic and electronic patient management services provided by a physician, or a nonphysician health care provider acting within his or her scope of licensure is a benefit under the Medi-Cal program, both in fee-for-service and managed care delivery systems delivered by Medi-Cal managed care plans that contract with the department pursuant to this chapter and Chapter 8 (commencing with Section 14200). Reimbursement for telephonic and electronic patient management services shall be based on the complexity of and time expended in rendering those services.

(2) This subdivision shall not be construed to authorize a Medi-Cal managed care plan to require the use of telephonic and electronic patient management services when the physician or
nonphysician health care provider has determined that those services are not medically necessary.

(3) This subdivision shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting or in a manner than is not otherwise authorized by law.

(4) All laws regarding the confidentiality of health information and a patient’s right of access to his or her medical information shall apply to telephonic and electronic patient management services.

(5) This subdivision shall not apply to a patient in the custody of the Department of Corrections and Rehabilitation or any other correctional facility.

(d) Notwithstanding paragraph (1) of subdivision (b), separate reimbursement of a physician or a nonphysician health care provider shall not be required for any of the following:

(1) A telephonic or electronic visit that is related to a service or procedure provided to an established patient within a reasonable period of time prior to the telephonic or electronic visit, as recognized by the Current Procedural Terminology codes published by the American Medical Association.

(2) A telephonic or electronic visit that leads to a related service or procedure provided to an established patient within a reasonable period of time, or within an applicable postoperative period, as recognized by the Current Procedural Terminology codes published by the American Medical Association.

(3) A telephonic or electronic visit provided as part of a bundle of services for which reimbursement is provided for on a prepaid basis, including capitation, or which reimbursement is provided for using an episode-based payment methodology.

(4) A telephonic or electronic visit that is not initiated by an established patient, by the parents or guardians of a minor who is an established patient, or by a person legally authorized to make health care decisions on behalf of an established patient.

(e) Nothing in this section shall be construed to prohibit a Medi-Cal managed care plan from requiring documentation reasonably relevant to a telephonic or electronic visit, as recognized by the Current Procedural Terminology codes published by the American Medical Association.

(f) For purposes of this section, the following definitions apply:
(1) “Established patient” means a patient who, within three years immediately preceding the telephonic or electronic visit, has received professional services from the provider or another provider of the same specialty or subspecialty who belongs to the same group practice.

(2) “Nonphysician health care provider” means a provider, other than a physician, who is licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(3) “Reproductive health care” means the general reproductive health care services described in paragraph (8) of subdivision (aa) of Section 14132.

(4) “Telephonic and electronic patient management service” means the use of electronic communication tools to enable treating physicians and nonphysician health care providers to evaluate and manage established patients in a manner that meets all of the following criteria:

(A) The service does not require an in-person visit with the physician or nonphysician health care provider.

(B) The service is initiated by the established patient, the parents or guardians of a minor who is an established patient, or a person legally authorized to make health care decisions on behalf of an established patient. “Initiated by an established patient” does not include a visit for which a provider or a person employed by a provider contacts a patient to initiate a service.

(C) The service is recognized by the Current Procedural Terminology codes published by the American Medical Association.

(g) The department may seek approval of any state plan amendments necessary to implement this section.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.
Bill Analysis

Summary:
Section 3: The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing education courses given to registered nurses available for board inspection.

Analysis:
This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements.

Board Position:

Legislative Committee Recommended Position: Watch (3/10/16)

Support:

Oppose:
An act to amend Sections 1636.4, 2811.5, 8516, 8518, and 8555 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

SB 1039, as introduced, Hill. Professions and vocations.

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified. The bill would state the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program, as specified, to increase the supply of dentists serving in medically underserved areas.

(2) The Dental Practice Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to be responsible for the approval of foreign dental schools by evaluating foreign dental schools based on specified criteria. That act authorizes the board to contract with outside consultants or a national professional organization to survey and evaluate foreign dental schools, as specified. That act requires the board to establish a technical advisory group to review the survey and evaluation contracted for prior to the board taking any final action regarding a foreign dental school. That act also requires periodic surveys and evaluations of all approved schools be made to ensure compliance with the act.
This bill would delete the authorization to contract with outside consultants and would instead authorize the board, in lieu of conducting its own survey and evaluation of a foreign dental school, to accept the findings of any commission or accreditation agency approved by the board, if the findings meet specified standards, and adopt those findings as the board’s own. The bill would delete the requirement to establish a technical advisory group. The bill would instead authorize periodic surveys and evaluations be made to ensure compliance with that act.

