

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: June 16, 2016

ACTION REQUESTED: Discuss Bills of Interest to the Board and Adopt or Modify Positions on the Bills

REQUESTED BY: Donna Gerber, Public Member, Chairperson

BACKGROUND:

Assembly Bills

Senate Bills

AB 12	AB 1748	SB 319	SB 960
AB 26	AB 1939	SB 323	SB 1039
AB 85	AB 1992	SB 390	SB 1076
AB 172	AB 2079	SB 408	SB 1139
AB 611	AB 2209	SB 464	SB 1155
AB 637	AB 2399	SB 466	SB 1195
AB 840	AB 2507	SB 467	SB 1217
AB 1060	AB 2606	SB 482	SB 1334
AB 1306	AB 2701	SB 531	SB 1348
AB 1351	AB 2744	SB 800	
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

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
June 16, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review	Watch (5/17/15)	Watch (6/4/15)	Senate APPR
AB 26	Jones-Sawyer	Medical cannabis		Watch (2/11/16)	Senate BP&ED
AB 85	Wilk	Open meetings	Watch (5/17/15)	Oppose (6/4/15)	Vetoed 9/28/15
AB 172	Rodriguez	Emergency departments: assaults and batteries		Support (6/4/15)	Vetoed 10/10/15
AB 611	Dahle	Controlled substances: prescriptions: reporting	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
AB 637	Campos	Physician Orders for Life Sustaining Treatment forms		Watch (4/2/15)	Chapter 217, Statutes of 2015
AB 840	Ridley-Thomas	Nurses and certified nurse assistants: overtime		Support (4/2/15)	Senate PE&R
AB 1060	Bonilla	Professions and vocations: licensure	Support if Amended (5/7/15)	Support if Amended (6/4/15)	No longer applicable to the Board
AB 1306	Burke	Healing arts: certified nurse-midwives: scope of practice		Support (6/4/15)	Senate BP&ED
AB 1351	Eggman	Deferred entry of judgment: pretrial diversion	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Vetoed 10/8/15
AB 1352	Eggman	Deferred entry of judgment: withdrawal of plea	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Chapter 646, Statutes of 2015
AB 1386	Low	Emergency medical care: epinephrine auto-injectors		Watch (2/11/16)	Senate Health
AB 1748	Mayes	Pupils: pupil health: opioid antagonist	Watch (5/12/16)	Watch (4/14/16)	Senate ED
AB 1939	Patterson	Licensing requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 1992	Jones	Pupil health: physical examinations		Watch (4/14/16)	Assembly B&P
AB 2079	Calderon	Skilled nursing facilities: staffing	Watch (3/10/16)	Watch (4/14/16)	Senate Rules
AB 2209	Bonilla	Health care coverage: clinical pathways	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting. It may also reflect a bill that has been acted on by the Governor since the last Committee or Board meeting.

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
June 16, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 2399	Nazarian	Pregnancy: prenatal blood testing	Watch (3/10/16)	Watch (4/14/16)	Senate Rules
AB 2507	Gordon	Telehealth: access	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2606	Grove	Crimes against children, elders, dependent adults, and persons with disabilities	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2701	Jones	Department of Consumer Affairs: boards: training requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly B&P
AB 2744	Gordon	Healing arts: referrals	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED
AB 2859	Low	Professions and vocations: retired category: licenses	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting.
It may also reflect a bill that has been acted on by the Governor since the last Committee or Board meeting.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
June 16, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 319	Beall	Child welfare services: public health: nursing		Watch (4/2/15)	Chapter 535, Statutes of 2015
SB 323	Hernandez	Nurse practitioners: scope of practice	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
SB 390	Bates	Home health agencies: skilled nursing services		Watch (4/2/15)	Senate Health
SB 408	Morrell	Midwife assistants		Oppose (6/4/15)	Chapter 280, Statutes of 2015
SB 464	Hernandez	Healing arts: self-reporting tools	Support (8/6/15)		Chapter 387, Statutes of 2015
SB 466	Hill	Nursing: Board of Registered Nursing	Watch (8/6/15)	Watch (9/3/15)	Chapter 489, Statutes of 2015
SB 467	Hill	Professions and vocations	Watch (8/6/15)	Watch (9/3/15)	Chapter 656, Statutes of 2015
SB 482	Lara	Controlled substances: CURES database	Support (5/12/16)	Support (6/4/15)	Assembly B&P
SB 531	Bates	Board of Behavioral Sciences		Watch (4/2/15)	No longer applicable to the Board
SB 800	Committee on BP&ED	Healing arts	Support (5/7/15)	Support (6/4/15)	Chapter 426, Statutes of 2015
SB 960	Hernandez	Medi-Cal: telehealth: reproductive health care	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1039	Hill	Professions and vocations	Support/ Watch (5/12/16)	Support/ Watch (4/14/16)	Assembly Desk
SB 1076	Hernandez	General acute care hospitals: observation services			Assembly Health
SB 1139	Lara	Health professions: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments	Watch (3/10/16)	Watch (4/14/16)	Assembly Health
SB 1155	Morrell	Professions and vocations: licenses: military service	Watch (3/10/16)	Watch (4/14/16)	Assembly Desk
SB 1195	Hill	Professions and vocations: board actions	Oppose (5/12/16)	Oppose (4/14/16)	Senate Inactive File
SB 1217	Stone	Healing arts: reporting requirements: professional liability resulting in death or personal injury	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED
SB 1334	Stone	Crime reporting: health practitioners: reports	Watch (3/10/16)	Watch (4/14/16)	Senate APPR

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting. It may also reflect a bill that has been acted on by the Governor since the last Committee or Board meeting.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
June 16, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 1348	Cannella	Licensure applications: military experience	Watch (3/10/16)	Watch (4/14/16)	Assembly Desk

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting.
It may also reflect a bill that has been acted on by the Governor since the last Committee or Board meeting.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Low	BILL NUMBER:	AB 1386
SPONSOR:	Mylan, Inc.	BILL STATUS:	Senate Committee on Health
SUBJECT:	Emergency medical care: epinephrine auto-injectors.	DATE LAST AMENDED:	May 31, 2016

SUMMARY:

Existing law authorizes a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. Existing law also requires the California Emergency Medical Services (EMS) Authority to establish or approve authorized training providers and minimum standards for training and the use and administration of epinephrine auto-injectors, in consultation with the local emergency medical system agency, the county health department, the manufacturer, the State Department of Health Care Services, and other private organizations. The Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime.

Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. Existing law also provides that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards.

ANALYSIS:

This bill would authorize an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity pursuant to those provisions. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would also require an authorized entity to submit a report to the State Department of Public Health on incidents related to the administration of epinephrine auto-injectors, and for the department to issue an annual report summarizing and analyzing the reports submitted to it.

This bill would provide that employees, agents, or other trained individuals of an authorized entity who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill would also provide that an authorized entity located in this state shall not be liable, in this state, for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for those injuries or related damages had the provision or administration occurred within this state.

Amended analysis as of 1/4/16:

This bill would permit an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity pursuant to those provisions. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would require an authorized entity to create and maintain a specified operations plan relating to its use of epinephrine auto-injectors, and would require those entities to submit a report to the State Department of Public Health on incidents related to the administration of epinephrine auto-injectors. The bill would also require the department to issue an annual report summarizing and analyzing the reports submitted to the department pursuant to the bill’s provisions.

Amended analysis as of 1/5/16:

This bill would provide that any employee, agent, or other trained individual of an authorized entity who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill would also provide that an authorized entity is not liable for any civil damages resulting from any act or omission n connected to the administration of an epinephrine auto-injector, as specified.

Amended analysis as of 1/13/16:

This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified.

This bill would no longer provide for waiver of liability for an authorized health care provider who prescribes or dispenses an epinephrine auto-injector, as specified, or for a person who conducts the requisite training.

Amended analysis as of 5/31/16:

The bill would require an authorized entity to create and maintain a specified operations plan relating to its use of epinephrine auto-injectors, and would require those entities to submit a report to the Emergency Medical Services Authority of each incident that involves the administration of an auto-injector, not more than 30 days after each use. The bill would also require the authority to

publish an annual report summarizing the reports submitted to the department authority pursuant to the bill's provisions.

BOARD POSITION: Watch (2/11/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:

Mylan, Inc. (sponsor)

American Latex Allergy Association

American Red Cross

California Chapter of the American College of Emergency Physicians

California Retailers Association

San Francisco Bay Area Food Allergy Network

OPPOSE:

Allergy and Asthma Network (unless amended)

Food Allergy Research and Education (FARE) (unless amended)

California Society of Allergy, Asthma and Immunology

AMENDED IN SENATE MAY 31, 2016
AMENDED IN ASSEMBLY JANUARY 13, 2016
AMENDED IN ASSEMBLY JANUARY 5, 2016
AMENDED IN ASSEMBLY JANUARY 4, 2016
AMENDED IN ASSEMBLY APRIL 16, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Low

February 27, 2015

An act to add Section 4119.4 to the Business and Professions Code, to amend Section 1714.23 of the Civil Code, and to amend Section 1797.197a of the Health and Safety Code, relating to emergency medical care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Low. Emergency medical care: epinephrine auto-injectors.

(1) Existing law authorizes a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. Existing law requires the Emergency Medical Services Authority to approve authorized training providers and the minimum standards for training and the use and administration of epinephrine auto-injectors. The existing Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care

person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime.

This bill would permit an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity, as provided. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would require an authorized entity to create and maintain a specified operations plan relating to its use of epinephrine auto-injectors, and would require those entities to submit a report to the ~~State Department of Public Health~~ *Emergency Medical Services Authority of each incident that involves the administration of an epinephrine auto-injector, not more than 30 days after each use.* The bill would also require the ~~department to issue~~ *authority to publish* an annual report summarizing ~~and analyzing~~ the reports submitted to the ~~department~~ *authority* pursuant to the bill’s provisions.

(2) Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. Existing law also provides that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards.

This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified.

(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.

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

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

1 SECTION 1. Section 4119.4 is added to the Business and
2 Professions Code, to read:
3 4119.4. (a) Notwithstanding any other law, a pharmacy may
4 furnish epinephrine auto-injectors to an authorized entity, as
5 defined by Section 1797.197a of the Health and Safety Code, if
6 both of the following requirements are met:
7 (1) The epinephrine auto-injectors are furnished exclusively for
8 use by, or in connection with, an authorized entity.
9 (2) An authorized health care provider provides a prescription
10 that specifies the quantity of epinephrine auto-injectors to be
11 furnished.
12 (b) The pharmacy shall label each epinephrine auto-injector
13 dispensed with all of the following:
14 (1) The name of the person or entity to whom the prescription
15 was issued.
16 (2) The designations “Section 1797.197a Responder” and “First
17 Aid Purposes Only.”
18 (3) The dosage, use, and expiration date.
19 (c) Each dispensed prescription shall include the manufacturer’s
20 product information sheet for the epinephrine auto-injector.
21 (d) Records regarding the acquisition and disposition of
22 epinephrine auto-injectors furnished pursuant to subdivision (a)
23 shall be maintained by the authorized entity for a period of three
24 years from the date the records were created. The authorized entity
25 shall be responsible for monitoring the supply of epinephrine
26 auto-injectors and ensuring the destruction of expired epinephrine
27 auto-injectors.
28 (e) The epinephrine auto-injector dispensed pursuant to this
29 section may be used only for the purpose, and under the
30 circumstances, described in Section 1797.197a of the Health and
31 Safety Code.
32 SEC. 2. Section 1714.23 of the Civil Code is amended to read:
33 1714.23. (a) For purposes of this section, the following
34 definitions shall apply:

1 (1) “Anaphylaxis” means a potentially life-threatening
2 hypersensitivity or allergic reaction to a substance.

3 (A) Symptoms of anaphylaxis may include shortness of breath,
4 wheezing, difficulty breathing, difficulty talking or swallowing,
5 hives, itching, swelling, shock, or asthma.

6 (B) Causes of anaphylaxis may include, but are not limited to,
7 insect stings or bites, foods, drugs, and other allergens, as well as
8 idiopathic or exercise-induced anaphylaxis.

9 (2) “Epinephrine auto-injector” means a disposable drug delivery
10 system with a spring-activated concealed needle that is designed
11 for emergency administration of epinephrine to provide rapid,
12 convenient first aid for persons suffering from anaphylaxis.

13 (b) (1) Any person described in subdivision (b) of Section
14 1797.197a of the Health and Safety Code who administers an
15 epinephrine auto-injector, in good faith and not for compensation,
16 to another person who appears to be experiencing anaphylaxis at
17 the scene of an emergency situation is not liable for any civil
18 damages resulting from his or her acts or omissions in
19 administering the epinephrine auto-injector, if that person has
20 complied with the requirements and standards of Section 1797.197a
21 of the Health and Safety Code.

22 (2) (A) An authorized entity shall not be liable for any civil
23 damages resulting from any act or omission other than an act or
24 omission constituting gross negligence or willful or wanton
25 misconduct connected to the administration of an epinephrine
26 auto-injector by any one of its employees, volunteers, or agents
27 who is a lay rescuer, as defined by paragraph (4) of subdivision
28 (a) of Section 1797.197a of the Health and Safety Code.

29 (B) The failure of an authorized entity to possess or administer
30 an epinephrine auto-injector shall not result in civil liability.

31 (3) This subdivision does not affect any other immunity or
32 defense that is available under law.

33 (c) The protection specified in subdivision (b) shall not apply
34 in a case of personal injury or wrongful death that results from the
35 gross negligence or willful or wanton misconduct of the person
36 who renders emergency care treatment by the use of an epinephrine
37 auto-injector.

38 (d) Nothing in this section relieves a manufacturer, designer,
39 developer, distributor, or supplier of an epinephrine auto-injector
40 of liability under any other applicable law.

1 SEC. 3. Section 1797.197a of the Health and Safety Code is
2 amended to read:

3 1797.197a. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Anaphylaxis” means a potentially life-threatening
6 hypersensitivity or allergic reaction to a substance.

7 (A) Symptoms of anaphylaxis may include shortness of breath,
8 wheezing, difficulty breathing, difficulty talking or swallowing,
9 hives, itching, swelling, shock, or asthma.

10 (B) Causes of anaphylaxis may include, but are not limited to,
11 insect stings or bites, foods, drugs, and other allergens, as well as
12 idiopathic or exercise-induced anaphylaxis.

13 (2) “Authorized entity” means any for-profit, nonprofit, or
14 government entity or organization that employs at least one person
15 or utilizes at least one volunteer or agent that has voluntarily
16 completed a training course as described in subdivision (c).

17 (3) “Epinephrine auto-injector” means a disposable drug delivery
18 system with a spring-activated concealed needle that is designed
19 for emergency administration of epinephrine to provide rapid,
20 convenient first aid for persons suffering from anaphylaxis.

21 (4) “Lay rescuer” means any person who has met the training
22 standards and other requirements of this section but who is not
23 otherwise licensed or certified to use an epinephrine auto-injector
24 on another person.

25 (5) “Prehospital emergency medical care person” has the same
26 meaning as defined in paragraph (2) of subdivision (a) of Section
27 1797.189.

28 (b) A prehospital emergency medical care person or lay rescuer
29 may use an epinephrine auto-injector to render emergency care to
30 another person if all of the following requirements are met:

31 (1) The epinephrine auto-injector is legally obtained by
32 prescription from an authorized health care provider or from an
33 authorized entity that acquired the epinephrine auto-injector
34 pursuant to subdivision (e).

35 (2) The epinephrine auto-injector is used on another, with the
36 expressed or implied consent of that person, to treat anaphylaxis.

37 (3) The epinephrine auto-injector is stored and maintained as
38 directed by the manufacturer’s instructions for that product.

39 (4) The person using the epinephrine auto-injector has
40 successfully completed a course of training with an authorized

1 training provider, as described in subdivision (c), and has current
2 certification of training issued by the provider.

3 (5) The epinephrine auto-injectors obtained by prehospital
4 emergency medical care personnel pursuant to Section 4119.3 of
5 the Business and Professions Code shall be used only when
6 functioning outside the course of the person's occupational duties,
7 or as a volunteer, pursuant to this section.

8 (6) The Emergency Medical Services System is activated as
9 soon as practicable when an epinephrine auto-injector is used.

10 (c) (1) The authorized training providers shall be approved,
11 and the minimum standards for training and the use and
12 administration of epinephrine auto-injectors pursuant to this section
13 shall be established and approved, by the authority. The authority
14 may designate existing training standards for the use and
15 administration of epinephrine auto-injectors by prehospital
16 emergency medical care personnel to satisfy the requirements of
17 this section.

18 (2) The minimum training and requirements shall include all of
19 the following components:

20 (A) Techniques for recognizing circumstances, signs, and
21 symptoms of anaphylaxis.

22 (B) Standards and procedures for proper storage and emergency
23 use of epinephrine auto-injectors.

24 (C) Emergency followup procedures, including activation of
25 the Emergency Medical Services System, by calling the emergency
26 9-1-1 telephone number or otherwise alerting and summoning
27 more advanced medical personnel and services.

28 (D) Compliance with all regulations governing the training,
29 indications, use, and precautions concerning epinephrine
30 auto-injectors.

31 (E) Written material covering the information required under
32 this provision, including the manufacturer product information
33 sheets on commonly available models of epinephrine auto-injectors.

34 (F) Completion of a training course in cardiopulmonary
35 resuscitation and the use of an automatic external defibrillator
36 (AED) for infants, children, and adults that complies with
37 regulations adopted by the authority and the standards of the
38 American Heart Association or the American Red Cross, and a
39 current certification for that training.

1 (3) Training certification shall be valid for no more than two
2 years, after which recertification with an authorized training
3 provider is required.

4 (4) The director may, in accordance with regulations adopted
5 by the authority, deny, suspend, or revoke any approval issued
6 under this subdivision or may place any approved training provider
7 on probation upon a finding by the director of an imminent threat
8 to public health and safety, as evidenced by any of the following:

9 (A) Fraud.

10 (B) Incompetence.

11 (C) The commission of any fraudulent, dishonest, or corrupt
12 act that is substantially related to the qualifications, functions, or
13 duties of training program directors or instructors.

14 (D) Conviction of any crime that is substantially related to the
15 qualifications, functions, or duties of training program directors
16 or instructors. The record of conviction or a certified copy of the
17 record shall be conclusive evidence of the conviction.

18 (E) Violating or attempting to violate, directly or indirectly, or
19 assisting in or abetting the violation of, or conspiring to violate,
20 any provision of this section or the regulations promulgated by the
21 authority pertaining to the review and approval of training
22 programs in anaphylaxis and the use and administration of
23 epinephrine auto-injectors, as described in this subdivision.

24 (d) (1) The authority shall assess a fee pursuant to regulation
25 sufficient to cover the reasonable costs incurred by the authority
26 for the ongoing review and approval of training and certification
27 under subdivision (c).

28 (2) The fees shall be deposited in the Specialized First Aid
29 Training Program Approval Fund, which is hereby created in the
30 State Treasury. All moneys deposited in the fund shall be made
31 available, upon appropriation, to the authority for purposes
32 described in paragraph (1).

33 (3) The authority may transfer unused portions of the Specialized
34 First Aid Training Program Approval Fund to the Surplus Money
35 Investment Fund. Funds transferred to the Surplus Money
36 Investment Fund shall be placed in a separate trust account, and
37 shall be available for transfer to the Specialized First Aid Training
38 Program Approval Fund, together with the interest earned, when
39 requested by the authority.

1 (4) The authority shall maintain a reserve balance in the
 2 Specialized First Aid Training Program Approval Fund of 5 percent
 3 of annual revenues. Any increase in the fees deposited in the
 4 Specialized First Aid Training Program Approval Fund shall be
 5 effective upon determination by the authority that additional
 6 moneys are required to fund expenditures pursuant to subdivision
 7 (c).

8 (e) (1) An authorized health care provider may issue a
 9 prescription for an epinephrine auto-injector to a prehospital
 10 emergency medical care person or a lay rescuer for the purpose of
 11 rendering emergency care to another person upon presentation of
 12 a current *epinephrine auto-injector certification card issued by the*
 13 *authority* demonstrating that the person is trained and qualified to
 14 administer an epinephrine auto-injector pursuant to this section or
 15 any other law.

16 (2) An authorized health care provider may issue a prescription
 17 for an epinephrine auto-injector to an authorized entity if the
 18 authorized entity submits evidence it employs at least one person,
 19 or utilizes at least one volunteer or agent, who is trained and *has*
 20 *a current epinephrine auto-injector certification card issued by*
 21 *the authority demonstrating that the person is* qualified to
 22 administer an epinephrine auto-injector pursuant to this section.

23 (f) An authorized entity that possesses and makes available
 24 epinephrine auto-injectors shall do both of the following:

25 (1) Create and maintain on its premises an operations plan that
 26 includes all of the following:

27 (A) The name and contact number for the authorized health care
 28 provider who prescribed the epinephrine auto-injector.

29 (B) Where and how the epinephrine auto-injector will be stored.

30 (C) The names of the designated employees or agents who have
 31 completed the training program required by this section and who
 32 are authorized to administer the epinephrine auto-injector.

33 (D) How and when the epinephrine auto-injector will be
 34 inspected for an expiration date.