(3) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing education courses given to registered nurses available for board inspection.

This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements.

(4) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board, which is within the Department of Consumer Affairs, and requires a licensee to pay a specified license fee. Existing law makes any violation of those provisions punishable as a misdemeanor. Existing law places certain requirements on a registered company or licensee with regards to wood destroying pests or organisms, including that a registered company or licensee is prohibited from commencing work on a contract until an inspection has been made by a licensed Branch 3 field representative or operator, that the address of each property inspected or upon which work was completed is required to be reported to the board, as specified, and that a written inspection report be prepared and delivered to the person requesting the inspection or his or her agent. Existing law requires the original inspection report to be submitted to the board upon demand. Existing law requires that written report to contain certain information, including a foundation diagram or sketch of the structure or portions of the structure inspected, and requires the report, and any contract entered into, to expressly state if a guarantee
for the work is made, and if so, the terms and time period of the guarantee. Existing law establishes the Structural Pest Control Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill would not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill would require instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner’s designated agent, as specified. The bill would allow an inspection report to be a complete, limited, supplemental, or reinspection report, as defined. The bill would require all inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill would require the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch. By placing new requirements on a registered company or licensee this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

Existing law requires a registered company to prepare a notice of work completed to give to the owner of the property when the work is completed.

This bill would make this provision only applicable to work relating to wood destroying pests and organisms.

Existing law provides that the laws governing structural pest control operators, including licensure, does not apply to persons engaged in the live capture and removal of vertebrate pests, bees, or wasps from a structure without the use of pesticides.

This bill would instead apply those laws to persons that engage in the live capture and removal of vertebrate pests without the use of pesticides. By requiring persons that engaged in the live capture and removal of vertebrate pests without the use of pesticides to comply with the laws governing structural pest control operators, this bill would expand an existing crime, and would, therefore, impose a state-mandated local program. By requiring those person to be licensed, this bill would require them to pay a licensee fee that would go into a continuously appropriated fund, which would, therefore, result in an appropriation.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. It is the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program within the Health and Professions Education Foundation to increase the supply of dentists serving in medically underserved areas.

SEC. 2. Section 1636.4 of the Business and Professions Code is amended to read:

1636.4. (a) The Legislature recognizes the need to ensure that graduates of foreign dental schools who have received an education that is equivalent to that of accredited institutions in the United States and that adequately prepares their students for the practice of dentistry shall be subject to the same licensure requirements as graduates of approved dental schools or colleges. It is the purpose of this section to provide for the evaluation of foreign dental schools and the approval of those foreign dental schools that provide an education that is equivalent to that of similar accredited institutions in the United States and that adequately prepare their students for the practice of dentistry.

(b) The board shall be responsible for the approval of foreign dental schools based on standards established pursuant to subdivision (d). The board may contract with outside consultants or a national professional organization to survey and evaluate foreign dental schools. The consultant or organization shall report to the board regarding its findings in the survey and evaluation.

(c). The board may, in lieu of conducting its own survey and evaluation of a foreign dental school, accept the findings of any commission or accreditation agency approved by the board if the findings meet the standards of subdivision (c) and adopt those findings as the board's own.
(c) The board shall establish a technical advisory group to review and comment upon the survey and evaluation of a foreign dental school contracted for pursuant to subdivision (b), prior to any final action by the board regarding certification of the foreign dental school. The technical advisory group shall be selected by the board and shall consist of four dentists, two of whom shall be selected from a list of five recognized United States dental educators recommended by the foreign school seeking approval. None of the members of the technical advisory group shall be affiliated with the school seeking certification.

(d)

Any foreign dental school that wishes to be approved pursuant to this section shall make application to the board for this approval, which shall be based upon a finding by the board that the educational program of the foreign dental school is equivalent to that of similar accredited institutions in the United States and adequately prepares its students for the practice of dentistry. Curriculum, faculty qualifications, student attendance, plant and facilities, and other relevant factors shall be reviewed and evaluated. The board, with the cooperation of the technical advisory group, shall identify by rule the standards and review procedures and methodology to be used in the approval process consistent with this subdivision. The board shall not grant approval if deficiencies found are of such magnitude as to prevent the students in the school from receiving an educational base suitable for the practice of dentistry.

(e)

Periodic surveys and evaluations of all approved schools shall may be made to ensure continued compliance with this section. Approval shall include provisional and full approval. The provisional form of approval shall be for a period determined by the board, not to exceed three years, and shall be granted to an institution, in accordance with rules established by the board, to provide reasonable time for the school seeking permanent approval to overcome deficiencies found by the board. Prior to the expiration of a provisional approval and before the full approval is granted, the school shall be required to submit evidence that deficiencies noted at the time of initial application have been remedied. A school granted full approval shall provide evidence of continued compliance with this section. In the event that the board denies
approval or reapproval, the board shall give the school a specific
listing of the deficiencies that caused the denial and the
requirements for remediating the deficiencies, and shall permit the
school, upon request, to demonstrate by satisfactory evidence,
within 90 days, that it has remedied the deficiencies listed by the
board.

(e) A school shall pay a registration fee established by rule of
the board, not to exceed one thousand dollars ($1,000), at the time
of application for approval and shall pay all reasonable costs and
expenses the board incurs for the conduct of conducting the
approval survey.

(f) The board shall renew approval upon receipt of a renewal
application, accompanied by a fee not to exceed five hundred
dollars ($500). Each fully approved institution shall submit a
renewal application every seven years. Any approval that is not
renewed shall automatically expire.

SEC. 3. Section 2811.5 of the Business and Professions Code
is amended to read:

2811.5. (a) Each person renewing his or her license under
Section 2811 shall submit proof satisfactory to the board that,
during the preceding two-year period, he or she has been informed
of the developments in the registered nurse field or in any special
area of practice engaged in by the licensee, occurring since the
last renewal thereof, either by pursuing a course or courses of
continuing education in the registered nurse field or relevant to
the practice of the licensee, and approved by the board, or by other
means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation,
establish standards for continuing education. The standards shall
be established in a manner to assure that a variety of alternative
forms of continuing education are available to licensees, including,
but not limited to, academic studies, in-service education, institutes,
seminars, lectures, conferences, workshops, extension studies, and
home study programs. The standards shall take cognizance of
specialized areas of practice, practice, and content shall be based
on generally accepted scientific principles. The continuing
education standards established by the board shall not exceed 30
hours of direct participation in a course or courses approved by
the board, or its equivalent in the units of measure adopted by the
board.
(c) The board shall audit continuing education providers at
least once every five years to ensure adherence to regulatory
requirements, and shall withhold or rescind approval from any
provider that is in violation of the regulatory requirements.
(d) The board shall encourage continuing education in spousal
or partner abuse detection and treatment. In the event the board
establishes a requirement for continuing education coursework in
spousal or partner abuse detection or treatment, that requirement
shall be met by each licensee within no more than four years from
the date the requirement is imposed.
(e) In establishing standards for continuing education, the board
shall consider including a course in the special care needs of
individuals and their families facing end-of-life issues, including,
but not limited to, all of the following:
(1) Pain and symptom management.
(2) The psycho-social dynamics of death.
(3) Dying and bereavement.
(4) Hospice care.
(f) In establishing standards for continuing education, the board
may include a course on pain management.
(g) This section shall not apply to licensees during the first two
years immediately following their initial licensure in California
or any other governmental jurisdiction.
(h) The board may, in accordance with the intent of this section,
make exceptions from continuing education requirements for
licensees residing in another state or country, or for reasons of
health, military service, or other good cause.
SEC. 4. Section 8516 of the Business and Professions Code is
amended to read:
8516. (a) This section, and Section 8519, apply only to wood
destroying pests or organisms.
(b) No A registered company or licensee shall not commence
work on a contract, or sign, issue, or deliver any documents
expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator employed by a registered company, except as provided in Section 8519.5. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500). The address of an inspection report prepared for use by an attorney for litigation purposes shall not be required to be reported to the board and shall not be assessed a filing fee.