35 (E) The process to replace the expired epinephrine auto-injector,
 36 including the proper disposal of the expired epinephrine
 37 auto-injector or used epinephrine auto-injector in a sharps
 38 container.

39 ~~(2) Submit to the State Department of Public Health, on a form~~
 40 ~~developed by the State Department of Public Health, a report of~~

1 each incident on the authorized entity's premises that involves the
2 administration of an epinephrine auto-injector. The State
3 Department of Public Health shall annually publish a report that
4 summarizes and analyzes all reports submitted to it under this
5 subdivision.

6 (2) *Submit to the authority, in a manner identified by the*
7 *authority, a report of each incident that involves the use of an*
8 *epinephrine auto-injector, not more than 30 days after each use.*
9 *The authority shall annually publish a report that summarizes all*
10 *reports submitted to it under this subdivision.*

11 (g) This section shall not apply to a school district or county
12 office of education, or its personnel, that provides and utilizes
13 epinephrine auto-injectors to provide emergency medical aid
14 pursuant to Section 49414 of the Education Code.

15 (h) This section shall not be construed to limit or restrict the
16 ability of prehospital emergency medical care personnel, under
17 any other statute or regulation, to administer epinephrine, including
18 the use of epinephrine auto-injectors, or to require additional
19 training or certification beyond what is already required under the
20 other statute or regulation.

21 SEC. 4. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Mayes	BILL NUMBER:	AB 1748
SPONSOR:	Mayes	BILL STATUS:	Senate Committee on Education
SUBJECT:	Pupils: pupil health: opioid antagonist	DATE LAST AMENDED:	April 25, 2016

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.

Amended analysis as of 4/14:

This bill would provide that an employee who volunteers pursuant to this section may rescind his or her offer to administer emergency naloxone hydrochloride or another opioid antagonist at any time, including after receipt of training. The bill would provide that a volunteer shall be allowed to administer naloxone hydrochloride or another opioid antagonist in the available form the volunteer is most comfortable with.

Amended analysis as of 4/25:

The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours.

The bill would delete the requirement that those individuals who are authorized to administer naloxone hydrochloride or another opioid antagonist under certain circumstances initiate emergency medical services or other appropriate medical followup in accordance with written training materials. The bill would provide that training include basic emergency followup procedures, including but not limited to, a school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The bill would provide that the requirement for the school or charter school administrator or other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.

The bill would provide that volunteers may only administer naloxone hydrochloride or another opioid antagonist by nasal spray.

The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be 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.

Amended analysis as of 5/11:

This bill would clarify that its provisions apply to both public and private elementary and secondary schools.

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (May 12, 2016)

SUPPORT:

Drug Policy Alliance

OPPOSE:

California Teachers Association

AMENDED IN ASSEMBLY MAY 11, 2016
AMENDED IN ASSEMBLY APRIL 25, 2016
AMENDED IN ASSEMBLY APRIL 14, 2016
AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1748

Introduced by Assembly Member Mayes

February 2, 2016

An act to add Section 4119.8 to the Business and Professions Code, and to add Section 49414.3 to the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1748, as amended, Mayes. Pupils: pupil health: opioid antagonist.

(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~~ a 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 the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours. 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 provide that volunteers may only administer naloxone hydrochloride or another opioid antagonist by nasal spray. 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 administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be 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.

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

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

- 1 SECTION 1. Section 4119.8 is added to the Business and
- 2 Professions Code, to read:
- 3 4119.8. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish naloxone hydrochloride or another opioid antagonist to a
- 5 school district, county office of education, or charter school
- 6 pursuant to Section 49414.3 of the Education Code if all of the
- 7 following are met:
- 8 (1) The naloxone hydrochloride or another opioid antagonist is
- 9 furnished exclusively for use at a school district schoolsite, county
- 10 office of education schoolsite, or charter school.

1 (2) A physician and surgeon provides a written order that
2 specifies the quantity of naloxone hydrochloride or another opioid
3 antagonist to be furnished.

4 (b) Records regarding the acquisition and disposition of
5 naloxone hydrochloride or another opioid antagonist furnished
6 pursuant to subdivision (a) shall be maintained by the school
7 district, county office of education, or charter school for a period
8 of three years from the date the records were created. The school
9 district, county office of education, or charter school shall be
10 responsible for monitoring the supply of naloxone hydrochloride
11 or another opioid antagonist and ensuring the destruction of expired
12 naloxone hydrochloride or another opioid antagonist.

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

15 49414.3. (a) School districts, county offices of education, and
16 charter schools may provide emergency naloxone hydrochloride
17 or another opioid antagonist to school nurses or trained personnel
18 who have volunteered pursuant to subdivision (d), and school
19 nurses or trained personnel may use naloxone hydrochloride or
20 another opioid antagonist to provide emergency medical aid to
21 persons suffering, or reasonably believed to be suffering, from an
22 opioid overdose.

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

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

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

35 (3) "Qualified supervisor of health" may include, but is not
36 limited to, a school nurse.

37 (4) "Volunteer" or "trained personnel" means an employee who
38 has volunteered to administer naloxone hydrochloride or another
39 opioid antagonist to a person if the person is suffering, or
40 reasonably believed to be suffering, from an opioid overdose, has

1 been designated by a school, and has received training pursuant
2 to subdivision (d).

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

14 (d) (1) Each public and private elementary and secondary school
15 in the state may designate one or more volunteers to receive initial
16 and annual refresher training, based on the standards developed
17 pursuant to subdivision (e), regarding the storage and emergency
18 use of naloxone hydrochloride or another opioid antagonist from
19 the school nurse or other qualified person designated by an
20 authorizing physician and surgeon. A benefit shall not be granted
21 to or withheld from any individual based on his or her offer to
22 volunteer and there shall be no retaliation against any individual
23 for rescinding his or her offer to volunteer, including after receiving
24 training. Any school district, county office of education, or charter
25 school choosing to exercise the authority provided under this
26 subdivision shall provide the training for the volunteers at no cost
27 to the volunteer and during the volunteer's regular working hours.

28 (2) An employee who volunteers pursuant to this section may
29 rescind his or her offer to administer emergency naloxone
30 hydrochloride or another opioid antagonist at any time, including
31 after receipt of training.

32 (e) (1) The Superintendent shall establish minimum standards
33 of training for the administration of naloxone hydrochloride or
34 another opioid antagonist that satisfies the requirements of
35 paragraph (2). Every five years, or sooner as deemed necessary
36 by the Superintendent, the Superintendent shall review minimum
37 standards of training for the administration of naloxone
38 hydrochloride or other opioid antagonists that satisfy the
39 requirements of paragraph (2). For purposes of this subdivision,
40 the Superintendent shall consult with organizations and providers

1 with expertise in administering naloxone hydrochloride or another
2 opioid antagonist and administering medication in a school
3 environment, including, but not limited to, the State Department
4 of Public Health, the Emergency Medical Services Authority, the
5 California School Nurses Organization, the California Medical
6 Association, the American Academy of Pediatrics, and others.

7 (2) Training established pursuant to this subdivision shall include
8 all of the following:

9 (A) Techniques for recognizing symptoms of an opioid
10 overdose.

11 (B) Standards and procedures for the storage, restocking, and
12 emergency use of naloxone hydrochloride or another opioid
13 antagonist.

14 (C) Basic emergency followup procedures, including, but not
15 limited to, a requirement for the school or charter school
16 administrator or, if the administrator is not available, another school
17 staff member to call the emergency 911 telephone number and to
18 contact the pupil's parent or guardian. The requirement for the
19 school or charter school administrator or other school staff member
20 to call the emergency 911 telephone number shall not require a
21 pupil to be transported to an emergency room.

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

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

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

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

31 (5) The department shall include on its Internet Web site a
32 clearinghouse for best practices in training nonmedical personnel
33 to administer naloxone hydrochloride or another opioid antagonist
34 to pupils.

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

39 (1) A description of the volunteer request stating that the request
40 is for volunteers to be trained to administer naloxone hydrochloride

1 or another opioid antagonist to a person if the person is suffering,
2 or reasonably believed to be suffering, from an opioid overdose.

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

5 (3) The right of an employee to rescind his or her offer to
6 volunteer pursuant to this section.

7 (4) A statement that no benefit will be granted to or withheld
8 from any individual based on his or her offer to volunteer and that
9 there will be no retaliation against any individual for rescinding
10 his or her offer to volunteer, including after receiving training.

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

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

24 (3) A prescription pursuant to this subdivision may be filled by
25 local or mail order pharmacies or naloxone hydrochloride or
26 another opioid antagonist manufacturers.

27 (4) An authorizing physician and surgeon shall not be subject
28 to professional review, be liable in a civil action, or be subject to
29 criminal prosecution for the issuance of a prescription or order
30 pursuant to this section, unless the physician and surgeon's issuance
31 of the prescription or order constitutes gross negligence or willful
32 or malicious conduct.

33 (h) (1) A school nurse or, if the school does not have a school
34 nurse or the school nurse is not onsite or available, a volunteer
35 may administer naloxone hydrochloride or another opioid
36 antagonist to a person exhibiting potentially life-threatening
37 symptoms of an opioid overdose at school or a school activity
38 when a physician is not immediately available. If the naloxone
39 hydrochloride or another opioid antagonist is used it shall be
40 restocked as soon as reasonably possible, but no later than two

1 weeks after it is used. Naloxone hydrochloride or another opioid
2 antagonist shall be restocked before its expiration date.

3 (2) Volunteers may only administer naloxone hydrochloride or
4 another opioid antagonist by nasal spray.

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

15 (j) (1) Notwithstanding any other law, a person trained as
16 required under subdivision (d), who administers naloxone
17 hydrochloride or another opioid antagonist, in good faith and not
18 for compensation, to a person who appears to be experiencing an
19 opioid overdose shall not be subject to professional review, be
20 liable in a civil action, or be subject to criminal prosecution for
21 his or her acts or omissions in administering the naloxone
22 hydrochloride or another opioid antagonist.

23 (2) The protection specified in paragraph (1) shall not apply in
24 a case of gross negligence or willful and wanton misconduct of
25 the person who renders emergency care treatment by the use of
26 naloxone hydrochloride or another opioid antagonist.

27 (3) Any public employee who volunteers to administer naloxone
28 hydrochloride or another opioid antagonist pursuant to subdivision
29 (d) is not providing emergency medical care “for compensation,”
30 notwithstanding the fact that he or she is a paid public employee.

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

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Calderon	BILL NUMBER:	AB 2079
SPONSOR:	SEIU California SEIU Local 2015	BILL STATUS:	Senate Committee of Rules
SUBJECT:	Skilled nursing facilities: staffing	DATE LAST AMENDED:	May 31, 2016

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.

Amended analysis as of 4/18:

This bill would substitute the term “direct care service hours” for the term “nursing hours” and, commencing January 1, 2018, except as specified, increase the minimum number of direct care service hours per patient day to 4.1 hours.

Amended analysis as of 5/31:

(1) This bill would require the department to develop regulations that become effective January 1, 2018, and include a minimum number of equivalent direct care service hours per patient day for direct caregivers working in skilled nursing facilities, as specified.

(2) This bill would substitute the term “equivalent direct care service hours” for the term “nursing hours” and, commencing January 1, 2018, except as specified, increase the minimum number of equivalent direct care service hours per patient day to 4.1 hours on a specified incremental basis by January 1, 2020.

(3) Existing law requires the Director of Health Care Services to adopt regulations relating to the nursing hours provided per patient in skilled nursing facilities.

This bill would require the department to adopt regulations setting forth the minimum number of equivalent direct care service hours per patient required in skilled nursing facilities, at the same incrementally increasing rate as required above, except as specified.

BOARD POSITION: Watch (4/14/16)

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

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2079

Introduced by Assembly Member Calderon

February 17, 2016

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 amended, 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, instead,~~ would require the department to develop regulations that become effective ~~July 1, 2017,~~ *January 1, 2018*, 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. number of equivalent direct care service hours per patient day for direct caregivers working in skilled nursing facilities, as specified.~~ 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~~ *“equivalent direct care service hours”* for the term “nursing hours” and, commencing January 1, 2018, except as specified, increase the minimum number of *equivalent direct care service hours per patient day to 4.1 hours. hours on a specified incremental basis by January 1, 2020.*

(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 requires the Director of Health Care Services to adopt regulations relating to the nursing hours provided per patient in skilled nursing facilities*

~~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.~~

This bill would require the department to adopt regulations setting forth the minimum number of equivalent direct care service hours per patient required in skilled nursing facilities, at the same incrementally increasing rate as required above, except as specified.

(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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1276.5 of the Health and Safety Code is
2 amended to read:

3 1276.5. (a) (1) The department shall adopt regulations setting
4 forth the minimum number of equivalent direct care service hours
5 per patient required in intermediate care facilities, subject to the
6 specific requirements of Section 14110.7 of the Welfare and
7 Institutions Code.

8 (2) For the purposes of this subdivision, ~~“direct~~ “*equivalent*
9 *direct* care service hours” means the number of hours of work
10 performed per patient day by aides, nursing assistants, or orderlies
11 plus two times the number of hours worked per patient day by
12 registered nurses and licensed vocational nurses (except directors
13 of nursing in facilities of 60 or larger capacity) and, in the distinct
14 part of facilities and freestanding facilities providing care for
15 persons with developmental disabilities or mental health disorders
16 by licensed psychiatric technicians who perform direct nursing
17 services for patients in intermediate care facilities, except when
18 the intermediate care facility is licensed as a part of a state hospital.

19 (b) (1) (A) The department shall adopt regulations setting forth
20 the minimum number of equivalent direct care service hours per
21 patient required in skilled nursing facilities, subject to the specific
22 requirements of Section 14110.7 of the Welfare and Institutions
23 Code. However, notwithstanding Section 14110.7 of the Welfare
24 and Institutions Code or any other law, the minimum number of
25 *equivalent* direct care service hours per patient required in a skilled
26 nursing facility shall be 3.2 hours, and, commencing January 1,
27 2018, ~~shall be 4.1 hours~~, *nursing facilities shall be required to*
28 *increase their equivalent direct care service hours incrementally,*
29 *as described in this paragraph*, except as provided in paragraph
30 (2) or Section 1276.9.

1 (B) Commencing January 1, 2018, skilled nursing facilities,
2 except those skilled nursing facilities that are a distinct part of a
3 general acute care facility or a state hospital, shall have a
4 minimum number of equivalent direct care service hours of 3.5
5 per patient day, with 2.4 hours per patient day for certified nursing
6 assistants (CNAs) and 1.1 hours per patient day for licensed nurses,
7 except as set forth in Section 1276.9.

8 (C) Commencing January 1, 2019, skilled nursing facilities,
9 except those skilled nursing facilities that are a distinct part of a
10 general acute care facility or a state hospital, shall have a
11 minimum number of equivalent direct care service hours of 3.8
12 per patient day, with 2.6 hours per patient day for CNAs and 1.2
13 hours per patient day for licensed nurses, except as set forth in
14 Section 1276.9.

15 (D) Commencing January 1, 2020, skilled nursing facilities,
16 except those skilled nursing facilities that are a distinct part of a
17 general acute care facility or a state hospital, shall have a
18 minimum number of equivalent direct care service hours of 4.1
19 per patient day, with 2.8 hours per patient day for CNAs and 1.3
20 hours per patient day for licensed nurses, except as set forth in
21 Section 1276.9.

22 (2) Notwithstanding Section 14110.7 or any other law, the
23 minimum number of *equivalent* direct care service hours per patient
24 required in a skilled nursing facility that is a distinct part of a
25 facility licensed as a general acute care hospital *or that is operated*
26 *by the State Department of State Hospitals* shall be 3.2 ~~hours~~; *hours*
27 *per patient day*, except as provided in Section 1276.9.

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

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

35 (d) (1) Except as otherwise provided by law, the administrator
36 of an intermediate care facility/developmentally disabled,
37 intermediate care facility/developmentally disabled habilitative,
38 or an intermediate care facility/developmentally disabled—nursing
39 shall be either a licensed nursing home administrator or a qualified

1 intellectual disability professional as defined in Section 483.430
2 of Title 42 of the Code of Federal Regulations.

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

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

12 1276.65. (a) For purposes of this section, the following
13 definitions shall apply:

14 (1) (A) Except as provided in subparagraph (B), “direct
15 caregiver” means a registered nurse, as referred to in Section 2732
16 of the Business and Professions Code, a licensed vocational nurse,
17 as referred to in Section 2864 of the Business and Professions
18 Code, a psychiatric technician, as referred to in Section 4516 of
19 the Business and Professions Code, or a certified nursing assistant
20 or a nursing assistant who is participating in an approved training
21 program, as defined in Section 1337, while performing nursing
22 services as described in Sections 72309, 72311, and 72315 of Title
23 22 of the California Code of Regulations.

24 (B) A person serving as the director of nursing services in a
25 facility with 60 or more licensed beds is not a direct caregiver.

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

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

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

37 ~~(e) (1) (A) Notwithstanding any other law, the State~~
38 ~~Department of Public Health shall develop regulations that become~~
39 ~~effective July 1, 2017, that establish a minimum staff-to-patient~~
40 ~~ratio for direct caregivers working in a skilled nursing facility. The~~

1 ratio shall include as a part of the overall staff-to-patient ratio,
2 specific staff-to-patient ratios for licensed nurses and certified
3 nurse assistants.

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

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

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

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

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

16 (I) "Day shift" means the 8-hour period during which the
17 facility's patients require the greatest amount of care.

18 (II) "Evening shift" means the 8-hour period when the facility's
19 patients require a moderate amount of care.

20 (III) "Night shift" means the 8-hour period during which a
21 facility's patients require the least amount of care.

22 (2) The department, in developing an overall staff-to-patient
23 ratio for direct caregivers, and in developing specific
24 staff-to-patient ratios for certified nurse assistants and licensed
25 nurses as required by this section, shall convert the requirement
26 under Section 1276.5 of this code and Section 14110.7 of the
27 Welfare and Institutions Code for 3.2 direct care hours per patient
28 day, and commencing July 1, 2017, except as specified in
29 paragraph (2) of subdivision (b) of Section 1276.5, for 4.1 direct
30 care service hours per patient day, including a minimum of 2.8
31 direct care service hours per patient day for certified nurse
32 assistants, and a minimum of 1.3 direct care service hours per
33 patient day for licensed nurses, and shall ensure that no less care
34 is given than is required pursuant to Section 1276.5 of this code
35 and Section 14110.7 of the Welfare and Institutions Code. Further,
36 the department shall develop the ratios in a manner that minimizes
37 additional state costs, maximizes resident access to care, and takes
38 into account the length of the shift worked. In developing the
39 regulations, the department shall develop a procedure for facilities
40 to apply for a waiver that addresses individual patient needs except

1 that in no instance shall the minimum staff-to-patient ratios be less
2 than the 3.2 direct care service hours per patient day, and,
3 commencing July 1, 2017, except as specified in paragraph (2) of
4 subdivision (b) of Section 1276.5, be less than the 4.1 direct care
5 service hours per patient day, required under Section 1276.5 of
6 this code and Section 14110.7 of the Welfare and Institutions Code.

7 (b) *Notwithstanding any other law, the State Department of*
8 *Public Health shall develop regulations that become effective*
9 *January 1, 2018, and establish a minimum number of equivalent*
10 *direct care service hours per patient day for direct caregivers*
11 *working in a skilled nursing facility, as specified in subdivision*
12 *(b) of Section 1276.5. The regulations shall require that no less*
13 *care be given than is required pursuant to Section 1276.5 and*
14 *Section 14110.7 of the Welfare and Institutions Code.*

15 (d)

16 (c) ~~The staffing ratios to be developed pursuant to equivalent~~
17 ~~direct care service hour requirements of this section shall be~~
18 ~~minimum standards only and shall be satisfied daily. Skilled~~
19 ~~nursing facilities shall employ and schedule additional staff as~~
20 ~~needed to ensure quality resident care based on the needs of~~
21 ~~individual residents and to ensure compliance with all relevant~~
22 ~~state and federal staffing requirements.~~

23 (e)

24 (d) No later than January 1, 2019, and every five years thereafter,
25 the department shall consult with consumers, consumer advocates,
26 recognized collective bargaining agents, and providers to determine
27 the sufficiency of the staffing standards provided in this section
28 and may adopt regulations to increase the minimum staffing ratios
29 standards to adequate levels.

30 (f)

31 (e) (1) In a manner pursuant to federal requirements, effective
32 January 1, 2003, every skilled nursing facility shall post
33 information about resident census and staffing levels that includes
34 the current number of licensed and unlicensed nursing staff directly
35 responsible for resident care in the facility. This posting shall
36 include staffing requirements developed pursuant to this section
37 and an accurate report of the number of direct care staff working
38 during the current shift, including a report of the number of
39 registered nurses, licensed vocational nurses, psychiatric
40 technicians, and certified nurse assistants. The information shall

1 be posted on paper that is at least 8.5 inches by 14 inches and shall
2 be printed in a type of at least 16 point.

3 (2) The information described in paragraph (1) shall be posted
4 daily, at a minimum, in the following locations:

- 5 (A) An area readily accessible to members of the public.
- 6 (B) An area used for employee breaks.
- 7 (C) An area used by residents for communal functions,
8 including, but not limited to, dining, resident council meetings, or
9 activities.