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection and the property owner, or to the person’s property owner’s designated agent, within 10 business days after the start of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board or the property owner. An inspection report may be a complete, limited, supplemental, or reinspection report, as defined by Section 1993 of Title 16 of the California Code of Regulations. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original or copies thereof shall be submitted to the board upon request demand within two business days. The following shall be set forth in the report:

(1) The start date of the inspection and the name of the licensed field representative or operator making the inspection.
(2) The name and address of the person or firm ordering the report.
(3) The name and address of the property owner and any person who is a party in interest.
(4) The address or location of the property.
(5) A general description of the building or premises inspected.
(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon including the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist. Reporting of the infested or infected wood members, or parts of the structure identified, shall be listed in the inspection report to clearly identify them, as is typical in standard construction components, including, but not limited to, siding, studs, rafters, floor joists, fascia, subfloor, sheathing, and trim boards.
(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.
(8) One of the following statements, as appropriate, printed in bold type:
   (A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors’ State License Board.
   (B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.
(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.
(10) Recommendations for corrective measures.
(11) Information regarding the pesticide or pesticides to be used for their control or prevention as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

—

“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

—

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing each corrective measure.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection” in capital letters by rubber stamp or typewritten. “Reinspection.” Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company’s original inspection price and shall be completed within 10 working business days after a reinspection has been ordered.

(13) The inspection report shall contain the following statement, printed in boldface type:
“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.
(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, property owner of the property owner's designated agent chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form
shall explain the infestation or infection that is evident and the
conditions that are present that are deemed likely to lead to
infestation or infection and the difference between those conditions.
In no event, however, shall conditions deemed likely to lead to
infestation or infection be characterized as actual “defects” or as
actual “active” infestations or infections or in need of correction
as a precondition to issuing a certification pursuant to Section
8519.

(f) The report and any contract entered into shall also state
specifically when any guarantee for the work is made, and if so,
the specific terms of the guarantee and the period of time for which
the guarantee shall be in effect. If a guarantee extends beyond
three years, the registered company shall maintain all original
inspection reports, field notes, activity forms, and notices of
completion for the duration of the guarantee period and for one
year after the guarantee expires.

(g) Control service is defined as the regular reinspection of a
property after a report has been made in compliance with this
section and any corrections as have been agreed upon have been
completed. For purposes of this section, “control service
agreement” means an agreement, including extended warranties,
to have a licensee conduct over a period of time regular inspections
and other activities related to the control or eradication of wood
destroying pests and organisms. Under a control service agreement
a registered company shall refer to the original report and contract
in a manner as to identify them clearly, and the report shall be
assumed to be a true report of conditions as originally issued,
except it may be modified after a control service inspection. A
registered company is not required to issue a report as outlined in
paragraphs (1) to (11), inclusive, of subdivision (b) after each
control service inspection. If after control service inspection, no
modification of the original report is made in writing, then it will
be assumed that conditions are as originally reported. A control
service contract shall state specifically the particular wood
destroying pests or organisms and the portions of the buildings or
structures covered by the contract.

(h) A registered company or licensee may enter into and
maintain a control service agreement provided the following
requirements are met:
(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) Any wood destroying pests or organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement report.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) The original inspection report, the control service agreement, and completion report shall be maintained for three years after the cancellation of the control service agreement.

(3) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(4) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the
contract within three years from the date the agreement was entered into.

(4) A

(5) Under a control service agreement, a written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, “control service agreement” means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 5. Section 8518 of the Business and Professions Code is amended to read:

8518. (a) When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner’s agent within 10 business days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.
(b) The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after completed work.  

(c) A filing fee shall be assessed pursuant to Section 8674 for every property upon which work is completed.  

(d) Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).  

(e) The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.  

(f) Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.  

(g) This section shall only apply to work relating to wood destroying pests or organisms.  

SEC. 6. Section 8555 of the Business and Professions Code is amended to read:  

8555. This chapter does not apply to:  

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.  

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.  

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.  

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.  