10 (3) (A) Upon oral or written request, every skilled nursing
11 facility shall make direct caregiver staffing data available to the
12 public for review at a reasonable cost. A skilled nursing facility
13 shall provide the data to the requestor within 15 days after receiving
14 a request.

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

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

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

33 ~~(h)~~
34 (g) The requirements of this section are in addition to any
35 requirement set forth in Section 1276.5 of this code and Section
36 14110.7 of the Welfare and Institutions Code.

37 ~~(i)~~
38 (h) In implementing this section, the department may contract
39 as necessary, on a bid or nonbid basis, for professional consulting
40 services from nationally recognized higher education and research

1 institutions, or other qualified individuals and entities not
2 associated with a skilled nursing facility, with demonstrated
3 expertise in long-term care. This subdivision establishes an
4 accelerated process for issuing contracts pursuant to this section
5 and contracts entered into pursuant to this section shall be exempt
6 from the requirements of Chapter 1 (commencing with Section
7 10100) and Chapter 2 (commencing with Section 10290) of Part
8 2 of Division 2 of the Public Contract Code.

9 (j)

10 (i) This section shall not apply to facilities defined in Section
11 1276.9.

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

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

16 14110.7. (a) In skilled nursing facilities, the minimum number
17 of equivalent direct care service hours shall be 3.2, except as set
18 forth in Section 1276.9 of the Health and Safety Code.

19 ~~(b) Commencing July 1, 2017, in skilled nursing facilities,~~
20 ~~except those skilled nursing facilities that are a distinct part of a~~
21 ~~general acute care facility, the minimum number of equivalent~~
22 ~~direct care service hours shall be 4.1, except as set forth in Section~~
23 ~~1276.9 of the Health and Safety Code.~~

24 (b) (1) *The department shall adopt regulations setting forth the*
25 *minimum number of equivalent direct care service hours per*
26 *patient required in skilled nursing facilities, subject to the specific*
27 *requirements of this section. However, notwithstanding this section*
28 *or any other law, the minimum number of equivalent direct care*
29 *service hours per patient required in a skilled nursing facility shall*
30 *be 3.2 hours, and, commencing January 1, 2018, skilled nursing*
31 *facilities shall be required to increase their equivalent direct care*
32 *service hours incrementally, as described in this subdivision, except*
33 *as otherwise provided in subdivisions (c) to (e), inclusive, and*
34 *Section 1276.9 of the Health and Safety Code.*

35 (2) *Commencing January 1, 2018, the skilled nursing facilities,*
36 *except those skilled nursing facilities that are a distinct part of a*
37 *general acute care facility or a state hospital, shall have a*
38 *minimum number of equivalent direct care service hours of 3.5*
39 *per patient day, with 2.4 hours per patient day for certified nursing*

1 *assistants (CNAs) and 1.1 hours per patient day for licensed nurses,*
 2 *except as set forth in Section 1276.9 of the Health and Safety Code.*

3 (3) *Commencing January 1, 2019, skilled nursing facilities,*
 4 *except those skilled nursing facilities that are a distinct part of a*
 5 *general acute care facility or a state hospital, shall have a*
 6 *minimum number of equivalent direct care service hours of 3.8*
 7 *per patient day, with 2.6 hours per patient day for CNAs and 1.2*
 8 *hours per patient day for licensed nurses, except as set forth in*
 9 *Section 1276.9 of the Health and Safety Code.*

10 (4) *Commencing January 1, 2020, skilled nursing facilities,*
 11 *except those skilled nursing facilities that are a distinct part of a*
 12 *general acute care facility or a state hospital, shall have a*
 13 *minimum number of equivalent direct care service hours of 4.1*
 14 *per patient day, with 2.8 hours per patient day for CNAs and 1.3*
 15 *hours per patient day for licensed nurses, except as set forth in*
 16 *Section 1276.9 of the Health and Safety Code.*

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

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

22 (e) In intermediate care facilities/developmentally disabled, the
 23 minimum number of equivalent direct care service hours shall be
 24 2.7.

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

27 14126.022. (a) (1) By August 1, 2011, the department shall
 28 develop the Skilled Nursing Facility Quality and Accountability
 29 Supplemental Payment System, subject to approval by the federal
 30 Centers for Medicare and Medicaid Services, and the availability
 31 of federal, state, or other funds.

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

38 (B) A freestanding pediatric subacute care facility, as defined
 39 in Section 51215.8 of Title 22 of the California Code of

1 Regulations, shall be exempt from the Skilled Nursing Facility
2 Quality and Accountability Supplemental Payment System.

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

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

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

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

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

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

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

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

26 (5) The department, in coordination with the State Department
27 of Public Health, shall report to the relevant Assembly and Senate
28 budget subcommittees by May 1, 2016, information regarding the
29 quality and accountability supplemental payments, including, but
30 not limited to, its assessment of whether the payments are adequate
31 to incentivize quality care and to sustain the program.

32 (b) (1) There is hereby created in the State Treasury, the Skilled
33 Nursing Facility Quality and Accountability Special Fund. The
34 fund shall contain moneys deposited pursuant to subdivisions (g)
35 and (j) to (m), inclusive. Notwithstanding Section 16305.7 of the
36 Government Code, the fund shall contain all interest and dividends
37 earned on moneys in the fund.

38 (2) Notwithstanding Section 13340 of the Government Code,
39 the fund shall be continuously appropriated without regard to fiscal
40 year to the department for making quality and accountability

1 payments, in accordance with subdivision (n), to facilities that
2 meet or exceed predefined measures as established by this section.

3 (3) Upon appropriation by the Legislature, moneys in the fund
4 may also be used for any of the following purposes:

5 (A) To cover the administrative costs incurred by the State
6 Department of Public Health for positions and contract funding
7 required to implement this section.

8 (B) To cover the administrative costs incurred by the State
9 Department of Health Care Services for positions and contract
10 funding required to implement this section.

11 (C) To provide funding assistance for the Long-Term Care
12 Ombudsman Program activities pursuant to Chapter 11
13 (commencing with Section 9700) of Division 8.5.

14 (c) No appropriation associated with this bill is intended to
15 implement the provisions of Section 1276.65 of the Health and
16 Safety Code.

17 (d) (1) There is hereby appropriated for the 2010–11 fiscal year,
18 one million nine hundred thousand dollars (\$1,900,000) from the
19 Skilled Nursing Facility Quality and Accountability Special Fund
20 to the California Department of Aging for the Long-Term Care
21 Ombudsman Program activities pursuant to Chapter 11
22 (commencing with Section 9700) of Division 8.5. It is the intent
23 of the Legislature for the one million nine hundred thousand dollars
24 (\$1,900,000) from the fund to be in addition to the four million
25 one hundred sixty-eight thousand dollars (\$4,168,000) proposed
26 in the Governor’s May Revision for the 2010–11 Budget. It is
27 further the intent of the Legislature to increase this level of
28 appropriation in subsequent years to provide support sufficient to
29 carry out the mandates and activities pursuant to Chapter 11
30 (commencing with Section 9700) of Division 8.5.

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

39 (e) There is hereby created in the Special Deposit Fund
40 established pursuant to Section 16370 of the Government Code,

1 the Skilled Nursing Facility Minimum Staffing Penalty Account.
2 The account shall contain all moneys deposited pursuant to
3 subdivision (f).

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

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

18 (i) Fifteen thousand dollars (\$15,000) if the facility fails to meet
19 the requirements for 5 percent or more of the audited days up to
20 49 percent.

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

23 (B) (i) If the skilled nursing facility does not dispute the
24 determination or assessment, the penalties shall be paid in full by
25 the licensee to the State Department of Public Health within 30
26 days of the facility's receipt of the notice of penalty and deposited
27 into the Skilled Nursing Facility Minimum Staffing Penalty
28 Account.

29 (ii) The State Department of Public Health may, upon written
30 notification to the licensee, request that the department offset any
31 moneys owed to the licensee by the Medi-Cal program or any other
32 payment program administered by the department to recoup the
33 penalty provided for in this section.

34 (C) (i) If a facility disputes the determination or assessment
35 made pursuant to this paragraph, the facility shall, within 15 days
36 of the facility's receipt of the determination and assessment,
37 simultaneously submit a request for appeal to both the department
38 and the State Department of Public Health. The request shall
39 include a detailed statement describing the reason for appeal and

1 include all supporting documents the facility will present at the
2 hearing.

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

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

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

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

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

19 (E) The appeals process set forth in this paragraph shall be
20 exempt from Chapter 4.5 (commencing with Section 11400) and
21 Chapter 5 (commencing with Section 11500), of Part 1 of Division
22 3 of Title 2 of the Government Code. The provisions of Sections
23 100171 and 131071 of the Health and Safety Code shall not apply
24 to appeals under this paragraph.

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

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

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

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

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

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

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

14 (i) Immunization rates.

15 (ii) Facility acquired pressure ulcer incidence.

16 (iii) The use of physical restraints.

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

20 (v) Resident and family satisfaction.

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

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

26 ~~(C)~~

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

36 ~~(D)~~

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

1 (i) Compliance with state policy associated with the United
2 States Supreme Court decision in *Olmstead v. L.C. ex rel. Zimring*
3 (1999) 527 U.S. 581.

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

6 (iii) The use of chemical restraints.

7 ~~(E)~~

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

13 (j) (1) Beginning with the 2010–11 rate year, and pursuant to
14 subparagraph (B) of paragraph (5) of subdivision (a) of Section
15 14126.023, the department shall set aside savings achieved from
16 setting the professional liability insurance cost category, including
17 any insurance deductible costs paid by the facility, at the 75th
18 percentile. From this amount, the department shall transfer the
19 General Fund portion into the Skilled Nursing Facility Quality and
20 Accountability Special Fund. A skilled nursing facility shall
21 provide supplemental data on insurance deductible costs to
22 facilitate this adjustment, in the format and by the deadlines
23 determined by the department. If this data is not provided, a
24 facility's insurance deductible costs will remain in the
25 administrative costs category.

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

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

36 (l) If this act is extended beyond the dates on which it becomes
37 inoperative and is repealed, for the 2014–15 rate year, in addition
38 to the amount set aside pursuant to subdivision (k), if there is a
39 rate increase in the weighted average Medi-Cal reimbursement
40 rate, the department shall set aside at least one-third of the weighted

1 average Medi-Cal reimbursement rate increase, up to a maximum
2 of 1 percent, from which the department shall transfer the General
3 Fund portion of this amount into the Skilled Nursing Facility
4 Quality and Accountability Special Fund.

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

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

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

24 (ii) The department shall articulate in a report to the fiscal and
25 appropriate policy committees of the Legislature the
26 implementation of an alternative mechanism as described in clause
27 (i) at least 90 days prior to any policy or budgetary changes, and
28 seek subsequent legislation in order to enact the proposed changes.

29 (2) Skilled nursing facilities that do not submit required
30 performance data by the department’s specified data submission
31 deadlines pursuant to subdivision (i) shall not be eligible to receive
32 supplemental payments.

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

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

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

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

31 (q) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the following shall apply:

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

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

1 (r) Notwithstanding paragraph (1) of subdivision (n), if a final
2 judicial determination is made by any state or federal court that is
3 not appealed, in any action by any party, or a final determination
4 is made by the administrator of the federal Centers for Medicare
5 and Medicaid Services, that any payments pursuant to subdivisions
6 (a) and (n) are invalid, unlawful, or contrary to any federal law or
7 regulation, or state law, these subdivisions shall become inoperative
8 ~~and~~ *and*, for the 2011–12 rate year, the rate increase provided under
9 subparagraph (A) of paragraph (4) of subdivision (c) of Section
10 14126.033 shall be reduced by the amounts described in
11 subdivision (j). For the 2013–14 and 2014–15 rate years, any rate
12 increase shall be reduced by the amounts described in subdivisions
13 (j) to (l), inclusive.

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

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Nazarian	BILL NUMBER:	AB 2399
SPONSOR:	Nazarian	BILL STATUS:	Senate Committee on Rules
SUBJECT:	Pregnancy: prenatal blood testing	DATE LAST AMENDED:	May 31, 2016

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 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, 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.

Amended summary and analysis as of 5/31:

[The bill deletes provisions related to umbilical cord blood testing and now refers to other prenatal blood testing]

Existing law 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.

This bill would change the language requirements for the informational material described above to require that it is provided in languages that meet a specified numeric threshold.

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: As amended 5/31: not previously considered.

SUPPORT: None available related to the amended version

OPPOSE: None available related to the amended version

AMENDED IN ASSEMBLY MAY 31, 2016
AMENDED IN ASSEMBLY MARCH 28, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2399

Introduced by Assembly Member Nazarian

February 18, 2016

An act to amend ~~Sections 1627, 1630, 102247, 103625, 123371, 125055, and Section 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:~~ *prenatal blood testing*.

(1) ~~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 ~~department~~ *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.

~~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, the prenatal testing informational material, and the patient educational information material to require the information to be~~ *informational material described above to require that it is* 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 $\frac{2}{3}$ of the membership of each house of the Legislature.~~

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

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

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

3 ~~1627. (a) (1) On or before July 1, 2011, the University of~~
4 ~~California is requested to develop a plan to establish and administer~~
5 ~~the Umbilical Cord Blood Collection Program for the purpose of~~
6 ~~collecting units of umbilical cord blood for public use in~~
7 ~~transplantation and providing nonclinical units for research~~
8 ~~pertaining to biology and new clinical utilization of stem cells~~
9 ~~derived from the blood and tissue of the placenta and umbilical~~
10 ~~cord. The program shall conclude no later than January 1, 2023.~~

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

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

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

25 ~~(b) (1) In order to implement the collection goals of this~~
26 ~~program, the University of California may, commensurate with~~

1 available funds appropriated to the University of California for
2 this program, contract with one or more selected applicant entities
3 that have demonstrated the competence to collect and ship cord
4 blood units in compliance with federal guidelines and regulations.

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

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

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

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

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

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

34 (d) (1) All information collected pursuant to the program shall
35 be confidential, and shall be used solely for the purposes of the
36 program, including research. Access to confidential information
37 shall be limited to authorized persons who are bound by appropriate
38 institutional policies or who otherwise agree, in writing, to maintain
39 the confidentiality of that information.

1 ~~(2) Any person who, in violation of applicable institutional~~
2 ~~policies or a written agreement to maintain confidentiality,~~
3 ~~discloses any information provided pursuant to this section, or~~
4 ~~who uses information provided pursuant to this section in a manner~~
5 ~~other than as approved pursuant to this section, may be denied~~
6 ~~further access to any confidential information maintained by the~~
7 ~~University of California, and shall be subject to a civil penalty not~~
8 ~~exceeding one thousand dollars (\$1,000). The penalty provided~~
9 ~~for in this section shall not be construed to limit or otherwise~~
10 ~~restrict any remedy, provisional or otherwise, provided by law for~~
11 ~~the benefit of the University of California or any other person~~
12 ~~covered by this section.~~

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

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

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

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

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

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

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

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

39 ~~SEC. 2. Section 1630 of the Health and Safety Code is amended~~
40 ~~to read:~~

1 1630. ~~This article shall remain in effect only until January 1,~~
2 ~~2023, and as of that date is repealed, unless a later enacted statute,~~
3 ~~that is enacted before January 1, 2023, deletes or extends that date.~~

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

7 102247. (a) ~~There is hereby created in the State Treasury the~~
8 ~~Health Statistics Special Fund. The fund shall consist of revenues,~~
9 ~~including, but not limited to, all of the following:~~

10 (1) ~~Fees or charges remitted to the State Registrar for record~~
11 ~~search or issuance of certificates, permits, registrations, or other~~
12 ~~documents pursuant to Chapter 3 (commencing with Section~~
13 ~~26801) of Part 3 of Division 2 of Title 3 of the Government Code,~~
14 ~~and Chapter 4 (commencing with Section 102525), Chapter 5~~
15 ~~(commencing with Section 102625), Chapter 8 (commencing with~~
16 ~~Section 103050), and Chapter 15 (commencing with Section~~
17 ~~103600) of Part 1 of Division 102 of this code.~~

18 (2) ~~Funds remitted to the State Registrar by the federal Social~~
19 ~~Security Administration for participation in the enumeration at~~
20 ~~birth program.~~

21 (3) ~~Funds remitted to the State Registrar by the National Center~~
22 ~~for Health Statistics pursuant to the federal Vital Statistics~~
23 ~~Cooperative Program.~~

24 (4) ~~Any other funds collected by the State Registrar, except~~
25 ~~Children’s Trust Fund fees collected pursuant to Section 18966 of~~
26 ~~the Welfare and Institutions Code, Umbilical Cord Blood~~
27 ~~Collection Program Fund fees collected pursuant to Section~~
28 ~~103625, and fees allocated to the Judicial Council pursuant to~~
29 ~~Section 1852 of the Family Code, all of which shall be deposited~~
30 ~~into the General Fund.~~

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

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

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

1 ~~(1) Registration and preservation of vital event records and~~
2 ~~dissemination of vital event information to the public.~~

3 ~~(2) Data analysis of vital statistics for population projections,~~
4 ~~health trends and patterns, epidemiologic research, and~~
5 ~~development of information to support new health policies.~~

6 ~~(3) Development of uniform health data systems that are~~
7 ~~integrated, accessible, and useful in the collection of information~~
8 ~~on health status.~~

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

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

15 ~~102247. (a) There is hereby created in the State Treasury the~~
16 ~~Health Statistics Special Fund. The fund shall consist of revenues,~~
17 ~~including, but not limited to, all of the following:~~

18 ~~(1) Fees or charges remitted to the State Registrar for record~~
19 ~~search or issuance of certificates, permits, registrations, or other~~
20 ~~documents pursuant to Chapter 3 (commencing with Section~~
21 ~~26801) of Part 3 of Division 2 of Title 3 of the Government Code,~~
22 ~~and Chapter 4 (commencing with Section 102525), Chapter 5~~
23 ~~(commencing with Section 102625), Chapter 8 (commencing with~~
24 ~~Section 103050), and Chapter 15 (commencing with Section~~
25 ~~103600) of Part 1 of Division 102 of this code.~~

26 ~~(2) Funds remitted to the State Registrar by the federal Social~~
27 ~~Security Administration for participation in the enumeration at~~
28 ~~birth program.~~

29 ~~(3) Funds remitted to the State Registrar by the National Center~~
30 ~~for Health Statistics pursuant to the federal Vital Statistics~~
31 ~~Cooperative Program.~~

32 ~~(4) Any other funds collected by the State Registrar, except~~
33 ~~Children's Trust Fund fees collected pursuant to Section 18966 of~~
34 ~~the Welfare and Institutions Code and fees allocated to the Judicial~~
35 ~~Council pursuant to Section 1852 of the Family Code, all of which~~
36 ~~shall be deposited into the General Fund.~~

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

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

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

7 ~~(1) Registration and preservation of vital event records and~~
8 ~~dissemination of vital event information to the public.~~

9 ~~(2) Data analysis of vital statistics for population projections,~~
10 ~~health trends and patterns, epidemiologic research, and~~
11 ~~development of information to support new health policies.~~

12 ~~(3) Development of uniform health data systems that are~~
13 ~~integrated, accessible, and useful in the collection of information~~
14 ~~on health status.~~

15 ~~(e) This section shall become operative on January 1, 2023.~~

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

19 ~~103625. (a) A fee of twelve dollars (\$12) shall be paid by the~~
20 ~~applicant for a certified copy of a fetal death or death record.~~

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

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

1 ~~(e) A fee of three dollars (\$3) shall be paid by a public agency~~
2 ~~applicant for a certified copy of a marriage record, that has been~~
3 ~~filed with the county recorder or county clerk, that the agency is~~
4 ~~required to obtain in the ordinary course of business. A fee of six~~
5 ~~dollars (\$6) shall be paid by any other applicant for a certified~~
6 ~~copy of a marriage record that has been filed with the county~~
7 ~~recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6)~~
8 ~~fee is exempt from subdivision (e) and shall be transmitted monthly~~
9 ~~by each local registrar, county recorder, and county clerk to the~~
10 ~~state for deposit into the General Fund as provided by Section~~
11 ~~1852 of the Family Code.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 ~~(l) The nine dollar (\$9) increase to the base fee authorized in~~
 40 ~~subdivision (a) for a certified copy of a fetal death record or death~~

1 record and subdivision (b) for a certified copy of a birth certificate
2 shall be applied incrementally as follows:

3 ~~(1) A five dollar (\$5) increase applied as of January 1, 2012.~~

4 ~~(2) An additional two dollar (\$2) increase applied as of January~~
5 ~~1, 2013.~~

6 ~~(3) An additional two dollar (\$2) increase applied as of January~~
7 ~~1, 2014.~~

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

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

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

18 ~~103625. (a) A fee of twelve dollars (\$12) shall be paid by the~~
19 ~~applicant for a certified copy of a fetal death or death record.~~

20 ~~(b) (1) A fee of twelve dollars (\$12) shall be paid by a public~~
21 ~~agency or licensed private adoption agency applicant for a certified~~
22 ~~copy of a birth certificate that the agency is required to obtain in~~
23 ~~the ordinary course of business. A fee of sixteen dollars (\$16) shall~~
24 ~~be paid by any other applicant for a certified copy of a birth~~
25 ~~certificate. Four dollars (\$4) of any sixteen-dollar (\$16) fee is~~
26 ~~exempt from subdivision (e) and shall be paid either to a county~~
27 ~~children's trust fund or to the State Children's Trust Fund, in~~
28 ~~conformity with Article 5 (commencing with Section 18965) of~~
29 ~~Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions~~
30 ~~Code.~~

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

37 ~~(c) A fee of three dollars (\$3) shall be paid by a public agency~~
38 ~~applicant for a certified copy of a marriage record, that has been~~
39 ~~filed with the county recorder or county clerk, that the agency is~~
40 ~~required to obtain in the ordinary course of business. A fee of six~~

1 dollars (\$6) shall be paid by any other applicant for a certified
2 copy of a marriage record that has been filed with the county
3 recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6)
4 fee is exempt from subdivision (e) and shall be transmitted monthly
5 by each local registrar, county recorder, and county clerk to the
6 state for deposit into the General Fund as provided by Section
7 1852 of the Family Code.

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

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

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

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

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

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

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

36 (2) The remainder of the fee collected pursuant to subdivision
37 (f) shall be deposited into the collecting agency's vital and health
38 statistics trust fund, except that in any jurisdiction in which a local
39 vital and health statistics trust fund has not been established, the

1 entire amount of the fee collected pursuant to subdivision (f) shall
2 be transmitted to the State Registrar.

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

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

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

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

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

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

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

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

39 ~~(m) This section shall become operative on January 1, 2023.~~

1 ~~SEC. 7. Section 123371 of the Health and Safety Code is~~
2 ~~amended to read:~~
3 ~~123371. (a) (1) The State Department of Public Health shall~~
4 ~~develop standardized, objective information about umbilical cord~~
5 ~~blood donation that is sufficient to allow a pregnant woman to~~
6 ~~make an informed decision on whether to participate in a private~~
7 ~~or public umbilical cord blood banking program. The information~~
8 ~~developed by the department shall enable a pregnant woman to be~~
9 ~~informed of her option to do any of the following:~~
10 ~~(A) Discard umbilical cord blood.~~
11 ~~(B) Donate umbilical cord blood to a public umbilical cord~~
12 ~~blood bank.~~
13 ~~(C) Store the umbilical cord blood in a family umbilical cord~~
14 ~~blood bank for the use by immediate and extended family members.~~
15 ~~(D) Donate umbilical cord blood to research.~~
16 ~~(2) The information developed pursuant to paragraph (1) shall~~
17 ~~include, but not be limited to, all of the following:~~
18 ~~(A) The current and potential future medical uses of stored~~
19 ~~umbilical cord blood.~~
20 ~~(B) The benefits and risks involved in umbilical cord blood~~
21 ~~banking.~~
22 ~~(C) The medical process involved in umbilical cord blood~~
23 ~~banking.~~
24 ~~(D) Medical or family history criteria that can impact a family's~~
25 ~~consideration of umbilical cord banking.~~
26 ~~(E) An explanation of the differences between public and private~~
27 ~~umbilical cord blood banking.~~
28 ~~(F) The availability and costs of public or private umbilical cord~~
29 ~~blood banks.~~
30 ~~(G) Medical or family history criteria that can impact a family's~~
31 ~~consideration of umbilical cord blood banking.~~
32 ~~(H) An explanation that the practices and policies of blood banks~~
33 ~~may vary with respect to accreditation, cord blood processing and~~
34 ~~storage methods, costs, and donor privacy.~~
35 ~~(I) An explanation that pregnant women are not required to~~
36 ~~donate their umbilical cord blood for research purposes.~~
37 ~~(b) The information provided by the department pursuant to~~
38 ~~subdivision (a) shall be made available in the languages that meet~~
39 ~~the numeric threshold described in Section 14029.91 of the Welfare~~

1 and Institutions Code, and shall be updated by the department as
2 needed.

3 (e) ~~The information provided by the department pursuant to~~
4 ~~subdivision (a) shall be made available on the Internet Web sites~~
5 ~~of the licensing boards that have oversight over primary prenatal~~
6 ~~care providers.~~

7 (d) ~~(1) A primary prenatal care provider of a woman who is~~
8 ~~known to be pregnant may, during the first prenatal visit, provide~~
9 ~~the information required by subdivision (a) to the pregnant woman.~~

10 ~~(2) For purposes of this article, a “prenatal care provider” means~~
11 ~~a health care provider licensed pursuant to Division 2 (commencing~~
12 ~~with Section 500) of the Business and Professions Code, or~~
13 ~~pursuant to an initiative act referred to in that division, who~~
14 ~~provides prenatal medical care within his or her scope of practice.~~

15 ~~SEC. 8. Section 125055 of the Health and Safety Code is~~
16 ~~amended to read:~~

17 ~~125055. The department shall:~~

18 ~~(a) Establish criteria for eligibility for the prenatal testing~~
19 ~~program. Eligibility shall include definition of conditions and~~
20 ~~circumstances that result in a high risk of a detectable genetic~~
21 ~~disorder or birth defect.~~

22 ~~(b) (1) Develop an education program designed to educate~~
23 ~~physicians and surgeons and the public concerning the uses of~~
24 ~~prenatal testing and the availability of the program.~~

25 ~~(2) (A) Include information regarding environmental health in~~
26 ~~the California Prenatal Screening Program patient educational~~
27 ~~information. This environmental health information shall include~~
28 ~~the following statement:~~

29 ~~–~~

30 ~~“We encounter chemicals and other substances in everyday life~~
31 ~~that may affect your developing fetus. Fortunately, there are steps~~
32 ~~you can take to reduce your exposure to these potentially harmful~~
33 ~~substances at home, in the workplace, and in the environment.~~
34 ~~Many Californians are unaware that a number of everyday~~
35 ~~consumer products may pose potential harm. Prospective parents~~
36 ~~should talk to their doctor and are encouraged to read more about~~
37 ~~this topic to learn about simple actions to promote a healthy~~
38 ~~pregnancy.”~~

39 ~~–~~

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

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

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

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

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

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

27 ~~(e) Ensure that genetic counseling be given in conjunction with~~
28 ~~prenatal testing at the approved prenatal diagnosis centers.~~

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

35 ~~(e) Administer a program of subsidy grants for approved~~
36 ~~nonprofit prenatal diagnosis centers. The subsidy grants shall be~~
37 ~~awarded based on the reported number of low-income women~~
38 ~~referred to the center, the number of prenatal diagnoses performed~~
39 ~~in the previous year at that center, and the estimated size of unmet~~
40 ~~need for prenatal diagnostic procedures and tests in its service~~

1 area. This subsidy shall be in addition to fees collected under other
2 state programs.

3 (f) Establish any rules, regulations, and standards for prenatal
4 diagnostic testing and the allocation of subsidies as the director
5 deems necessary to promote and protect the public health and
6 safety and to implement the Hereditary Disorders Act (Section
7 27).

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

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

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

21 (4) (A) The expenditure of funds from the Genetic Disease
22 Testing Fund for the expansion of the Genetic Disease Branch
23 Screening Information System to include the expansion of prenatal
24 screenings, pursuant to paragraph (1), may be implemented through
25 the amendment of the Genetic Disease Branch Screening
26 Information System contracts, and shall not be subject to Chapter
27 2 (commencing with Section 10290) or Chapter 3 (commencing
28 with Section 12100) of Part 2 of Division 2 of the Public Contract
29 Code, Article 4 (commencing with Section 19130) of Chapter 5
30 of Part 2 of Division 5 of Title 2 of the Government Code, or
31 Sections 4800 to 5180, inclusive, of the State Administrative
32 Manual as they relate to approval of information technology
33 projects or approval of increases in the duration or costs of
34 information technology projects. This paragraph shall apply to the
35 design, development, and implementation of the expansion, and
36 to the maintenance and operation of the Genetic Disease Branch
37 Screening Information System, including change requests, once
38 the expansion is implemented.

39 (B) (i) The department may adopt emergency regulations to
40 implement and make specific the amendments to this section made

1 during the 2006 portion of the 2005-06 Regular Session in
2 accordance with Chapter 3.5 (commencing with Section 11340)
3 of Part 1 of Division 3 of Title 2 of the Government Code. For the
4 purposes of the Administrative Procedure Act, the adoption of
5 regulations shall be deemed an emergency and necessary for the
6 immediate preservation of the public peace, health and safety, or
7 general welfare. Notwithstanding Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code, these emergency regulations shall not be subject to the
10 review and approval of the Office of Administrative Law.
11 Notwithstanding Sections 11346.1 and 11349.6 of the Government
12 Code, the department shall submit these regulations directly to the
13 Secretary of State for filing. The regulations shall become effective
14 immediately upon filing by the Secretary of State. Regulations
15 shall be subject to public hearing within 120 days of filing with
16 the Secretary of State and shall comply with Sections 11346.8 and
17 11346.9 of the Government Code or shall be repealed.

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

25 ~~SEC. 9.~~

26 *SECTION 1.* Section 125092 of the Health and Safety Code is
27 amended to read:

28 125092. (a) The department, in consultation with the Office
29 of AIDS and with other stakeholders, including, but not limited
30 to, representatives of professional medical and public health
31 advocacy groups, providers of health care to women and infants
32 infected with or exposed to HIV, and women living with HIV,
33 shall develop culturally sensitive informational material adequate
34 to fulfill the requirements of subdivisions (c) and (d) of Section
35 125090.

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

1 (c) This material shall also include information on available
2 referral and consultation resources of experts in prenatal HIV
3 treatment.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Gordon	BILL NUMBER:	AB 2744
SPONSOR:	The Internet Association	BILL STATUS:	Senate Committee on Business, Professions and Economic Development
SUBJECT:	Healing arts: referrals	DATE LAST AMENDED:	June 6, 2016

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.

Amended analysis as of 4/11:

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services on an Internet platform, does not constitute a referral of patients. The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser. The bill would specify that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions.

Amended analysis as of 6/6:

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services through a third-party advertiser does not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee.

The bill would require a third-party advertiser to make available for purchase services advertised by all licensees in the applicable geographic region.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

The Internet Association
Groupon

OPPOSE: None on file.

AMENDED IN SENATE JUNE 6, 2016
AMENDED IN ASSEMBLY APRIL 11, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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 services ~~on an Internet platform~~, *through a third-party advertiser* does not constitute a referral of ~~patients~~. *patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a*

licensee. The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser. The bill would specify that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions. *The bill would require a third-party advertiser to make available for purchase services advertised by all licensees in the applicable geographic region.*

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

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

1 SECTION 1. Section 650 of the Business and Professions Code
 2 is amended to read:
 3 650. (a) Except as provided in Chapter 2.3 (commencing with
 4 Section 1400) of Division 2 of the Health and Safety Code, the
 5 offer, delivery, receipt, or acceptance by any person licensed under
 6 this division or the Chiropractic Initiative Act of any rebate, refund,
 7 commission, preference, patronage dividend, discount, or other
 8 consideration, whether in the form of money or otherwise, as
 9 compensation or inducement for referring patients, clients, or
 10 customers to any person, irrespective of any membership,
 11 proprietary interest, or coownership in or with any person to whom
 12 these patients, clients, or customers are referred is unlawful.
 13 (b) The payment or receipt of consideration for services other
 14 than the referral of patients which is based on a percentage of gross
 15 revenue or similar type of contractual arrangement shall not be
 16 unlawful if the consideration is commensurate with the value of
 17 the services furnished or with the fair rental value of any premises
 18 or equipment leased or provided by the recipient to the payer.
 19 (c) The offer, delivery, receipt, or acceptance of any
 20 consideration between a federally qualified health center, as defined
 21 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,
 22 and any individual or entity providing goods, items, services,
 23 donations, loans, or a combination thereof to the health center
 24 entity pursuant to a contract, lease, grant, loan, or other agreement,
 25 if that agreement contributes to the ability of the health center

1 entity to maintain or increase the availability, or enhance the
2 quality, of services provided to a medically underserved population
3 served by the health center, shall be permitted only to the extent
4 sanctioned or permitted by federal law.

5 (d) Except as provided in Chapter 2.3 (commencing with Section
6 1400) of Division 2 of the Health and Safety Code and in Sections
7 654.1 and 654.2 of this code, it shall not be unlawful for any person
8 licensed under this division to refer a person to any laboratory,
9 pharmacy, clinic (including entities exempt from licensure pursuant
10 to Section 1206 of the Health and Safety Code), or health care
11 facility solely because the licensee has a proprietary interest or
12 coownership in the laboratory, pharmacy, clinic, or health care
13 facility, provided, however, that the licensee's return on investment
14 for that proprietary interest or coownership shall be based upon
15 the amount of the capital investment or proportional ownership of
16 the licensee which ownership interest is not based on the number
17 or value of any patients referred. Any referral excepted under this
18 section shall be unlawful if the prosecutor proves that there was
19 no valid medical need for the referral.

20 (e) Except as provided in Chapter 2.3 (commencing with Section
21 1400) of Division 2 of the Health and Safety Code and in Sections
22 654.1 and 654.2 of this code, it shall not be unlawful to provide
23 nonmonetary remuneration, in the form of hardware, software, or
24 information technology and training services, as described in
25 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code
26 of Federal Regulations, as amended October 4, 2007, as published
27 in the Federal Register (72 Fed. Reg. 56632 and 56644), and
28 subsequently amended versions.

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

34 (g) The payment or receipt of consideration for advertising,
35 wherein a licensee offers or sells services ~~on an Internet platform,~~
36 *through a third-party advertiser*, shall not constitute a referral of
37 ~~patients.~~ *patients when the third-party advertiser does not itself*
38 *recommend, endorse, or otherwise select a licensee.* To the extent
39 the licensee determines, after consultation with the purchaser of
40 the service, that the service is not appropriate for the purchaser,

1 the purchaser shall receive a refund of the full purchase price. This
2 subdivision shall not apply to basic health care services, as defined
3 in subdivision (b) of Section 1345 of the Health and Safety Code,
4 or essential health benefits, as defined in Section 1367.005 of the
5 Health and Safety Code and Section 10112.27 of the Insurance
6 Code. The entity that provides the advertising shall be able to
7 demonstrate that the licensee consented in writing to the
8 requirements of this subdivision. *A third-party advertiser shall*
9 *make available for purchase services advertised by all licensees*
10 *in the applicable geographic region.*

11 (h) A violation of this section is a public offense and is
12 punishable upon a first conviction by imprisonment in a county
13 jail for not more than one year, or by imprisonment pursuant to
14 subdivision (h) of Section 1170 of the Penal Code, or by a fine not
15 exceeding fifty thousand dollars (\$50,000), or by both that
16 imprisonment and fine. A second or subsequent conviction is
17 punishable by imprisonment pursuant to subdivision (h) of Section
18 1170 of the Penal Code, or by that imprisonment and a fine of fifty
19 thousand dollars (\$50,000).

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 482
SPONSOR:	California Narcotic Officers' Association Consumer Attorneys of California	BILL STATUS:	Assembly Committee on Business and Professions
SUBJECT:	Controlled substances: CURES database	DATE LAST AMENDED:	June 6, 2016

SUMMARY:

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires dispensing pharmacies and clinics to report specified information for each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance to the department.

ANALYSIS:

This bill would require all prescribers, as defined, prescribing a Schedule II or Schedule III controlled substance, to consult a patient's electronic history in the CURES database before prescribing the controlled substance to the patient for the first time. The bill would also require the prescriber to consult the CURES database at least annually when the prescribed controlled substance remains part of the patient's treatment. The bill would prohibit prescribing an additional Schedule II or Schedule III controlled substance to a patient with an existing prescription until the prescriber determines that there is a legitimate need for the controlled substance.

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements during any time that the CURES database is suspended or not accessible, or during any time that the Internet is not operational. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

Amended analysis as of 4/7:

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill

would provide that a prescriber is not in violation of these requirements if a specified condition exists, including any time that the CURES database is suspended or not accessible, an inability to access the CURES database in a timely manner because of an emergency, when the controlled substance is prescribed to a patient receiving hospice care, or when the controlled substance is directly administered to the patient by the person prescribing the controlled substance. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

Amended analysis as of 6/6:

The analyses of the bill when introduced and as amended have been stricken.

This bill now would require a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least annually thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, furnishing, or dispensing a controlled substance to a patient receiving hospice care, to a patient admitted to a specified facility, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use.

The bill would exempt a health care practitioner from this requirement if it is not reasonably possible for him or her to access the information in the CURES database in a timely manner, another health care practitioner or designee authorized to access the CURES database is not reasonably available, and the quantity of controlled substance prescribed, ordered, administered, furnished, or dispensed does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

The bill would provide that a health care practitioner who knowingly fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use.

The bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, or inaccurate information submitted to, or reported by, the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

BOARD POSITION: Support (6/4/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (5/12/16).

SUPPORT:

California Narcotic Officers' Association (co-source)
Consumer Attorneys of California (co-source)
Association for Los Angeles Deputy Sheriffs
California Association of Code Enforcement Officers
California Chamber of Commerce
California College and University Police Chiefs Association
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Congress of Seniors
California Correctional Supervisors Organization
California Teamsters Public Affairs Council
Consumer Federation of California
Consumer Watchdog
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
International Faith Based Coalition
International Longshore and Warehouse Union
Los Angeles Police Protective League
Pacific Compensation Insurance Company
Professional and Technical Engineers, IFPTE Local 21, AFL-CIO
Riverside Sheriffs Organization
Union of American Physicians and Dentists
UNITE-HERE, AFL-CIO
Utility Workers Union of America

OPPOSE:

Association of Northern California Oncologists
California Chapter of American Emergency Room Physicians
California Dental Association
California Medical Association
The Doctor's Company

AMENDED IN ASSEMBLY JUNE 6, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 482

Introduced by Senator Lara

February 26, 2015

An act to ~~add Section 11165.4 to~~ amend Section 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 482, as amended, Lara. Controlled substances: CURES database.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires dispensing pharmacies and clinics to report specified information for each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance to the department.

~~This bill would require all prescribers, as defined, prescribing a Schedule II or Schedule III controlled substance, to consult a patient's electronic history in the CURES database before prescribing the controlled substance to the patient for the first time. The bill would also require the prescriber to consult the CURES database at least annually when the prescribed controlled substance remains part of the patient's~~

treatment. The bill would prohibit prescribing an additional Schedule II or Schedule III controlled substance to a patient with an existing prescription until the prescriber determines that there is a legitimate need for the controlled substance.

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements if a specified condition exists, including any time that the CURES database is suspended or not accessible, an inability to access the CURES database in a timely manner because of an emergency, when the controlled substance is prescribed to a patient receiving hospice care, or when the controlled substance is directly administered to the patient by the person prescribing the controlled substance. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

This bill would require a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least annually thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, furnishing, or dispensing a controlled substance to a patient receiving hospice care, to a patient admitted to a specified facility, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use. The bill would exempt a health care practitioner from this requirement if it is not reasonably possible for him or her to access the information in the CURES database in a timely manner, another health care practitioner or designee authorized to access the CURES database is not reasonably available, and the quantity of controlled substance prescribed, ordered, administered, furnished, or dispensed does not exceed a nonrefillable 5-day supply

of the controlled substance that is to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

The bill would provide that a health care practitioner who knowingly fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use.

The bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, or inaccurate information submitted, to or reported by, the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

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

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

1 **SECTION 1.** *Section 11165.1 of the Health and Safety Code*
2 *is amended to read:*

3 11165.1. (a) (1) (A) (i) A health care practitioner authorized
4 to prescribe, order, administer, furnish, or dispense Schedule II,
5 Schedule III, or Schedule IV controlled substances pursuant to
6 Section 11150 shall, before July 1, 2016, or upon receipt of a
7 federal Drug Enforcement Administration (DEA) registration,
8 whichever occurs later, submit an application developed by the
9 Department of Justice to obtain approval to access information
10 online regarding the controlled substance history of a patient that
11 is stored on the Internet and maintained within the Department of
12 Justice, and, upon approval, the department shall release to that
13 practitioner the electronic history of controlled substances
14 dispensed to an individual under his or her care based on data
15 contained in the CURES Prescription Drug Monitoring Program
16 (PDMP).

17 (ii) A pharmacist shall, before July 1, 2016, or upon licensure,
18 whichever occurs later, submit an application developed by the
19 Department of Justice to obtain approval to access information
20 online regarding the controlled substance history of a patient that

1 is stored on the Internet and maintained within the Department of
2 Justice, and, upon approval, the department shall release to that
3 pharmacist the electronic history of controlled substances dispensed
4 to an individual under his or her care based on data contained in
5 the CURES PDMP.

6 (B) An application may be denied, or a subscriber may be
7 suspended, for reasons which include, but are not limited to, the
8 following:

9 (i) Materially falsifying an application for a subscriber.

10 (ii) Failure to maintain effective controls for access to the patient
11 activity report.

12 (iii) Suspended or revoked federal DEA registration.

13 (iv) Any subscriber who is arrested for a violation of law
14 governing controlled substances or any other law for which the
15 possession or use of a controlled substance is an element of the
16 crime.

17 (v) Any subscriber accessing information for any other reason
18 than caring for his or her patients.

19 (C) Any authorized subscriber shall notify the Department of
20 Justice within 30 days of any changes to the subscriber account.

21 (2) A health care practitioner authorized to prescribe, order,
22 administer, furnish, or dispense Schedule II, Schedule III, or
23 Schedule IV controlled substances pursuant to Section 11150 or
24 a pharmacist shall be deemed to have complied with paragraph
25 (1) if the licensed health care practitioner or pharmacist has been
26 approved to access the CURES database through the process
27 developed pursuant to subdivision (a) of Section 209 of the
28 Business and Professions Code.