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control,
or engaged in investigation or preparation for expert opinion or
testimony. A professional engaging in research, study,
investigation, or preparation for expert opinion or testimony on
his or her own behalf shall comply with the requirements of this
chapter.
(f) Certified architects and registered civil engineers, acting
solely within their professional capacity, except that they shall be
subject to the limitations imposed by Article 3 of this chapter.
(g) Persons engaged in the live capture and removal or exclusion
of vertebrate pests, bees, bees or wasps from a structure without
the use of pesticides, provided those persons maintain insurance
coverage as described in Section 8692. “Vertebrate pests” include,
but are not limited to, bats, raccoons, skunks, and squirrels, but do
not include mice, rats, or pigeons. This section does not exempt a
person from the provisions of Chapter 1.5 (commencing with
Section 2050) of Division 3 of the Fish and Game Code.
SEC. 7. 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.
SUMMARY:
Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs.

ANALYSIS:
This bill would prohibit specified programs within the foundation, including programs which are funded by the continuously appropriated Health Professions Education Fund, the Medically Underserved Account for Physicians, and the Mental Health Services Fund, from denying an application based on the citizenship status or immigration status of the applicant.

Amended analysis as of 4/4:
The bill as amended adds a section related to the Medical Practice Act regarding applicants, including those without lawful immigration status, to medical school programs and medical residency training programs. Please refer to the attached bill for the new language.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
An act to add Section 2064.3 to the Business and Professions Code, and to add Section 128371 to the Health and Safety Code, relating to health professionals.

LEGISLATIVE COUNSEL’S DIGEST


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

Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California’s public and independent segments of higher education and their respective institutions of higher education. Existing law establishes the University of California, under the administration of the Regents of the University of California, as one of the segments of public postsecondary education in this state. The University of California operates medical schools at
its Davis, Irvine, Los Angeles, San Diego, and San Francisco campuses, and a medical school will open at its Riverside campus in the 2016–17 academic year.

This bill would provide that any student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to a specified statute, or a person who fits into both of those categories, who meets the requirements for admission is eligible to participate in a medical school program and a medical residency training program at any public or private postsecondary educational institution that offers such a program. The bill would also encourage the University of California to develop a process for awarding student financial aid that may include, but not be limited to, grants, scholarships, and stipends, in lieu of employment for students in a medical residency training program whose participation is authorized by this bill.

Existing

(2) Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs.

This bill would prohibit specified programs within the foundation, including programs which are funded by the continuously appropriated Health Professions Education Fund, the Medically Underserved Account for Physicians, and the Mental Health Services Fund, from denying an application based on the citizenship status or immigration status of the applicant.


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

SECTION 1. Section 2064.3 is added to the Business and Professions Code, to read:

2064.3. Notwithstanding any other law:

(a) Any student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, or a person who is both without lawful immigration status and exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, who
meets the requirements for admission is eligible to participate in
a medical school program and a medical residency training
program at any public or private postsecondary educational
institution that offers such a program.

(b) The University of California is encouraged to develop a
process for awarding student financial aid that may include, but
not be limited to, grants, scholarships, and stipends, in lieu of
employment for students in a medical residency training program
whose participation is authorized by this section.

SECTION 1.

SEC. 2. Section 128371 is added to the Health and Safety Code, to read:

128371. (a) The Legislature finds and declares that it is in the
best interest of the State of California to provide persons who are
not lawfully present in the United States with the state benefits
provided by—the Health Professions Education Foundation
Programs, programs, and therefore, enacts this section pursuant
to subsection (d) of Section 1621 Section 1621(d) of Title 8 of the
United States Code.

(b) A program within the Health Professions Education
Foundation shall not deny an application based on the citizenship
status or immigration status of the applicant.

(c) For any program within the Health Professions Education
Foundation, when mandatory disclosure of a social security number
is required, an applicant shall provide his or her social security
number, if one has been issued, or an individual tax identification
number that has been or will be submitted.

(d) This section shall apply to all of the following:

(1) Programs supported through the Health Professions
Education Fund pursuant to Section 128355.

(2) The Registered Nurse Education Fund created pursuant to
Section 128400.

(3) The Mental Health Practitioner Education Fund created
pursuant to Section 128458.

(4) The Vocational Nurse Education Fund created pursuant to
Section 128500.

(5) The Medically Underserved Account for Physicians created
pursuant to Section 128555.