29 (b) Any request for, or release of, a controlled substance history
30 pursuant to this section shall be made in accordance with guidelines
31 developed by the Department of Justice.

32 (c) In order to prevent the inappropriate, improper, or illegal
33 use of Schedule II, Schedule III, or Schedule IV controlled
34 substances, the Department of Justice may initiate the referral of
35 the history of controlled substances dispensed to an individual
36 based on data contained in CURES to licensed health care
37 practitioners, pharmacists, or both, providing care or services to
38 the individual.

39 (d) The history of controlled substances dispensed to an
40 individual based on data contained in CURES that is received by

1 a practitioner or pharmacist from the Department of Justice
2 pursuant to this section ~~shall be considered~~ *is* medical information
3 subject to the provisions of the Confidentiality of Medical
4 Information Act contained in Part 2.6 (commencing with Section
5 56) of Division 1 of the Civil Code.

6 (e) Information concerning a patient’s controlled substance
7 history provided to a prescriber or pharmacist pursuant to this
8 section shall include prescriptions for controlled substances listed
9 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
10 of Federal Regulations.

11 (f) *A health care practitioner, pharmacist, and any person acting*
12 *on behalf of a health care practitioner or pharmacist, when acting*
13 *with reasonable care and in good faith, is not subject to civil or*
14 *administrative liability arising from any false, incomplete, or*
15 *inaccurate information submitted to, or reported by, the CURES*
16 *database or for any resulting failure of the CURES database to*
17 *accurately or timely report that information.*

18 SEC. 2. Section 11165.4 is added to the Health and Safety
19 Code, to read:

20 11165.4. (a) (1) (A) *A health care practitioner authorized to*
21 *prescribe, order, administer, furnish, or dispense a controlled*
22 *substance shall consult the CURES database to review a patient’s*
23 *controlled substance history before prescribing a Schedule II,*
24 *Schedule III, or Schedule IV controlled substance to the patient*
25 *for the first time and at least annually thereafter if the substance*
26 *remains part of the treatment of the patient.*

27 (B) *For purposes of this paragraph, “first time” means the*
28 *initial occurrence in which a health care practitioner, in his or*
29 *her role as a health care practitioner, intends to prescribe, order,*
30 *administer, furnish, or dispense a Schedule II, Schedule III, or*
31 *Schedule IV controlled substance to a patient and has not*
32 *previously prescribed a controlled substance to the patient.*

33 (2) *A health care practitioner shall obtain a patient’s controlled*
34 *substance history from the CURES database no earlier than 24*
35 *hours before he or she prescribes, orders, administers, furnishes,*
36 *or dispenses a Schedule II, Schedule III, or Schedule IV controlled*
37 *substance to the patient.*

38 (b) *The duty to consult the CURES database, as described in*
39 *subdivision (a), does not apply to veterinarians.*

1 (c) *The duty to consult the CURES database, as described in*
2 *subdivision (a), does not apply to a health care practitioner in any*
3 *of the following circumstances:*

4 (1) *If a health care practitioner prescribes, orders, or furnishes*
5 *a controlled substance to be administered or dispensed to a patient*
6 *while the patient is admitted to any of the following facilities or*
7 *during an emergency transfer between any of the following*
8 *facilities:*

9 (A) *A licensed clinic, as described in Chapter 1 (commencing*
10 *with Section 1200) of Division 2.*

11 (B) *An outpatient setting, as described in Chapter 1.3*
12 *(commencing with Section 1248) of Division 2.*

13 (C) *A health facility, as described in Chapter 2 (commencing*
14 *with Section 1250) of Division 2.*

15 (D) *A county medical facility, as described in Chapter 2.5*
16 *(commencing with Section 1440) of Division 2.*

17 (2) *When a health care practitioner prescribes, orders,*
18 *administers, furnishes, or dispenses a controlled substance in the*
19 *emergency department of a general acute care hospital if the*
20 *quantity of the controlled substance does not exceed a 10-day*
21 *supply of the controlled substance to be used in accordance with*
22 *the directions for use.*

23 (3) *If a health care practitioner prescribes, orders, administers,*
24 *furnishes, or dispenses a controlled substance to a patient as part*
25 *of the patient's treatment for a surgical procedure, if the quantity*
26 *of the controlled substance does not exceed a nonrefillable five-day*
27 *supply of the controlled substance to be used in accordance with*
28 *the directions for use, in any of the following facilities:*

29 (A) *A licensed clinic, as described in Chapter 1 (commencing*
30 *with Section 1200) of Division 2.*

31 (B) *An outpatient setting, as described in Chapter 1.3*
32 *(commencing with Section 1248) of Division 2.*

33 (C) *A health facility, as described in Chapter 2 (commencing*
34 *with Section 1250) of Division 2.*

35 (D) *A county medical facility, as described in Chapter 2.5*
36 *(commencing with Section 1440) of Division 2.*

37 (E) *A place of practice, as defined in Section 1658 of the*
38 *Business and Professions Code.*

1 (4) If a health care practitioner prescribes, orders, administers,
2 furnishes, or dispenses a controlled substance to a patient currently
3 receiving hospice care, as defined in Section 1339.40.

4 (5) (A) If all of the following circumstances are satisfied:

5 (i) It is not reasonably possible for a health care practitioner
6 to access the information in the CURES database in a timely
7 manner.

8 (ii) Another health care practitioner or designee authorized to
9 access the CURES database is not reasonably available.

10 (iii) The quantity of controlled substance prescribed, ordered,
11 administered, furnished, or dispensed does not exceed a
12 nonrefillable five-day supply of the controlled substance to be used
13 in accordance with the directions for use and no refill of the
14 controlled substance is allowed.

15 (B) A health care practitioner who does not consult the CURES
16 database under subparagraph (A) shall document the reason he
17 or she did not consult the database in the patient's medical record.

18 (6) If the CURES database is not operational, as determined
19 by the department, or when it cannot be accessed by a health care
20 practitioner because of a temporary technological or electrical
21 failure. A health care practitioner shall, without undue delay, seek
22 to correct any cause of the temporary technological or electrical
23 failure that is reasonably within his or her control.

24 (7) If the CURES database cannot be accessed because of
25 technological limitations that are not reasonably within the control
26 of a health care practitioner.

27 (8) If the CURES database cannot be accessed because of
28 exceptional circumstances, as demonstrated by a health care
29 practitioner.

30 (d) (1) A health care practitioner who knowingly fails to consult
31 the CURES database, as described in subdivision (a), shall be
32 referred to the appropriate state professional licensing board
33 solely for administrative sanctions, as deemed appropriate by that
34 board.

35 (2) This section does not create a private cause of action against
36 a health care practitioner. This section does not limit a health care
37 practitioner's liability for the negligent failure to diagnose or treat
38 a patient.

39 (e) This section is not operative until six months after the
40 Department of Justice certifies that the CURES database is ready

1 for statewide use. The department shall notify the Secretary of
2 State and the office of the Legislative Counsel of the date of that
3 certification.

4 (f) All applicable state and federal privacy laws govern the
5 duties required by this section.

6 (g) The provisions of this section are severable. If any provision
7 of this section or its application is held invalid, that invalidity shall
8 not affect other provisions or applications that can be given effect
9 without the invalid provision or application.

10 SECTION 1. Section 11165.4 is added to the Health and Safety
11 Code, to read:

12 ~~11165.4. (a) A prescriber shall access and consult the CURES~~
13 ~~database for the electronic history of controlled substances~~
14 ~~dispensed to a patient under his or her care before prescribing a~~
15 ~~Schedule II or Schedule III controlled substance for the first time~~
16 ~~to that patient and at least annually when that prescribed controlled~~
17 ~~substance remains part of his or her treatment. If the patient has~~
18 ~~an existing prescription for a Schedule II or Schedule III controlled~~
19 ~~substance, the prescriber shall not prescribe an additional controlled~~
20 ~~substance until the prescriber determines that there is a legitimate~~
21 ~~need for that controlled substance.~~

22 ~~(b) Failure to consult a patient's electronic history as required~~
23 ~~by subdivision (a) is cause for disciplinary action by the~~
24 ~~prescriber's licensing board. The licensing boards of all prescribers~~
25 ~~authorized to write or issue prescriptions for controlled substances~~
26 ~~shall notify these licensees of the requirements of this section.~~

27 ~~(c) A prescriber is not liable in a civil action solely for failing~~
28 ~~to consult the CURES database as required pursuant to subdivision~~
29 ~~(a).~~

30 ~~(d) The requirement in subdivision (a) does not apply, and a~~
31 ~~prescriber is not in violation of this section, if any of the following~~
32 ~~conditions are met:~~

33 ~~(1) The CURES database is suspended or inaccessible, the~~
34 ~~Internet is not operational, the data in the CURES database is~~
35 ~~inaccurate or incomplete, or it is not possible to query the CURES~~
36 ~~database in a timely manner because of an emergency.~~

37 ~~(2) The controlled substance is prescribed to a patient receiving~~
38 ~~hospice care.~~

- 1 ~~(3) The controlled substance is prescribed to a patient as a part~~
2 ~~of a surgical procedure that has or will occur in a licensed health~~
3 ~~care facility and the prescription is nonrefillable.~~
4 ~~(4) The controlled substance is directly administered to the~~
5 ~~patient by the prescriber or another person authorized to prescribe~~
6 ~~a controlled substance.~~
7 ~~(e) This section shall not become operative until the Department~~
8 ~~of Justice certifies that the CURES database is ready for statewide~~
9 ~~use. The department shall notify the Secretary of State and the~~
10 ~~Office of Legislative Counsel of the date of that certification.~~
11 ~~(f) For purposes of this section, “prescriber” means a health~~
12 ~~care practitioner who is authorized to write or issue prescriptions~~
13 ~~under Section 11150, excluding veterinarians.~~
14 ~~(g) A violation of this section shall not be subject to the~~
15 ~~provisions of Section 11374.~~
16 ~~(h) All applicable state and federal privacy laws govern the~~
17 ~~duties required by this section.~~
18 ~~(i) The provisions of this section are severable. If any provision~~
19 ~~of this section or its application is held invalid, that invalidity shall~~
20 ~~not affect other provisions or applications that can be given effect~~
21 ~~without the invalid provision or application.~~

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1039
SPONSOR:	Hill	BILL STATUS:	Assembly Desk
SUBJECT:	Professions and Vocations	DATE LAST AMENDED:	May 31, 2016

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:

Section 3: 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.

Amended summary and analysis as of 4/7:

Renumbered as Section 4: The Nursing Practice Act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

This bill would provide that standards for continuing education shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care.

Added Section 6: Existing law requires certain businesses that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the

requirements established by the Department of Consumer Affairs, among other provisions, as specified.

This bill would repeal those provision and related provisions in the Health and Safety Code (HSC) and the Insurance Code (IC).

Amended analysis as of 4/12:

There were no further amendments to Section 4 or Section 6.

Amended analysis as of 4/21:

Section 4 renumbered to Section 3, otherwise no other amendments.

Section 6 renumbered to Section 5.

This bill now amends rather than repeals BPC, HSC, and IC sections related to telephone medical advice services. The bill would discontinue the requirement that those businesses be registered with the bureau and would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

Amended analysis as of 5/31:

This bill makes an editing change to BPC Section 2811 (a).

Section 5 related to telephone medical advice now renumbered as Section 6, otherwise no other amendments.

BOARD POSITION: Support amendments to BPC 2746.51, 2786.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2. Watch position for the other provisions (4/14/16). No position taken on repeal/amend provisions related to Section 6; Language not available to members at the time of the meeting.

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

SUPPORT: None on file related to nursing.

OPPOSE: None on file related to nursing.

Current BRN Fee Schedule

Note: Effective October 14, 2015 and January 1, 2016, some of our fees have changed. New fees are denoted in red.

Application Fees		
Description	Fee Amount	
Registered Nurse Examination Application and Reapply/Repeat Examination Application	\$150	
Interim Permit	\$50	
Registered Nursing Endorsement/Reciprocity Application (NOTE: This is not the fee for verification of California RN licensure; see Miscellaneous Fees)	\$100	
Temporary RN License	\$50	
Manual Fingerprint Card Processing (DOJ and FBI)	\$49	
Clinical Nurse Specialist Application	\$150	
Nurse Anesthetist Application	\$150	
Nurse-Midwife Application	\$150	
Nurse-Midwife Furnishing Number Application	\$50	
Nurse Practitioner Application	\$150	
Nurse Practitioner Furnishing Number Application	\$50	
Public Health Nurse Application	\$150	
Psychiatric/Mental Health Nurse Application	No Fee	
Continuing Education Provider Application	\$300	
Renewal Fees		
Description	Fee Amount	
	Timely	Delinquent
Registered Nurse Renewal	\$160	\$235
Registered Nurse 8-Year Renewal	N/A	\$235
Nurse Anesthetist Renewal	\$100	\$150
Nurse-Midwife Renewal	\$100	\$150
Nurse-Midwife Furnishing Number Renewal	\$42	\$57
Clinical Nurse Specialist Renewal	\$100	\$150
Nurse Practitioner Renewal	No Fee	
Nurse Practitioner Furnishing Number Renewal	\$42	\$57
Public Health Nurse Renewal	No Fee	
Psychiatric/Mental Health Nurse Renewal	No Fee	
Continuing Education Provider Number Renewal	\$300	\$450
Miscellaneous Fees		
Description	Fee Amount	
Certified Copy of School Transcript	\$50	
Confirmation of License Renewal/Employer Verification Letter	\$2	
Copy of NCLEX-RN Results	\$10	
Dishonored Check Penalty	\$30	
Duplicate License (Pocket Card)	\$50	
Duplicate Certificate	\$30	
ICHP Visa Screen	\$100	
Verification of CA RN Licensure	\$100	

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE APRIL 21, 2016
AMENDED IN SENATE APRIL 12, 2016
AMENDED IN SENATE APRIL 7, 2016

SENATE BILL

No. 1039

Introduced by Senator Hill

February 12, 2016

An act to amend Sections *115.6, 144, 146, 651, 656, 683, 800, 805, 805.1, 805.5, 805.6, 810, 2052.5, 2423, 2460, 2461, 2475, 2479, 2486, 2488, 2492, 2499, 2733, 2746.51, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4170, 4175, 4830, 4999, 4999.2, 7137, 7153.3, 8031, 8516, and 8518* of, to amend, repeal, and add ~~Section 4400~~ *Sections 4400, 7137, and 7153.3* of, to add ~~Section 2499.7~~ *to Chapter 3.5 (commencing with Section 1460) to Division 2 of*, to repeal Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, *to repeal Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of*, and to repeal and add Section 4999.5 of, the Business and Professions Code, *to amend Section 13401 of the Corporations Code*, to amend Section 1348.8 of the Health and Safety Code, and to amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, as amended, 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 Medical Practice Act creates, within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine. Under the act, certificates to practice podiatric medicine and registrations of spectacle lens dispensers and contact lens dispensers, among others, expire on a certain date during the second year of a 2-year term if not renewed.

This bill would instead create the California Board of Podiatric Medicine in the Department of Consumer Affairs, and would make conforming and related changes. The bill would discontinue the above-described requirement for the expiration of the registrations of spectacle lens dispensers and contact lens dispensers.

(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. That act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

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. The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(4) The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs. That law prescribes various fees to be paid by licensees and applicants for licensure, and requires all fees

collected on behalf of the board to be credited to the Pharmacy Board Contingent Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would, on and after July 1, 2017, modify specified fees to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(5) The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians by the Veterinary Medical Board, which is within the Department of Consumer Affairs. Under the act, it is unlawful and a misdemeanor for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances, including when regularly licensed veterinarians in actual consultation from other states or when regularly licensed veterinarians are actually called from other states to attend cases in this state and do not open an office or appoint a place to do business within the state.

This bill would replace those exceptions with an exception for veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California licensed veterinarian and attend on a specific case, subject to specified conditions.

~~(5)~~

(6) Existing law requires businesses that employ, or contract or subcontract with, the full-time equivalent of 5 or more persons functioning as health care professionals, as defined, whose primary function is to provide telephone medical advice, that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, as specified.

This bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

~~(6)~~

(7) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board

within the Department of Consumer Affairs. That law also prescribes various fees to be paid by licensees and applicants for licensure, *requires the board to set the fees by regulation*, and requires fees and civil penalties received under that law to be deposited in the Contractors' License Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

~~This bill~~ *bill, on and after July 1, 2017, would raise specified fees fees, would instead authorize the board to set the fees by regulation*, and would require the board to establish criteria for the approval of expedited processing of applications, as specified. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

~~(7)~~

(8) Existing law provides for the licensure and regulation of shorthand reporters by the Court Reporters Board of California within the Department of Consumer Affairs. That law authorizes the board, by resolution, to establish a fee for the renewal of a certificate issued by the board, and prohibits the fee from exceeding \$125, as specified. Under existing law, all fees and revenues received by the board are deposited into the Court Reporters' Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would raise that fee limit to \$250. By authorizing an increase in a fee deposited into a continuously appropriated fund, this bill would make an appropriation.

~~(8)~~

(9) 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.

(9)

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

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

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

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

6 *SEC. 2. Section 115.6 of the Business and Professions Code*
7 *is amended to read:*

8 115.6. (a) A board within the department shall, after
9 appropriate investigation, issue the following eligible temporary
10 licenses to an applicant if he or she meets the requirements set
11 forth in subdivision (c):

12 (1) Registered nurse license by the Board of Registered Nursing.

13 (2) Vocational nurse license issued by the Board of Vocational
14 Nursing and Psychiatric Technicians of the State of California.

15 (3) Psychiatric technician license issued by the Board of
16 Vocational Nursing and Psychiatric Technicians of the State of
17 California.

18 (4) Speech-language pathologist license issued by the
19 Speech-Language Pathology and Audiology and Hearing Aid
20 Dispensers Board.

21 (5) Audiologist license issued by the Speech-Language
22 Pathology and Audiology and Hearing Aid Dispensers Board.

23 (6) Veterinarian license issued by the Veterinary Medical Board.

24 (7) All licenses issued by the Board for Professional Engineers,
25 Land Surveyors, and Geologists.

26 (8) All licenses issued by the Medical Board of California.

27 (9) *All licenses issued by the California Board of Podiatric*
28 *Medicine.*

29 (b) The board may conduct an investigation of an applicant for
30 purposes of denying or revoking a temporary license issued
31 pursuant to this section. This investigation may include a criminal
32 background check.

33 (c) An applicant seeking a temporary license pursuant to this
34 section shall meet the following requirements:

35 (1) The applicant shall supply evidence satisfactory to the board
36 that the applicant is married to, or in a domestic partnership or
37 other legal union with, an active duty member of the Armed Forces

1 of the United States who is assigned to a duty station in this state
2 under official active duty military orders.

3 (2) The applicant shall hold a current, active, and unrestricted
4 license that confers upon him or her the authority to practice, in
5 another state, district, or territory of the United States, the
6 profession or vocation for which he or she seeks a temporary
7 license from the board.

8 (3) The applicant shall submit an application to the board that
9 shall include a signed affidavit attesting to the fact that he or she
10 meets all of the requirements for the temporary license and that
11 the information submitted in the application is accurate, to the best
12 of his or her knowledge. The application shall also include written
13 verification from the applicant's original licensing jurisdiction
14 stating that the applicant's license is in good standing in that
15 jurisdiction.

16 (4) The applicant shall not have committed an act in any
17 jurisdiction that would have constituted grounds for denial,
18 suspension, or revocation of the license under this code at the time
19 the act was committed. A violation of this paragraph may be
20 grounds for the denial or revocation of a temporary license issued
21 by the board.

22 (5) The applicant shall not have been disciplined by a licensing
23 entity in another jurisdiction and shall not be the subject of an
24 unresolved complaint, review procedure, or disciplinary proceeding
25 conducted by a licensing entity in another jurisdiction.

26 (6) The applicant shall, upon request by a board, furnish a full
27 set of fingerprints for purposes of conducting a criminal
28 background check.

29 (d) A board may adopt regulations necessary to administer this
30 section.

31 (e) A temporary license issued pursuant to this section may be
32 immediately terminated upon a finding that the temporary
33 licenseholder failed to meet any of the requirements described in
34 subdivision (c) or provided substantively inaccurate information
35 that would affect his or her eligibility for temporary licensure.
36 Upon termination of the temporary license, the board shall issue
37 a notice of termination that shall require the temporary
38 licenseholder to immediately cease the practice of the licensed
39 profession upon receipt.

1 (f) An applicant seeking a temporary license as a civil engineer,
2 geotechnical engineer, structural engineer, land surveyor,
3 professional geologist, professional geophysicist, certified
4 engineering geologist, or certified hydrogeologist pursuant to this
5 section shall successfully pass the appropriate California-specific
6 examination or examinations required for licensure in those
7 respective professions by the Board for Professional Engineers,
8 Land Surveyors, and Geologists.

9 (g) A temporary license issued pursuant to this section shall
10 expire 12 months after issuance, upon issuance of an expedited
11 license pursuant to Section 115.5, or upon denial of the application
12 for expedited licensure by the board, whichever occurs first.

13 *SEC. 3. Section 144 of the Business and Professions Code is*
14 *amended to read:*

15 144. (a) Notwithstanding any other provision of law, an agency
16 designated in subdivision (b) shall require an applicant to furnish
17 to the agency a full set of fingerprints for purposes of conducting
18 criminal history record checks. Any agency designated in
19 subdivision (b) may obtain and receive, at its discretion, criminal
20 history information from the Department of Justice and the United
21 States Federal Bureau of Investigation.

22 (b) Subdivision (a) applies to the following:

- 23 (1) California Board of Accountancy.
- 24 (2) State Athletic Commission.
- 25 (3) Board of Behavioral Sciences.
- 26 (4) Court Reporters Board of California.
- 27 (5) State Board of Guide Dogs for the Blind.
- 28 (6) California State Board of Pharmacy.
- 29 (7) Board of Registered Nursing.
- 30 (8) Veterinary Medical Board.
- 31 (9) Board of Vocational Nursing and Psychiatric Technicians.
- 32 (10) Respiratory Care Board of California.
- 33 (11) Physical Therapy Board of California.
- 34 (12) Physician Assistant Committee of the Medical Board of
35 California.
- 36 (13) Speech-Language Pathology and Audiology and Hearing
37 Aid Dispenser Board.
- 38 (14) Medical Board of California.
- 39 (15) State Board of Optometry.
- 40 (16) Acupuncture Board.

- 1 (17) Cemetery and Funeral Bureau.
- 2 (18) Bureau of Security and Investigative Services.
- 3 (19) Division of Investigation.
- 4 (20) Board of Psychology.
- 5 (21) California Board of Occupational Therapy.
- 6 (22) Structural Pest Control Board.
- 7 (23) Contractors' State License Board.
- 8 (24) Naturopathic Medicine Committee.
- 9 (25) Professional Fiduciaries Bureau.
- 10 (26) Board for Professional Engineers, Land Surveyors, and
- 11 Geologists.
- 12 (27) Bureau of Medical Marijuana Regulation.
- 13 (28) *California Board of Podiatric Medicine.*

14 (c) For purposes of paragraph (26) of subdivision (b), the term
15 "applicant" shall be limited to an initial applicant who has never
16 been registered or licensed by the board or to an applicant for a
17 new licensure or registration category.

18 *SEC. 4. Section 146 of the Business and Professions Code is*
19 *amended to read:*

20 146. (a) Notwithstanding any other provision of law, a
21 violation of any code section listed in subdivision (c) is an
22 infraction subject to the procedures described in Sections 19.6 and
23 19.7 of the Penal Code when either of the following applies:

24 (1) A complaint or a written notice to appear in court pursuant
25 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
26 2 of the Penal Code is filed in court charging the offense as an
27 infraction unless the defendant, at the time he or she is arraigned,
28 after being advised of his or her rights, elects to have the case
29 proceed as a misdemeanor.

30 (2) The court, with the consent of the defendant and the
31 prosecution, determines that the offense is an infraction in which
32 event the case shall proceed as if the defendant has been arraigned
33 on an infraction complaint.

34 (b) Subdivision (a) does not apply to a violation of the code
35 sections listed in subdivision (c) if the defendant has had his or
36 her license, registration, or certificate previously revoked or
37 suspended.

38 (c) The following sections require registration, licensure,
39 certification, or other authorization in order to engage in certain
40 businesses or professions regulated by this code:

- 1 ~~(1)~~
- 2 (1) Section 1474.
- 3 (2) Sections 2052 and 2054.
- 4 ~~(2)~~
- 5 (3) Section 2630.
- 6 ~~(3)~~
- 7 (4) Section 2903.
- 8 ~~(4)~~
- 9 (5) Section 3575.
- 10 ~~(5)~~
- 11 (6) Section 3660.
- 12 ~~(6)~~
- 13 (7) Sections 3760 and 3761.
- 14 ~~(7)~~
- 15 (8) Section 4080.
- 16 ~~(8)~~
- 17 (9) Section 4825.
- 18 ~~(9)~~
- 19 (10) Section 4935.
- 20 ~~(10)~~
- 21 (11) Section 4980.
- 22 ~~(11)~~
- 23 (12) Section 4989.50.
- 24 ~~(12)~~
- 25 (13) Section 4996.
- 26 ~~(13)~~
- 27 (14) Section 4999.30.
- 28 ~~(14)~~
- 29 (15) Section 5536.
- 30 ~~(15)~~
- 31 (16) Section 6704.
- 32 ~~(16)~~
- 33 (17) Section 6980.10.
- 34 ~~(17)~~
- 35 (18) Section 7317.
- 36 ~~(18)~~
- 37 (19) Section 7502 or 7592.
- 38 ~~(19)~~
- 39 (20) Section 7520.
- 40 ~~(20)~~

- 1 (21) Section 7617 or 7641.
- 2 ~~(21)~~
- 3 (22) Subdivision (a) of Section 7872.
- 4 ~~(22)~~
- 5 (23) Section 8016.
- 6 ~~(23)~~
- 7 (24) Section 8505.
- 8 ~~(24)~~
- 9 (25) Section 8725.
- 10 ~~(25)~~
- 11 (26) Section 9681.
- 12 ~~(26)~~
- 13 (27) Section 9840.
- 14 ~~(27)~~
- 15 (28) Subdivision (c) of Section 9891.24.
- 16 ~~(28)~~
- 17 (29) Section 19049.

18 (d) Notwithstanding any other law, a violation of any of the
19 sections listed in subdivision (c), which is an infraction, is
20 punishable by a fine of not less than two hundred fifty dollars
21 (\$250) and not more than one thousand dollars (\$1,000). No portion
22 of the minimum fine may be suspended by the court unless as a
23 condition of that suspension the defendant is required to submit
24 proof of a current valid license, registration, or certificate for the
25 profession or vocation that was the basis for his or her conviction.

26 *SEC. 5. Section 651 of the Business and Professions Code is*
27 *amended to read:*

28 651. (a) It is unlawful for any person licensed under this
29 division or under any initiative act referred to in this division to
30 disseminate or cause to be disseminated any form of public
31 communication containing a false, fraudulent, misleading, or
32 deceptive statement, claim, or image for the purpose of or likely
33 to induce, directly or indirectly, the rendering of professional
34 services or furnishing of products in connection with the
35 professional practice or business for which he or she is licensed.
36 A “public communication” as used in this section includes, but is
37 not limited to, communication by means of mail, television, radio,
38 motion picture, newspaper, book, list or directory of healing arts
39 practitioners, Internet, or other electronic communication.

1 (b) A false, fraudulent, misleading, or deceptive statement,
2 claim, or image includes a statement or claim that does any of the
3 following:

4 (1) Contains a misrepresentation of fact.

5 (2) Is likely to mislead or deceive because of a failure to disclose
6 material facts.

7 (3) (A) Is intended or is likely to create false or unjustified
8 expectations of favorable results, including the use of any
9 photograph or other image that does not accurately depict the
10 results of the procedure being advertised or that has been altered
11 in any manner from the image of the actual subject depicted in the
12 photograph or image.

13 (B) Use of any photograph or other image of a model without
14 clearly stating in a prominent location in easily readable type the
15 fact that the photograph or image is of a model is a violation of
16 subdivision (a). For purposes of this paragraph, a model is anyone
17 other than an actual patient, who has undergone the procedure
18 being advertised, of the licensee who is advertising for his or her
19 services.

20 (C) Use of any photograph or other image of an actual patient
21 that depicts or purports to depict the results of any procedure, or
22 presents “before” and “after” views of a patient, without specifying
23 in a prominent location in easily readable type size what procedures
24 were performed on that patient is a violation of subdivision (a).
25 Any “before” and “after” views (i) shall be comparable in
26 presentation so that the results are not distorted by favorable poses,
27 lighting, or other features of presentation, and (ii) shall contain a
28 statement that the same “before” and “after” results may not occur
29 for all patients.

30 (4) Relates to fees, other than a standard consultation fee or a
31 range of fees for specific types of services, without fully and
32 specifically disclosing all variables and other material factors.

33 (5) Contains other representations or implications that in
34 reasonable probability will cause an ordinarily prudent person to
35 misunderstand or be deceived.

36 (6) Makes a claim either of professional superiority or of
37 performing services in a superior manner, unless that claim is
38 relevant to the service being performed and can be substantiated
39 with objective scientific evidence.

1 (7) Makes a scientific claim that cannot be substantiated by
2 reliable, peer reviewed, published scientific studies.

3 (8) Includes any statement, endorsement, or testimonial that is
4 likely to mislead or deceive because of a failure to disclose material
5 facts.

6 (c) Any price advertisement shall be exact, without the use of
7 phrases, including, but not limited to, “as low as,” “and up,”
8 “lowest prices,” or words or phrases of similar import. Any
9 advertisement that refers to services, or costs for services, and that
10 uses words of comparison shall be based on verifiable data
11 substantiating the comparison. Any person so advertising shall be
12 prepared to provide information sufficient to establish the accuracy
13 of that comparison. Price advertising shall not be fraudulent,
14 deceitful, or misleading, including statements or advertisements
15 of bait, discount, premiums, gifts, or any statements of a similar
16 nature. In connection with price advertising, the price for each
17 product or service shall be clearly identifiable. The price advertised
18 for products shall include charges for any related professional
19 services, including dispensing and fitting services, unless the
20 advertisement specifically and clearly indicates otherwise.

21 (d) Any person so licensed shall not compensate or give anything
22 of value to a representative of the press, radio, television, or other
23 communication medium in anticipation of, or in return for,
24 professional publicity unless the fact of compensation is made
25 known in that publicity.

26 (e) Any person so licensed may not use any professional card,
27 professional announcement card, office sign, letterhead, telephone
28 directory listing, medical list, medical directory listing, or a similar
29 professional notice or device if it includes a statement or claim
30 that is false, fraudulent, misleading, or deceptive within the
31 meaning of subdivision (b).

32 (f) Any person so licensed who violates this section is guilty of
33 a misdemeanor. A bona fide mistake of fact shall be a defense to
34 this subdivision, but only to this subdivision.

35 (g) Any violation of this section by a person so licensed shall
36 constitute good cause for revocation or suspension of his or her
37 license or other disciplinary action.

38 (h) Advertising by any person so licensed may include the
39 following:

40 (1) A statement of the name of the practitioner.

1 (2) A statement of addresses and telephone numbers of the
2 offices maintained by the practitioner.

3 (3) A statement of office hours regularly maintained by the
4 practitioner.

5 (4) A statement of languages, other than English, fluently spoken
6 by the practitioner or a person in the practitioner's office.

7 (5) (A) A statement that the practitioner is certified by a private
8 or public board or agency or a statement that the practitioner limits
9 his or her practice to specific fields.

10 (B) A statement of certification by a practitioner licensed under
11 Chapter 7 (commencing with Section 3000) shall only include a
12 statement that he or she is certified or eligible for certification by
13 a private or public board or parent association recognized by that
14 practitioner's licensing board.

15 (C) A physician and surgeon licensed under Chapter 5
16 (commencing with Section 2000) by the Medical Board of
17 California may include a statement that he or she limits his or her
18 practice to specific fields, but shall not include a statement that he
19 or she is certified or eligible for certification by a private or public
20 board or parent association, including, but not limited to, a
21 multidisciplinary board or association, unless that board or
22 association is (i) an American Board of Medical Specialties
23 member board, (ii) a board or association with equivalent
24 requirements approved by that physician and surgeon's licensing
25 board, or (iii) a board or association with an Accreditation Council
26 for Graduate Medical Education approved postgraduate training
27 program that provides complete training in that specialty or
28 subspecialty. A physician and surgeon licensed under Chapter 5
29 (commencing with Section 2000) by the Medical Board of
30 California who is certified by an organization other than a board
31 or association referred to in clause (i), (ii), or (iii) shall not use the
32 term "board certified" in reference to that certification, unless the
33 physician and surgeon is also licensed under Chapter 4
34 (commencing with Section 1600) and the use of the term "board
35 certified" in reference to that certification is in accordance with
36 subparagraph (A). A physician and surgeon licensed under Chapter
37 5 (commencing with Section 2000) by the Medical Board of
38 California who is certified by a board or association referred to in
39 clause (i), (ii), or (iii) shall not use the term "board certified" unless
40 the full name of the certifying board is also used and given

1 comparable prominence with the term “board certified” in the
2 statement.

3 For purposes of this subparagraph, a “multidisciplinary board
4 or association” means an educational certifying body that has a
5 psychometrically valid testing process, as determined by the
6 Medical Board of California, for certifying medical doctors and
7 other health care professionals that is based on the applicant’s
8 education, training, and experience.

9 For purposes of the term “board certified,” as used in this
10 subparagraph, the terms “board” and “association” mean an
11 organization that is an American Board of Medical Specialties
12 member board, an organization with equivalent requirements
13 approved by a physician and surgeon’s licensing board, or an
14 organization with an Accreditation Council for Graduate Medical
15 Education approved postgraduate training program that provides
16 complete training in a specialty or subspecialty.

17 The Medical Board of California shall adopt regulations to
18 establish and collect a reasonable fee from each board or
19 association applying for recognition pursuant to this subparagraph.
20 The fee shall not exceed the cost of administering this
21 subparagraph. Notwithstanding Section 2 of Chapter 1660 of the
22 Statutes of 1990, this subparagraph shall become operative July
23 1, 1993. However, an administrative agency or accrediting
24 organization may take any action contemplated by this
25 subparagraph relating to the establishment or approval of specialist
26 requirements on and after January 1, 1991.

27 (D) A doctor of podiatric medicine licensed under Chapter 5
28 ~~(commencing with Section 2000) by the Medical Board of~~
29 ~~California 3.5 (commencing with Section 1460) by the California~~
30 *Board of Podiatric Medicine* may include a statement that he or
31 she is certified or eligible or qualified for certification by a private
32 or public board or parent association, including, but not limited
33 to, a multidisciplinary board or association, if that board or
34 association meets one of the following requirements: (i) is approved
35 by the Council on Podiatric Medical Education, (ii) is a board or
36 association with equivalent requirements approved by the
37 California Board of Podiatric Medicine, or (iii) is a board or
38 association with the Council on Podiatric Medical Education
39 approved postgraduate training programs that provide training in
40 podiatric medicine and podiatric surgery. A doctor of podiatric

1 medicine licensed under Chapter ~~5~~ (~~commencing with Section~~
2 ~~2000~~) by the ~~Medical Board of California~~ 3.5 (*commencing with*
3 *Section 1460*) by the *California Board of Podiatric Medicine* who
4 is certified by a board or association referred to in clause (i), (ii),
5 or (iii) shall not use the term “board certified” unless the full name
6 of the certifying board is also used and given comparable
7 prominence with the term “board certified” in the statement. A
8 doctor of podiatric medicine licensed under Chapter ~~5~~
9 (~~commencing with Section 2000~~) by the ~~Medical Board of~~
10 ~~California~~ 3.5 (*commencing with Section 1460*) by the *California*
11 *Board of Podiatric Medicine* who is certified by an organization
12 other than a board or association referred to in clause (i), (ii), or
13 (iii) shall not use the term “board certified” in reference to that
14 certification.

15 For purposes of this subparagraph, a “multidisciplinary board
16 or association” means an educational certifying body that has a
17 psychometrically valid testing process, as determined by the
18 California Board of Podiatric Medicine, for certifying doctors of
19 podiatric medicine that is based on the applicant’s education,
20 training, and experience. For purposes of the term “board certified,”
21 as used in this subparagraph, the terms “board” and “association”
22 mean an organization that is a Council on Podiatric Medical
23 Education approved board, an organization with equivalent
24 requirements approved by the California Board of Podiatric
25 Medicine, or an organization with a Council on Podiatric Medical
26 Education approved postgraduate training program that provides
27 training in podiatric medicine and podiatric surgery.

28 The California Board of Podiatric Medicine shall adopt
29 regulations to establish and collect a reasonable fee from each
30 board or association applying for recognition pursuant to this
31 subparagraph, to be deposited in the State Treasury in the Podiatry
32 Fund, pursuant to Section ~~2499~~ 1499. The fee shall not exceed
33 the cost of administering this subparagraph.

34 (6) A statement that the practitioner provides services under a
35 specified private or public insurance plan or health care plan.

36 (7) A statement of names of schools and postgraduate clinical
37 training programs from which the practitioner has graduated,
38 together with the degrees received.

39 (8) A statement of publications authored by the practitioner.

1 (9) A statement of teaching positions currently or formerly held
2 by the practitioner, together with pertinent dates.

3 (10) A statement of his or her affiliations with hospitals or
4 clinics.

5 (11) A statement of the charges or fees for services or
6 commodities offered by the practitioner.

7 (12) A statement that the practitioner regularly accepts
8 installment payments of fees.

9 (13) Otherwise lawful images of a practitioner, his or her
10 physical facilities, or of a commodity to be advertised.

11 (14) A statement of the manufacturer, designer, style, make,
12 trade name, brand name, color, size, or type of commodities
13 advertised.

14 (15) An advertisement of a registered dispensing optician may
15 include statements in addition to those specified in paragraphs (1)
16 to (14), inclusive, provided that any statement shall not violate
17 subdivision (a), (b), (c), or (e) or any other section of this code.

18 (16) A statement, or statements, providing public health
19 information encouraging preventative or corrective care.

20 (17) Any other item of factual information that is not false,
21 fraudulent, misleading, or likely to deceive.

22 (i) Each of the healing arts boards and examining committees
23 within Division 2 shall adopt appropriate regulations to enforce
24 this section in accordance with Chapter 3.5 (commencing with
25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
26 Code.

27 Each of the healing arts boards and committees and examining
28 committees within Division 2 shall, by regulation, define those
29 efficacious services to be advertised by businesses or professions
30 under their jurisdiction for the purpose of determining whether
31 advertisements are false or misleading. Until a definition for that
32 service has been issued, no advertisement for that service shall be
33 disseminated. However, if a definition of a service has not been
34 issued by a board or committee within 120 days of receipt of a
35 request from a licensee, all those holding the license may advertise
36 the service. Those boards and committees shall adopt or modify
37 regulations defining what services may be advertised, the manner
38 in which defined services may be advertised, and restricting
39 advertising that would promote the inappropriate or excessive use
40 of health services or commodities. A board or committee shall not,

1 by regulation, unreasonably prevent truthful, nondeceptive price
2 or otherwise lawful forms of advertising of services or
3 commodities, by either outright prohibition or imposition of
4 onerous disclosure requirements. However, any member of a board
5 or committee acting in good faith in the adoption or enforcement
6 of any regulation shall be deemed to be acting as an agent of the
7 state.

8 (j) The Attorney General shall commence legal proceedings in
9 the appropriate forum to enjoin advertisements disseminated or
10 about to be disseminated in violation of this section and seek other
11 appropriate relief to enforce this section. Notwithstanding any
12 other provision of law, the costs of enforcing this section to the
13 respective licensing boards or committees may be awarded against
14 any licensee found to be in violation of any provision of this
15 section. This shall not diminish the power of district attorneys,
16 county counsels, or city attorneys pursuant to existing law to seek
17 appropriate relief.

18 (k) A physician and surgeon ~~or doctor of podiatric medicine~~
19 licensed pursuant to Chapter 5 (commencing with Section 2000)
20 by the Medical Board of California *or a doctor of podiatric*
21 *medicine licensed pursuant to Chapter 3.5 (commencing with*
22 *Section 1460) by the California Board of Podiatric Medicine* who
23 knowingly and intentionally violates this section may be cited and
24 assessed an administrative fine not to exceed ten thousand dollars
25 (\$10,000) per event. Section 125.9 shall govern the issuance of
26 this citation and fine except that the fine limitations prescribed in
27 paragraph (3) of subdivision (b) of Section 125.9 shall not apply
28 to a fine under this subdivision.

29 *SEC. 6. Section 656 of the Business and Professions Code is*
30 *amended to read:*

31 656. Whenever any person has engaged, or is about to engage,
32 in any acts or practices that constitute, or will constitute, a violation
33 of this article, the superior court in and for the county wherein the
34 acts or practices take place, or are about to take place, may issue
35 an injunction, or other appropriate order, restraining the conduct
36 on application of the State Board of Optometry, the Medical Board
37 of California, *the California Board of Podiatric Medicine*, the
38 Osteopathic Medical Board of California, the Attorney General,
39 or the district attorney of the county.

1 The proceedings under this section shall be governed by Chapter
2 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
3 of Civil Procedure.

4 The remedy provided for in this section shall be in addition to,
5 and not a limitation upon, the authority provided by any other
6 provision of this code.

7 *SEC. 7. Section 683 of the Business and Professions Code is*
8 *amended to read:*

9 683. (a) A board shall report, within 10 working days, to the
10 State Department of Health Care Services the name and license
11 number of a person whose license has been revoked, suspended,
12 surrendered, made inactive by the licensee, or placed in another
13 category that prohibits the licensee from practicing his or her
14 profession. The purpose of the reporting requirement is to prevent
15 reimbursement by the state for Medi-Cal and Denti-Cal services
16 provided after the cancellation of a provider's professional license.

17 (b) "Board," as used in this section, means the Dental Board of
18 California, the Medical Board of California, the Board of
19 Psychology, the State Board of Optometry, the California State
20 Board of Pharmacy, the Osteopathic Medical Board of California,
21 the State Board of Chiropractic Examiners, the Board of Behavioral
22 Sciences, *the California Board of Podiatric Medicine*, and the
23 California Board of Occupational Therapy.