(6) The Steven M. Thompson Medical School Scholarship
Account created pursuant to Section 128580.
1 (7) Loan forgiveness and scholarship programs created pursuant
2 to Section 5820 of the Welfare and Institutions Code.
SUMMARY:
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure process for an applicant who has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

ANALYSIS:
This bill would require the Department of Consumer Affairs, in consultation with the Department of Veterans Affairs and the Military Department, to establish and maintain a program that grants a fee waiver for the application for and the issuance of an initial license to an individual who is an honorably discharged veteran, as specified.

Amended analysis as of 3/28:
This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an individual who is an honorably discharged veteran, as specified.

BOARD POSITION:
LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)
SUPPORT:
California Association of Licensed Investigators, Inc.
Goodwill Southern California
Veterans of Foreign Wars of California (San Diego County, Southern Imperial County)

OPPOSE: None to date.
An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

SB 1155, as amended, Morrell. Professions and vocations: licenses: military service.
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.
This bill would require the Department of Consumer Affairs, in consultation with the Department of Veterans Affairs and the Military Department, to establish and maintain a program that grants every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an individual who is an honorably discharged veteran, as specified.


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

SECTION 1. Section 114.6 is added to the Business and Professions Code, to read:

114.6. The Department of Consumer Affairs, in consultation with the Department of Veterans Affairs and the Military Department, shall establish and maintain a program that grants Notwithstanding any other provision of law, every board within the department shall grant a fee waiver for the application for and issuance of a license to an individual who is an honorably discharged veteran who served as an active duty member of the California National Guard or the United States Armed Forces.

Under this program, all of the following apply:

(a) The Department of Consumer Affairs shall grant only one fee waiver to a veteran. A veteran shall be granted only one fee waiver.

(b) The fee waiver shall apply only to an application of and a license issued to an individual veteran and not to an application of or a license issued to a business or other entity.

(c) A waiver shall not be issued for a renewal of a license or for the application for and issuance of a license other than one initial license.
SUMMARY:
Existing law establishes within the Department of Consumer Affairs various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts. Existing law requires each healing arts licensing board to create and maintain a central file containing an individual historical record on each person who holds a license from that board. Existing law requires that the individual historical record contain any reported judgment or settlement requiring the licensee or the licensee’s insurer to pay over $3,000 in damages for any claim that injury or death was proximately caused by the licensee’s negligence, error or omission in practice, or rendering unauthorized professional service.

Existing law requires an insurer providing professional liability insurance to a physician and surgeon, a governmental agency that self-insures a physician and surgeon or, if uninsured, a physician and surgeon himself or herself, to report to the respective licensing board information concerning settlements over $30,000, arbitration awards in any amount, and judgments in any amount in malpractice actions to the practitioner’s licensing board.

Existing law provides that information concerning professional liability settlements, judgments, and arbitration awards of over $10,000 in damages arising from death or personal injury must be reported to the respective licensing boards of specified healing arts practitioners including, among others, licensed professional clinical counselors, licensed dentists, and licensed veterinarians.

Existing law provides that, for other specified healing arts practitioners including, among others, licensed educational psychologists, licensed nurses, and licensed pharmacists, information concerning professional liability settlements, judgments, and arbitration awards of over $3,000 in damages arising from death or personal injury shall be reported to their respective licensing boards.
ANALYSIS:
This bill would raise the minimum dollar amount triggering those reporting requirements from $3,000 to $10,000.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
An act to amend Sections 800, 801, 801.1, and 802 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST

SB 1217, as introduced, Stone. Healing arts: reporting requirements: professional liability resulting in death or personal injury.

Existing law establishes within the Department of Consumer Affairs various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts. Existing law requires each healing arts licensing board to create and maintain a central file containing an individual historical record on each person who holds a license from that board. Existing law requires that the individual historical record contain any reported judgment or settlement requiring the licensee or the licensee’s insurer to pay over $3,000 in damages for any claim that injury or death was proximately caused by the licensee’s negligence, error or omission in practice, or rendering unauthorized professional service.

This bill would instead require the record to contain reported judgments or settlements with damages over $10,000.