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

25 *SEC. 8. Section 800 of the Business and Professions Code is*
26 *amended to read:*

27 800. (a) The Medical Board of California, *the California Board*
28 *of Podiatric Medicine*, the Board of Psychology, the Dental Board
29 of California, the Dental Hygiene Committee of California, the
30 Osteopathic Medical Board of California, the State Board of
31 Chiropractic Examiners, the Board of Registered Nursing, the
32 Board of Vocational Nursing and Psychiatric Technicians of the
33 State of California, the State Board of Optometry, the Veterinary
34 Medical Board, the Board of Behavioral Sciences, the Physical
35 Therapy Board of California, the California State Board of
36 Pharmacy, the Speech-Language Pathology and Audiology and
37 Hearing Aid Dispensers Board, the California Board of
38 Occupational Therapy, the Acupuncture Board, and the Physician
39 Assistant Board shall each separately create and maintain a central
40 file of the names of all persons who hold a license, certificate, or

1 similar authority from that board. Each central file shall be created
2 and maintained to provide an individual historical record for each
3 licensee with respect to the following information:

4 (1) Any conviction of a crime in this or any other state that
5 constitutes unprofessional conduct pursuant to the reporting
6 requirements of Section 803.

7 (2) Any judgment or settlement requiring the licensee or his or
8 her insurer to pay any amount of damages in excess of three
9 thousand dollars (\$3,000) for any claim that injury or death was
10 proximately caused by the licensee's negligence, error or omission
11 in practice, or by rendering unauthorized professional services,
12 pursuant to the reporting requirements of Section 801 or 802.

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

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

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

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

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

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

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

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

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

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

30 *SEC. 9. Section 805 of the Business and Professions Code is*
31 *amended to read:*

32 805. (a) As used in this section, the following terms have the
33 following definitions:

34 (1) (A) "Peer review" means both of the following:

35 (i) A process in which a peer review body reviews the basic
36 qualifications, staff privileges, employment, medical outcomes,
37 or professional conduct of licentiates to make recommendations
38 for quality improvement and education, if necessary, in order to
39 do either or both of the following:

- 1 (I) Determine whether a licentiate may practice or continue to
2 practice in a health care facility, clinic, or other setting providing
3 medical services, and, if so, to determine the parameters of that
4 practice.
- 5 (II) Assess and improve the quality of care rendered in a health
6 care facility, clinic, or other setting providing medical services.
- 7 (ii) Any other activities of a peer review body as specified in
8 subparagraph (B).
- 9 (B) “Peer review body” includes:
- 10 (i) A medical or professional staff of any health care facility or
11 clinic licensed under Division 2 (commencing with Section 1200)
12 of the Health and Safety Code or of a facility certified to participate
13 in the federal Medicare program as an ambulatory surgical center.
- 14 (ii) A health care service plan licensed under Chapter 2.2
15 (commencing with Section 1340) of Division 2 of the Health and
16 Safety Code or a disability insurer that contracts with licentiates
17 to provide services at alternative rates of payment pursuant to
18 Section 10133 of the Insurance Code.
- 19 (iii) Any medical, psychological, marriage and family therapy,
20 social work, professional clinical counselor, dental, or podiatric
21 professional society having as members at least 25 percent of the
22 eligible licentiates in the area in which it functions (which must
23 include at least one county), which is not organized for profit and
24 which has been determined to be exempt from taxes pursuant to
25 Section 23701 of the Revenue and Taxation Code.
- 26 (iv) A committee organized by any entity consisting of or
27 employing more than 25 licentiates of the same class that functions
28 for the purpose of reviewing the quality of professional care
29 provided by members or employees of that entity.
- 30 (2) “Licentiate” means a physician and surgeon, doctor of
31 podiatric medicine, clinical psychologist, marriage and family
32 therapist, clinical social worker, professional clinical counselor,
33 dentist, or physician assistant. “Licentiate” also includes a person
34 authorized to practice medicine pursuant to Section 2113 or 2168.
- 35 (3) “Agency” means the relevant state licensing agency having
36 regulatory jurisdiction over the licentiates listed in paragraph (2).
- 37 (4) “Staff privileges” means any arrangement under which a
38 licentiate is allowed to practice in or provide care for patients in
39 a health facility. Those arrangements shall include, but are not
40 limited to, full staff privileges, active staff privileges, limited staff

1 privileges, auxiliary staff privileges, provisional staff privileges,
2 temporary staff privileges, courtesy staff privileges, locum tenens
3 arrangements, and contractual arrangements to provide professional
4 services, including, but not limited to, arrangements to provide
5 outpatient services.

6 (5) “Denial or termination of staff privileges, membership, or
7 employment” includes failure or refusal to renew a contract or to
8 renew, extend, or reestablish any staff privileges, if the action is
9 based on medical disciplinary cause or reason.

10 (6) “Medical disciplinary cause or reason” means that aspect
11 of a licentiate’s competence or professional conduct that is
12 reasonably likely to be detrimental to patient safety or to the
13 delivery of patient care.

14 (7) “805 report” means the written report required under
15 subdivision (b).

16 (b) The chief of staff of a medical or professional staff or other
17 chief executive officer, medical director, or administrator of any
18 peer review body and the chief executive officer or administrator
19 of any licensed health care facility or clinic shall file an 805 report
20 with the relevant agency within 15 days after the effective date on
21 which any of the following occur as a result of an action of a peer
22 review body:

23 (1) A licentiate’s application for staff privileges or membership
24 is denied or rejected for a medical disciplinary cause or reason.

25 (2) A licentiate’s membership, staff privileges, or employment
26 is terminated or revoked for a medical disciplinary cause or reason.

27 (3) Restrictions are imposed, or voluntarily accepted, on staff
28 privileges, membership, or employment for a cumulative total of
29 30 days or more for any 12-month period, for a medical disciplinary
30 cause or reason.

31 (c) If a licentiate takes any action listed in paragraph (1), (2),
32 or (3) after receiving notice of a pending investigation initiated
33 for a medical disciplinary cause or reason or after receiving notice
34 that his or her application for membership or staff privileges is
35 denied or will be denied for a medical disciplinary cause or reason,
36 the chief of staff of a medical or professional staff or other chief
37 executive officer, medical director, or administrator of any peer
38 review body and the chief executive officer or administrator of
39 any licensed health care facility or clinic where the licentiate is
40 employed or has staff privileges or membership or where the

1 licentiate applied for staff privileges or membership, or sought the
2 renewal thereof, shall file an 805 report with the relevant agency
3 within 15 days after the licentiate takes the action.

4 (1) Resigns or takes a leave of absence from membership, staff
5 privileges, or employment.

6 (2) Withdraws or abandons his or her application for staff
7 privileges or membership.

8 (3) Withdraws or abandons his or her request for renewal of
9 staff privileges or membership.

10 (d) For purposes of filing an 805 report, the signature of at least
11 one of the individuals indicated in subdivision (b) or (c) on the
12 completed form shall constitute compliance with the requirement
13 to file the report.

14 (e) An 805 report shall also be filed within 15 days following
15 the imposition of summary suspension of staff privileges,
16 membership, or employment, if the summary suspension remains
17 in effect for a period in excess of 14 days.

18 (f) A copy of the 805 report, and a notice advising the licentiate
19 of his or her right to submit additional statements or other
20 information, electronically or otherwise, pursuant to Section 800,
21 shall be sent by the peer review body to the licentiate named in
22 the report. The notice shall also advise the licentiate that
23 information submitted electronically will be publicly disclosed to
24 those who request the information.

25 The information to be reported in an 805 report shall include the
26 name and license number of the licentiate involved, a description
27 of the facts and circumstances of the medical disciplinary cause
28 or reason, and any other relevant information deemed appropriate
29 by the reporter.

30 A supplemental report shall also be made within 30 days
31 following the date the licentiate is deemed to have satisfied any
32 terms, conditions, or sanctions imposed as disciplinary action by
33 the reporting peer review body. In performing its dissemination
34 functions required by Section 805.5, the agency shall include a
35 copy of a supplemental report, if any, whenever it furnishes a copy
36 of the original 805 report.

37 If another peer review body is required to file an 805 report, a
38 health care service plan is not required to file a separate report
39 with respect to action attributable to the same medical disciplinary
40 cause or reason. If the Medical Board of California or a licensing

1 agency of another state revokes or suspends, without a stay, the
2 license of a physician and surgeon, a peer review body is not
3 required to file an 805 report when it takes an action as a result of
4 the revocation or suspension. *If the California Board of Podiatric
5 Medicine or a licensing agency of another state revokes or
6 suspends, without a stay, the license of a doctor of podiatric
7 medicine, a peer review body is not required to file an 805 report
8 when it takes an action as a result of the revocation or suspension.*

9 (g) The reporting required by this section shall not act as a
10 waiver of confidentiality of medical records and committee reports.
11 The information reported or disclosed shall be kept confidential
12 except as provided in subdivision (c) of Section 800 and Sections
13 803.1 and 2027, provided that a copy of the report containing the
14 information required by this section may be disclosed as required
15 by Section 805.5 with respect to reports received on or after
16 January 1, 1976.

17 (h) The Medical Board of California, *the California Board of
18 Podiatric Medicine*, the Osteopathic Medical Board of California,
19 and the Dental Board of California shall disclose reports as required
20 by Section 805.5.

21 (i) An 805 report shall be maintained electronically by an agency
22 for dissemination purposes for a period of three years after receipt.

23 (j) No person shall incur any civil or criminal liability as the
24 result of making any report required by this section.

25 (k) A willful failure to file an 805 report by any person who is
26 designated or otherwise required by law to file an 805 report is
27 punishable by a fine not to exceed one hundred thousand dollars
28 (\$100,000) per violation. The fine may be imposed in any civil or
29 administrative action or proceeding brought by or on behalf of any
30 agency having regulatory jurisdiction over the person regarding
31 whom the report was or should have been filed. If the person who
32 is designated or otherwise required to file an 805 report is a
33 licensed physician and surgeon, the action or proceeding shall be
34 brought by the Medical Board of California. *If the person who is
35 designated or otherwise required to file an 805 report is a licensed
36 doctor of podiatric medicine, the action or proceeding shall be
37 brought by the California Board of Podiatric Medicine.* The fine
38 shall be paid to that agency but not expended until appropriated
39 by the Legislature. A violation of this subdivision may constitute
40 unprofessional conduct by the licentiate. A person who is alleged

1 to have violated this subdivision may assert any defense available
2 at law. As used in this subdivision, “willful” means a voluntary
3 and intentional violation of a known legal duty.

4 (l) Except as otherwise provided in subdivision (k), any failure
5 by the administrator of any peer review body, the chief executive
6 officer or administrator of any health care facility, or any person
7 who is designated or otherwise required by law to file an 805
8 report, shall be punishable by a fine that under no circumstances
9 shall exceed fifty thousand dollars (\$50,000) per violation. The
10 fine may be imposed in any civil or administrative action or
11 proceeding brought by or on behalf of any agency having
12 regulatory jurisdiction over the person regarding whom the report
13 was or should have been filed. If the person who is designated or
14 otherwise required to file an 805 report is a licensed physician and
15 surgeon, the action or proceeding shall be brought by the Medical
16 Board of California. *If the person who is designated or otherwise*
17 *required to file an 805 report is a licensed doctor of podiatric*
18 *medicine, the action or proceeding shall be brought by the*
19 *California Board of Podiatric Medicine.* The fine shall be paid to
20 that agency but not expended until appropriated by the Legislature.
21 The amount of the fine imposed, not exceeding fifty thousand
22 dollars (\$50,000) per violation, shall be proportional to the severity
23 of the failure to report and shall differ based upon written findings,
24 including whether the failure to file caused harm to a patient or
25 created a risk to patient safety; whether the administrator of any
26 peer review body, the chief executive officer or administrator of
27 any health care facility, or any person who is designated or
28 otherwise required by law to file an 805 report exercised due
29 diligence despite the failure to file or whether they knew or should
30 have known that an 805 report would not be filed; and whether
31 there has been a prior failure to file an 805 report. The amount of
32 the fine imposed may also differ based on whether a health care
33 facility is a small or rural hospital as defined in Section 124840
34 of the Health and Safety Code.

35 (m) A health care service plan licensed under Chapter 2.2
36 (commencing with Section 1340) of Division 2 of the Health and
37 Safety Code or a disability insurer that negotiates and enters into
38 a contract with licentiates to provide services at alternative rates
39 of payment pursuant to Section 10133 of the Insurance Code, when
40 determining participation with the plan or insurer, shall evaluate,

1 on a case-by-case basis, licentiates who are the subject of an 805
2 report, and not automatically exclude or deselect these licentiates.

3 *SEC. 10. Section 805.1 of the Business and Professions Code*
4 *is amended to read:*

5 805.1. (a) The Medical Board of California, *the California*
6 *Board of Podiatric Medicine*, the Osteopathic Medical Board of
7 California, and the Dental Board of California shall be entitled to
8 inspect and copy the following documents in the record of any
9 disciplinary proceeding resulting in action that is required to be
10 reported pursuant to Section 805:

- 11 (1) Any statement of charges.
- 12 (2) Any document, medical chart, or exhibits in evidence.
- 13 (3) Any opinion, findings, or conclusions.
- 14 (4) Any certified copy of medical records, as permitted by other
15 applicable law.

16 (b) The information so disclosed shall be kept confidential and
17 not subject to discovery, in accordance with Section 800, except
18 that it may be reviewed, as provided in subdivision (c) of Section
19 800, and may be disclosed in any subsequent disciplinary hearing
20 conducted pursuant to the Administrative Procedure Act (Chapter
21 5 (commencing with Section 11500) of Part 1 of Division 3 of
22 Title 2 of the Government Code).

23 *SEC. 11. Section 805.5 of the Business and Professions Code*
24 *is amended to read:*

25 805.5. (a) Prior to granting or renewing staff privileges for
26 any physician and surgeon, psychologist, podiatrist, or dentist, any
27 health facility licensed pursuant to Division 2 (commencing with
28 Section 1200) of the Health and Safety Code, any health care
29 service plan or medical care foundation, the medical staff of the
30 institution, a facility certified to participate in the federal Medicare
31 Program as an ambulatory surgical center, or an outpatient setting
32 accredited pursuant to Section 1248.1 of the Health and Safety
33 Code shall request a report from the Medical Board of California,
34 the Board of Psychology, *the California Board of Podiatric*
35 *Medicine*, the Osteopathic Medical Board of California, or the
36 Dental Board of California to determine if any report has been
37 made pursuant to Section 805 indicating that the applying physician
38 and surgeon, psychologist, podiatrist, or dentist has been denied
39 staff privileges, been removed from a medical staff, or had his or
40 her staff privileges restricted as provided in Section 805. The

1 request shall include the name and California license number of
2 the physician and surgeon, psychologist, podiatrist, or dentist.
3 Furnishing of a copy of the 805 report shall not cause the 805
4 report to be a public record.

5 (b) Upon a request made by, or on behalf of, an institution
6 described in subdivision (a) or its medical staff the board shall
7 furnish a copy of any report made pursuant to Section 805 as well
8 as any additional exculpatory or explanatory information submitted
9 electronically to the board by the licensee pursuant to subdivision
10 (f) of that section. However, the board shall not send a copy of a
11 report (1) if the denial, removal, or restriction was imposed solely
12 because of the failure to complete medical records, (2) if the board
13 has found the information reported is without merit, (3) if a court
14 finds, in a final judgment, that the peer review, as defined in
15 Section 805, resulting in the report was conducted in bad faith and
16 the licensee who is the subject of the report notifies the board of
17 that finding, or (4) if a period of three years has elapsed since the
18 report was submitted. This three-year period shall be tolled during
19 any period the licensee has obtained a judicial order precluding
20 disclosure of the report, unless the board is finally and permanently
21 precluded by judicial order from disclosing the report. If a request
22 is received by the board while the board is subject to a judicial
23 order limiting or precluding disclosure, the board shall provide a
24 disclosure to any qualified requesting party as soon as practicable
25 after the judicial order is no longer in force.

26 If the board fails to advise the institution within 30 working days
27 following its request for a report required by this section, the
28 institution may grant or renew staff privileges for the physician
29 and surgeon, psychologist, podiatrist, or dentist.

30 (c) Any institution described in subdivision (a) or its medical
31 staff that violates subdivision (a) is guilty of a misdemeanor and
32 shall be punished by a fine of not less than two hundred dollars
33 (\$200) nor more than one thousand two hundred dollars (\$1,200).

34 *SEC. 12. Section 805.6 of the Business and Professions Code*
35 *is amended to read:*

36 805.6. (a) The Medical Board of California, *the California*
37 *Board of Podiatric Medicine*, the Osteopathic Medical Board, and
38 the Dental Board of California shall establish a system of electronic
39 notification that is either initiated by the board or can be accessed
40 by qualified subscribers, and that is designed to achieve early

1 notification to qualified recipients of the existence of new reports
2 that are filed pursuant to Section 805.

3 (b) The State Department of Health Services shall notify the
4 appropriate licensing agency of any reporting violations pursuant
5 to Section 805.

6 (c) The Department of Managed Health Care shall notify the
7 appropriate licensing agency of any reporting violations pursuant
8 to Section 805.

9 *SEC. 13. Section 810 of the Business and Professions Code is*
10 *amended to read:*

11 810. (a) It shall constitute unprofessional conduct and grounds
12 for disciplinary action, including suspension or revocation of a
13 license or certificate, for a health care professional to do any of
14 the following in connection with his or her professional activities:

15 (1) Knowingly present or cause to be presented any false or
16 fraudulent claim for the payment of a loss under a contract of
17 insurance.

18 (2) Knowingly prepare, make, or subscribe any writing, with
19 intent to present or use the same, or to allow it to be presented or
20 used in support of any false or fraudulent claim.

21 (b) It shall constitute cause for revocation or suspension of a
22 license or certificate for a health care professional to engage in
23 any conduct prohibited under Section 1871.4 of the Insurance Code
24 or Section 549 or 550 of the Penal Code.

25 (c) (1) It shall constitute cause for automatic suspension of a
26 license or certificate issued pursuant to *Chapter 3.5 (commencing*
27 *with Section 1460)*, Chapter 4 (commencing with Section 1600),
28 Chapter 5 (commencing with Section 2000), Chapter 6.6
29 (commencing with Section 2900), Chapter 7 (commencing with
30 Section 3000), or Chapter 9 (commencing with Section 4000), or
31 pursuant to the Chiropractic Act or the Osteopathic Act, if a
32 licensee or certificate holder has been convicted of any felony
33 involving fraud committed by the licensee or certificate holder in
34 conjunction with providing benefits covered by worker's
35 compensation insurance, or has been convicted of any felony
36 involving Medi-Cal fraud committed by the licensee or certificate
37 holder in conjunction with the Medi-Cal program, including the
38 Denti-Cal element of the Medi-Cal program, pursuant to Chapter
39 7 (commencing with Section 14000), or Chapter 8 (commencing
40 with Section 14200), of Part 3 of Division 9 of the Welfare and

1 Institutions Code. The board shall convene a disciplinary hearing
2 to determine whether or not the license or certificate shall be
3 suspended, revoked, or some other disposition shall be considered,
4 including, but not limited to, revocation with the opportunity to
5 petition for reinstatement, suspension, or other limitations on the
6 license or certificate as the board deems appropriate.

7 (2) It shall constitute cause for automatic suspension and for
8 revocation of a license or certificate issued pursuant to *Chapter*
9 *3.5 (commencing with Section 1460)*, Chapter 4 (commencing with
10 Section 1600), Chapter 5 (commencing with Section 2000), Chapter
11 6.6 (commencing with Section 2900), Chapter 7 (commencing
12 with Section 3000), or Chapter 9 (commencing with Section 4000),
13 or pursuant to the Chiropractic Act or the Osteopathic Act, if a
14 licensee or certificate holder has more than one conviction of any
15 felony arising out of separate prosecutions involving fraud
16 committed by the licensee or certificate holder in conjunction with
17 providing benefits covered by worker's compensation insurance,
18 or in conjunction with the Medi-Cal program, including the
19 Denti-Cal element of the Medi-Cal program pursuant to Chapter
20 7 (commencing with Section 14000), or Chapter 8 (commencing
21 with Section 14200), of Part 3 of Division 9 of the Welfare and
22 Institutions Code. The board shall convene a disciplinary hearing
23 to revoke the license or certificate and an order of revocation shall
24 be issued unless the board finds mitigating circumstances to order
25 some other disposition.

26 (3) It is the intent of the Legislature that paragraph (2) apply to
27 a licensee or certificate holder who has one or more convictions
28 prior to January 1, 2004, as provided in this subdivision.

29 (4) Nothing in this subdivision shall preclude a board from
30 suspending or revoking a license or certificate pursuant to any
31 other provision of law.

32 (5) "Board," as used in this subdivision, means the Dental Board
33 of California, the Medical Board of California, *the California*
34 *Board of Podiatric Medicine*, the Board of Psychology, the State
35 Board of Optometry, the California State Board of Pharmacy, the
36 Osteopathic Medical Board of California, and the State Board of
37 Chiropractic Examiners.