Existing law requires an insurer providing professional liability insurance to a physician and surgeon, a governmental agency that self-insures a physician and surgeon or, if uninsured, a physician and surgeon himself or herself, to report to the respective licensing board information concerning settlements over $30,000, arbitration awards in any amount, and judgments in any amount in malpractice actions to the practitioner’s licensing board. Existing law provides that information concerning professional liability settlements, judgments, and arbitration
awards of over $10,000 in damages arising from death or personal injury must be reported to the respective licensing boards of specified healing arts practitioners including, among others, licensed professional clinical counselors, licensed dentists, and licensed veterinarians. Existing law provides that, for other specified healing arts practitioners including, among others, licensed educational psychologists, licensed nurses, and licensed pharmacists, information concerning professional liability settlements, judgments, and arbitration awards of over $3,000 in damages arising from death or personal injury shall be reported to their respective licensing boards.

This bill would raise the minimum dollar amount triggering those reporting requirements from $3,000 to $10,000.


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

SECTION 1. Section 800 of the Business and Professions Code is amended to read:

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

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.
(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars ($3,000) ten thousand dollars ($10,000) for any claim that injury or death was proximately caused by the licensee’s negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

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

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

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

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

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

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

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of
this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee’s reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee’s rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

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

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

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

SEC. 2. Section 801 of the Business and Professions Code is amended to read:

801. (a) Except as provided in Section 801.01 and subdivisions (b), (c), and (d) subdivision (b) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person’s negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person’s negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person’s negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person’s negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant’s attorney, that the report required by subdivision (a), (b), or (c) (a) has been sent to the agency. If the attorney has not received this
(f) Notwithstanding any other provision of law, no insurer shall
enter into a settlement without the written consent of the insured,
even though that settlement shall not void any settlement entered
without that written consent. The requirement of written
consent shall only be waived by both the insured and the insurer.
This section shall only apply to a settlement on a policy of
insurance executed or renewed on or after January 1, 1971.

SEC. 3. Section 801.1 of the Business and Professions Code
is amended to read:

801.1. (a) Every state or local governmental agency that
self-insures a person who holds a license, certificate, or similar
authority from or under any agency specified in subdivision (a) of
Section 800 (except a person licensed pursuant to Chapter 3
(commencing with Section 1200) or Chapter 5 (commencing with
Section 2000) or the Osteopathic Initiative Act) shall send a
complete report to that agency as to any settlement or arbitration
award over three thousand dollars ($3,000) ten thousand dollars
($10,000) of a claim or action for damages for death or personal
injury caused by that person’s negligence, error, or omission in
practice, or rendering of unauthorized professional services. The
report shall be sent within 30 days after the written settlement
agreement has been reduced to writing and signed by all parties
thereto or within 30 days after service of the arbitration award on
the parties.

(b) Every state or local governmental agency that self-insures
a person licensed pursuant to Chapter 13 (commencing with
Section 4980), Chapter 14 (commencing with Section 4990), or
Chapter 16 (commencing with Section 4999.10) shall send a
complete report to the Board of Behavioral Science Examiners as
to any settlement or arbitration award over ten thousand dollars
($10,000) of a claim or action for damages for death or personal
injury caused by that person’s negligence, error, or omission in
practice, or rendering of unauthorized professional services. The
report shall be sent within 30 days after the written settlement
agreement has been reduced to writing and signed by all parties
thereto or within 30 days after service of the arbitration award on the parties.

SEC. 4. Section 802 of the Business and Professions Code is amended to read:

802. (a) Every settlement, judgment, or arbitration award over three thousand dollars ($3,000) ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(b) Every settlement, judgment, or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional
services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage and family therapist, clinical social worker, or professional clinical counselor or claimant (or, if represented by counsel, his or her counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).
summary:
Existing law requires a health practitioner, as specified, who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who he or she knows, or reasonably suspects, has suffered from a wound or other physical injury where the injury is by means of a firearm or is the result of assaultive or abusive conduct, to make a report to a law enforcement agency, as specified.

Existing law defines “assaultive or abusive conduct” for these purposes as a violation of specified crimes. Under existing law, a violation of this provision is a crime.

analysis:
This bill would add the crime of human trafficking to the list of crimes that constitute assaultive or abusive conduct for purposes of the above reporting requirements. By increasing the scope of an existing crime, this bill would impose a state-mandated local program.

Amended analysis as of 3/28:
This bill would require a health care practitioner who provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, to additionally make a report to a law enforcement agency. The bill would also add the crime of human trafficking to the list of crimes that constitute assaultive or abusive conduct for purposes of the above reporting requirements and the reporting requirements added by this bill.

board position:

legislative committee recommended position: Watch (3/10/16)

support:
California District Attorneys Association
California State Sheriffs' Association
County Health Executive Association of California
OPPOSE: None to date
An act to amend Section 11160 of the Penal Code, relating to crime reporting.

LEGISLATIVE COUNSEL’S DIGEST


Existing law requires a health practitioner, as specified, who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who he or she knows, or reasonably suspects, has suffered from a wound or other physical injury where the injury is by means of a firearm or is the result of assaultive or abusive conduct, to make a report to a law enforcement agency, as specified. Existing law defines “assaultive or abusive conduct” for these purposes as a violation of specified crimes. Under existing law, a violation of this provision is a crime.

This bill would require a health care practitioner who provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, to additionally make a report to a law enforcement agency. The bill would also add the crime of human trafficking to the list of crimes that constitute assaultive or abusive conduct for purposes of the above reporting requirements. requirements and the reporting requirements added by this bill. By increasing the scope of an existing crime, this bill would impose a state-mandated local program.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. Section 11160 of the Penal Code is amended to read:

11160. (a) (1) A health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient who he or she knows, or reasonably suspects, is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(b) A health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, shall immediately make a report in accordance with subdivision (b).

(2) A health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, shall immediately make a report in accordance with subdivision (b).
(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this subdivision, and Section 11160.2, and subdivision adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person’s whereabouts.

(C) The character and extent of the person’s injuries, if any.

(D) The identity of a person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, “injury” shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, “assaultive or abusive conduct” includes any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.
(3) Mayhem, in violation of Section 203.
(4) Aggravated mayhem, in violation of Section 205.
(5) Torture, in violation of Section 206.
(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.
(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.
(8) Human trafficking, in violation of Section 236.1.
(9) Battery, in violation of Section 242.
(10) Sexual battery, in violation of Section 243.4.
(11) Incest, in violation of Section 285.
(12) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.
(13) Assault with a stun gun or taser, in violation of Section 244.5.
(14) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.
(15) Rape, in violation of Section 261.
(16) Spousal rape, in violation of Section 262.
(17) Procuring a female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.
(18) Child abuse or endangerment, in violation of Section 273a or 273d.
(19) Abuse of spouse or cohabitant, in violation of Section 273.5.
(20) Sodomy, in violation of Section 286.
(21) Lewd and lascivious acts with a child, in violation of Section 288.
(22) Oral copulation, in violation of Section 288a.
(23) Sexual penetration, in violation of Section 289.
(24) Elder abuse, in violation of Section 368.
(25) An attempt to commit any crime specified in paragraphs (1) to (24), inclusive.
(e) If two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and if there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as
required by subdivision (b). The written report shall be signed by
the selected member of the reporting team. A member who has
knowledge that the member designated to report has failed to do
so shall thereafter make the report.
(f) The reporting duties under this section are individual, except
as provided in subdivision (e).
(g) A supervisor or administrator shall not impede or inhibit the
reporting duties required under this section and a person making
a report pursuant to this section shall not be subject to sanction for
making the report. However, internal procedures to facilitate
reporting and apprise supervisors and administrators of reports
may be established, except that these procedures shall not be
inconsistent with this article. The internal procedures shall not
require an employee required to make a report under this article
to disclose his or her identity to the employer.
(h) For the purposes of this section, it is the Legislature’s intent
to avoid duplication of information.
SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIIIB of the California
Constitution.
SUMMARY:
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

ANALYSIS:
This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to modify their application for licensure to advise veteran applicants about their ability to apply that experience and training towards licensure requirements.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16)

SUPPORT:

OPPOSE:
An act to amend Section 114.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

SB 1348, as introduced, Cannella. Licensure applications: military experience.
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to modify their application for licensure to advise veteran applicants about their ability to apply that experience and training towards licensure requirements.


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

SECTION 1. Section 114.5 of the Business and Professions Code is amended to read:
(a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.
(b) If a board’s governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall modify their application for licensure to advise veteran applicants about their ability to apply military experience and training towards licensure requirements.