38 (6) "More than one conviction," as used in this subdivision,
39 means that the licensee or certificate holder has one or more
40 convictions prior to January 1, 2004, and at least one conviction

1 on or after that date, or the licensee or certificate holder has two
2 or more convictions on or after January 1, 2004. However, a
3 licensee or certificate holder who has one or more convictions
4 prior to January 1, 2004, but who has no convictions and is
5 currently licensed or holds a certificate after that date, does not
6 have “more than one conviction” for the purposes of this
7 subdivision.

8 (d) As used in this section, health care professional means any
9 person licensed or certified pursuant to this division, or licensed
10 pursuant to the Osteopathic Initiative Act, or the Chiropractic
11 Initiative Act.

12 *SEC. 14. Chapter 3.5 (commencing with Section 1460) is added*
13 *to Division 2 of the Business and Professions Code, to read:*

14
15 *CHAPTER 3.5. PODIATRIC MEDICINE*

16
17 *1460. (a) There is created within the Department of Consumer*
18 *Affairs a California Board of Podiatric Medicine.*

19 *(b) This section shall remain in effect only until January 1, 2017,*
20 *and as of that date is repealed, unless a later enacted statute, that*
21 *is enacted before January 1, 2017, deletes or extends that date.*
22 *Notwithstanding any other provision of law, the repeal of this*
23 *section renders the California Board of Podiatric Medicine subject*
24 *to review by the appropriate policy committees of the Legislature.*

25 *1460.1. Protection of the public shall be the highest priority*
26 *for the California Board of Podiatric Medicine in exercising its*
27 *licensing, regulatory, and disciplinary functions. Whenever the*
28 *protection of the public is inconsistent with other interests sought*
29 *to be promoted, the protection of the public shall be paramount.*

30 *1461. As used in this chapter:*

31 *(a) “Board” means the California Board of Podiatric Medicine.*

32 *(b) “Podiatric licensing authority” refers to any officer, board,*
33 *commission, committee, or department of another state that may*
34 *issue a license to practice podiatric medicine.*

35 *1462. The board shall consist of seven members, three of whom*
36 *shall be public members. Not more than one member of the board*
37 *shall be a full-time faculty member of a college or school of*
38 *podiatric medicine.*

39 *The Governor shall appoint the four members qualified as*
40 *provided in Section 2463 and one public member. The Senate Rules*

1 *Committee and the Speaker of the Assembly shall each appoint a*
2 *public member.*

3 *1463. Each member of the board, except the public members,*
4 *shall be appointed from persons having all of the following*
5 *qualifications:*

6 *(a) Be a citizen of this state for at least five years next preceding*
7 *his or her appointment.*

8 *(b) Be a graduate of a recognized school or college of podiatric*
9 *medicine.*

10 *(c) Have a valid certificate to practice podiatric medicine in*
11 *this state.*

12 *(d) Have engaged in the practice of podiatric medicine in this*
13 *state for at least five years next preceding his or her appointment.*

14 *1464. The public members shall be appointed from persons*
15 *having all of the following qualifications:*

16 *(a) Be a citizen of this state for at least five years next preceding*
17 *his or her appointment.*

18 *(b) Shall not be an officer or faculty member of any college,*
19 *school, or other institution engaged in podiatric medical*
20 *instruction.*

21 *(c) Shall not be a licentiate of the board or of any board under*
22 *this division or of any board created by an initiative act under this*
23 *division.*

24 *1465. No person who directly or indirectly owns any interest*
25 *in any college, school, or other institution engaged in podiatric*
26 *medical instruction shall be appointed to the board nor shall any*
27 *incumbent member of the board have or acquire any interest, direct*
28 *or indirect, in any such college, school, or institution.*

29 *1466. All members of the board shall be appointed for terms*
30 *of four years. Vacancies shall immediately be filled by the*
31 *appointing power for the unexpired portion of the terms in which*
32 *they occur. No person shall serve as a member of the board for*
33 *more than two consecutive terms.*

34 *1467. (a) The board may convene from time to time as it deems*
35 *necessary.*

36 *(b) Four members of the board constitute a quorum for the*
37 *transaction of business at any meeting.*

38 *(c) It shall require the affirmative vote of a majority of those*
39 *members present at a meeting, those members constituting at least*
40 *a quorum, to pass any motion, resolution, or measure.*

1 (d) *The board shall annually elect one of its members to act as*
2 *president and a member to act as vice president who shall hold*
3 *their respective positions at the pleasure of the board. The*
4 *president may call meetings of the board and any duly appointed*
5 *committee at a specified time and place.*

6 1468. *Notice of each meeting of the board shall be given in*
7 *accordance with the Bagley-Keene Open Meeting Act (Article 9*
8 *(commencing with Section 11120) of Chapter 1 of Part 1 of*
9 *Division 3 of Title 2 of the Government Code).*

10 1469. *Each member of the board shall receive per diem and*
11 *expenses as provided in Section 2016.*

12 1470. *The board may adopt, amend, or repeal, in accordance*
13 *with the provisions of the Administrative Procedure Act (Chapter*
14 *3.5 (commencing with Section 11340) of Part 1 of Division 1 of*
15 *Title 2 of the Government Code), regulations necessary to enable*
16 *the board to carry into effect the provisions of law relating to the*
17 *practice of podiatric medicine.*

18 1471. *Except as provided by Section 159.5, the board may*
19 *employ, within the limits of the funds received by the board, all*
20 *personnel necessary to carry out this chapter and the provisions*
21 *of Chapter 5 (commencing with Section 2000) relating to podiatric*
22 *medicine.*

23 1472. (a) *The certificate to practice podiatric medicine*
24 *authorizes the holder to practice podiatric medicine.*

25 (b) *As used in this chapter, "podiatric medicine" means the*
26 *diagnosis, medical, surgical, mechanical, manipulative, and*
27 *electrical treatment of the human foot, including the ankle and*
28 *tendons that insert into the foot and the nonsurgical treatment of*
29 *the muscles and tendons of the leg governing the functions of the*
30 *foot.*

31 (c) *A doctor of podiatric medicine shall not administer an*
32 *anesthetic other than local. If an anesthetic other than local is*
33 *required for any procedure, the anesthetic shall be administered*
34 *by another licensed health care practitioner who is authorized to*
35 *administer the required anesthetic within the scope of his or her*
36 *practice.*

37 (d) (1) *A doctor of podiatric medicine may do the following:*

38 (A) *Perform surgical treatment of the ankle and tendons at the*
39 *level of the ankle pursuant to subdivision (e).*

1 (B) Perform services under the direct supervision of a physician
2 and surgeon, as an assistant at surgery, in surgical procedures
3 that are otherwise beyond the scope of practice of a doctor of
4 podiatric medicine.

5 (C) Perform a partial amputation of the foot no further proximal
6 than the Chopart's joint.

7 (2) Nothing in this subdivision shall be construed to permit a
8 doctor of podiatric medicine to function as a primary surgeon for
9 any procedure beyond his or her scope of practice.

10 (e) A doctor of podiatric medicine may perform surgical
11 treatment of the ankle and tendons at the level of the ankle only
12 in the following locations:

13 (1) A licensed general acute care hospital, as defined in Section
14 1250 of the Health and Safety Code.

15 (2) A licensed surgical clinic, as defined in Section 1204 of the
16 Health and Safety Code, if the doctor of podiatric medicine has
17 surgical privileges, including the privilege to perform surgery on
18 the ankle, in a general acute care hospital described in paragraph
19 (1) and meets all the protocols of the surgical clinic.

20 (3) An ambulatory surgical center that is certified to participate
21 in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395
22 et seq.) of the federal Social Security Act, if the doctor of podiatric
23 medicine has surgical privileges, including the privilege to perform
24 surgery on the ankle, in a general acute care hospital described
25 in paragraph (1) and meets all the protocols of the surgical center.

26 (4) A freestanding physical plant housing outpatient services
27 of a licensed general acute care hospital, as defined in Section
28 1250 of the Health and Safety Code, if the doctor of podiatric
29 medicine has surgical privileges, including the privilege to perform
30 surgery on the ankle, in a general acute care hospital described
31 in paragraph (1). For purposes of this section, a "freestanding
32 physical plant" means any building that is not physically attached
33 to a building where inpatient services are provided.

34 (5) An outpatient setting accredited pursuant to subdivision (g)
35 of Section 1248.1 of the Health and Safety Code.

36 1474. Any person who uses in any sign or in any advertisement
37 or otherwise, the word or words "doctor of podiatric medicine,"
38 "doctor of podiatry," "podiatric doctor," "D.P.M.," "podiatrist,"
39 "foot specialist," or any other term or terms or any letters
40 indicating or implying that he or she is a doctor of podiatric

1 *medicine, or that he or she practices podiatric medicine, or holds*
2 *himself out as practicing podiatric medicine or foot correction as*
3 *defined in Section 1472, without having at the time of so doing a*
4 *valid, unrevoked, and unsuspended certificate as provided for in*
5 *this chapter or Chapter 5 (commencing with Section 2000), is*
6 *guilty of a misdemeanor.*

7 *2475. Unless otherwise provided by law, no postgraduate*
8 *trainee, intern, resident postdoctoral fellow, or instructor may*
9 *engage in the practice of podiatric medicine, or receive*
10 *compensation therefor, or offer to engage in the practice of*
11 *podiatric medicine unless he or she holds a valid, unrevoked, and*
12 *unsuspended certificate to practice podiatric medicine issued by*
13 *the board. However, a graduate of an approved college or school*
14 *of podiatric medicine upon whom the degree doctor of podiatric*
15 *medicine has been conferred, who is issued a resident's license,*
16 *which may be renewed annually for up to eight years for this*
17 *purpose by the board, and who is enrolled in a postgraduate*
18 *training program approved by the board, may engage in the*
19 *practice of podiatric medicine whenever and wherever required*
20 *as a part of that program and may receive compensation for that*
21 *practice under the following conditions:*

22 *(a) A graduate with a resident's license in an approved*
23 *internship, residency, or fellowship program may participate in*
24 *training rotations outside the scope of podiatric medicine, under*
25 *the supervision of a physician and surgeon who holds a medical*
26 *doctor or doctor of osteopathy degree wherever and whenever*
27 *required as a part of the training program, and may receive*
28 *compensation for that practice. If the graduate fails to receive a*
29 *license to practice podiatric medicine under this chapter within*
30 *three years from the commencement of the postgraduate training,*
31 *all privileges and exemptions under this section shall automatically*
32 *cease.*

33 *(b) Hospitals functioning as a part of the teaching program of*
34 *an approved college or school of podiatric medicine in this state*
35 *may exchange instructors or resident or assistant resident doctors*
36 *of podiatric medicine with another approved college or school of*
37 *podiatric medicine not located in this state, or those hospitals may*
38 *appoint a graduate of an approved school as such a resident for*
39 *purposes of postgraduate training. Those instructors and residents*
40 *may practice and be compensated as provided in this section, but*

1 *that practice and compensation shall be for a period not to exceed*
2 *two years.*

3 *1475.1. Before a resident's license may be issued, each*
4 *applicant shall show by evidence satisfactory to the board,*
5 *submitted directly to the board by the national score reporting*
6 *institution, that he or she has, within the past 10 years, passed*
7 *Parts I and II of the examination administered by the National*
8 *Board of Podiatric Medical Examiners of the United States or has*
9 *passed a written examination that is recognized by the board to*
10 *be the equivalent in content to the examination administered by*
11 *the National Board of Podiatric Medical Examiners of the United*
12 *States.*

13 *1475.2. As used in this chapter, "podiatric residency" means*
14 *a program of supervised postgraduate clinical training, one year*
15 *or more in duration, approved by the board.*

16 *1475.3. (a) The board shall approve podiatric residency*
17 *programs, as defined in Section 1475.2, in the field of podiatric*
18 *medicine, for persons who are applicants for or have been issued*
19 *a certificate to practice podiatric medicine pursuant to this article.*

20 *(b) The board may only approve a podiatric residency that it*
21 *determines meets all of the following requirements:*

22 *(1) Reasonably conforms with the Accreditation Council for*
23 *Graduate Medical Education's Institutional Requirements of the*
24 *Essentials of Accredited Residencies in Graduate Medical*
25 *Education: Institutional and Program Requirements.*

26 *(2) Is approved by the Council on Podiatric Medical Education.*

27 *(3) Complies with the requirements of this state.*

28 *1476. Nothing in this chapter or Chapter 5 (commencing with*
29 *Section 2000) shall be construed to prevent a regularly*
30 *matriculated student undertaking a course of professional*
31 *instruction in an approved college or school of podiatric medicine*
32 *from participating in training beyond the scope of podiatric*
33 *medicine under the supervision of a physician and surgeon who*
34 *holds a medical doctor or doctor of osteopathy degree whenever*
35 *and wherever prescribed as part of his or her course of study.*

36 *1477. Nothing in this chapter prohibits the manufacture, the*
37 *recommendation, or the sale of either corrective shoes or*
38 *appliances for the human feet.*

39 *1479. The board shall issue a certificate to practice podiatric*
40 *medicine to each applicant who meets the requirements of this*

1 *chapter. Every applicant for a certificate to practice podiatric*
2 *medicine shall comply with the provisions of Article 4 (commencing*
3 *with Section 2080) of Chapter 5 which are not specifically*
4 *applicable to applicants for a physician's and surgeon's certificate,*
5 *in addition to the provisions of this chapter and Chapter 5*
6 *(commencing with Section 2000).*

7 *1480. The board shall have full authority to investigate and to*
8 *evaluate each applicant applying for a certificate to practice*
9 *podiatric medicine and to make a determination of the admission*
10 *of the applicant to the examination and the issuance of a certificate*
11 *in accordance with this chapter and Chapter 5 (commencing with*
12 *Section 2000).*

13 *1481. Each applicant who commenced professional instruction*
14 *in podiatric medicine after September 1, 1959, shall show by an*
15 *official transcript or other official evidence submitted directly to*
16 *the board by the academic institution that he or she has completed*
17 *two years of preprofessional postsecondary education, or its*
18 *equivalent, including the subjects of chemistry, biology or other*
19 *biological science, and physics or mathematics, before completing*
20 *the resident course of professional instruction.*

21 *1483. (a) Each applicant for a certificate to practice podiatric*
22 *medicine shall show by an official transcript or other official*
23 *evidence satisfactory to the board that is submitted directly to the*
24 *board by the academic institution that he or she has successfully*
25 *completed a medical curriculum extending over a period of at least*
26 *four academic years, or 32 months of actual instruction, in a*
27 *college or school of podiatric medicine approved by the board.*
28 *The total number of hours of all courses shall consist of a minimum*
29 *of 4,000 hours.*

30 *The board, by regulation, shall adopt standards for determining*
31 *equivalent training authorized by this section.*

32 *(b) The curriculum for all applicants shall provide for adequate*
33 *instruction related to podiatric medicine in the following:*

- 34 *(1) Alcoholism and other chemical substance detection*
35 *(2) Local anesthesia*
36 *(3) Anatomy, including embryology, histology, and*
37 *neuroanatomy*
38 *(4) Behavioral science*
39 *(5) Biochemistry*
40 *(6) Biomechanics-foot and ankle*

- 1 (7) *Child abuse detection*
 - 2 (8) *Dermatology*
 - 3 (9) *Geriatric medicine*
 - 4 (10) *Human sexuality*
 - 5 (11) *Infectious diseases*
 - 6 (12) *Medical ethics*
 - 7 (13) *Neurology*
 - 8 (14) *Orthopedic surgery*
 - 9 (15) *Pathology, microbiology, and immunology*
 - 10 (16) *Pediatrics*
 - 11 (17) *Pharmacology, including materia medica and toxicology*
 - 12 (18) *Physical and laboratory diagnosis*
 - 13 (19) *Physical medicine*
 - 14 (20) *Physiology*
 - 15 (21) *Podiatric medicine*
 - 16 (22) *Podiatric surgery*
 - 17 (23) *Preventive medicine, including nutrition*
 - 18 (24) *Psychiatric problem detection*
 - 19 (25) *Radiology and radiation safety*
 - 20 (26) *Spousal or partner abuse detection*
 - 21 (27) *Therapeutics*
 - 22 (28) *Women's health*
- 23 1484. *In addition to any other requirements of this chapter or*
24 *Chapter 5 (commencing with Section 2000), before a certificate*
25 *to practice podiatric medicine may be issued, each applicant shall*
26 *show by evidence satisfactory to the board, submitted directly to*
27 *the board by the sponsoring institution, that he or she has*
28 *satisfactorily completed at least two years of postgraduate*
29 *podiatric medical and podiatric surgical training in a general*
30 *acute care hospital approved by the Council on Podiatric Medical*
31 *Education.*
- 32 1486. *The board shall issue a certificate to practice podiatric*
33 *medicine if the applicant has submitted directly to the board from*
34 *the credentialing organizations verification that he or she meets*
35 *all of the following requirements:*
- 36 (a) *The applicant has graduated from an approved school or*
37 *college of podiatric medicine and meets the requirements of Section*
38 *2483.*
 - 39 (b) *The applicant, within the past 10 years, has passed parts I,*
40 *II, and III of the examination administered by the National Board*

1 *of Podiatric Medical Examiners of the United States or has passed*
2 *a written examination that is recognized by the board to be the*
3 *equivalent in content to the examination administered by the*
4 *National Board of Podiatric Medical Examiners of the United*
5 *States.*

6 *(c) The applicant has satisfactorily completed the postgraduate*
7 *training required by Section 2484.*

8 *(d) The applicant has passed within the past 10 years any oral*
9 *and practical examination that may be required of all applicants*
10 *by the board to ascertain clinical competence.*

11 *(e) The applicant has committed no acts or crimes constituting*
12 *grounds for denial of a certificate under Division 1.5 (commencing*
13 *with Section 475).*

14 *(f) The board determines that no disciplinary action has been*
15 *taken against the applicant by any podiatric licensing authority*
16 *and that the applicant has not been the subject of adverse*
17 *judgments or settlements resulting from the practice of podiatric*
18 *medicine that the board determines constitutes evidence of a*
19 *pattern of negligence or incompetence.*

20 *(g) A disciplinary databank report regarding the applicant is*
21 *received by the board from the Federation of Podiatric Medical*
22 *Boards.*

23 *1488. Notwithstanding any other law, the board shall issue a*
24 *certificate to practice podiatric medicine by credentialing if the*
25 *applicant has submitted directly to the board from the credentialing*
26 *organizations verification that he or she is licensed as a doctor of*
27 *podiatric medicine in any other state and meets all of the following*
28 *requirements:*

29 *(a) The applicant has graduated from an approved school or*
30 *college of podiatric medicine.*

31 *(b) The applicant, within the past 10 years, has passed either*
32 *part III of the examination administered by the National Board of*
33 *Podiatric Medical Examiners of the United States or a written*
34 *examination that is recognized by the board to be the equivalent*
35 *in content to the examination administered by the National Board*
36 *of Podiatric Medical Examiners of the United States.*

37 *(c) The applicant has satisfactorily completed a postgraduate*
38 *training program approved by the Council on Podiatric Medical*
39 *Education.*

1 (d) The applicant, within the past 10 years, has passed any oral
2 and practical examination that may be required of all applicants
3 by the board to ascertain clinical competence.

4 (e) The applicant has committed no acts or crimes constituting
5 grounds for denial of a certificate under Division 1.5 (commencing
6 with Section 475).

7 (f) The board determines that no disciplinary action has been
8 taken against the applicant by any podiatric licensing authority
9 and that the applicant has not been the subject of adverse
10 judgments or settlements resulting from the practice of podiatric
11 medicine that the board determines constitutes evidence of a
12 pattern of negligence or incompetence.

13 (g) A disciplinary databank report regarding the applicant is
14 received by the board from the Federation of Podiatric Medical
15 Boards.

16 1492. (a) The board shall examine every applicant for a
17 certificate to practice podiatric medicine to ensure a minimum of
18 entry-level competence at the time and place designated by the
19 board in its discretion, but at least twice a year.

20 (b) Unless the applicant meets the requirements of Section 1486,
21 applicants shall be required to have taken and passed the
22 examination administered by the National Board of Podiatric
23 Medical Examiners.

24 (c) The board may appoint qualified persons to give the whole
25 or any portion of any examination as provided in this article, who
26 shall be designated as examination commissioners. The board may
27 fix the compensation of those persons subject to the provisions of
28 applicable state laws and regulations.

29 (d) The provisions of Article 9 (commencing with Section 2170)
30 of Chapter 5 shall apply to examinations administered by the board
31 except where those provisions are in conflict with or inconsistent
32 with the provisions of this chapter.

33 1493. An applicant for a certificate to practice podiatric
34 medicine shall pass an examination in the subjects required by
35 Section 1483 in order to ensure a minimum of entry-level
36 competence.

37 1495. Notwithstanding any other provision of this chapter, the
38 board may delegate to officials of the board the authority to
39 approve the admission of applicants to the examination and to
40 approve the issuance of certificates to practice podiatric medicine

1 to applicants who have met the specific requirements therefor in
2 routine cases where applicants clearly meet the requirements of
3 this chapter.

4 1496. In order to ensure the continuing competence of persons
5 licensed to practice podiatric medicine, the board shall adopt and
6 administer regulations requiring continuing education of those
7 licensees. The board shall require those licensees to demonstrate
8 satisfaction of the continuing education requirements and one of
9 the following requirements at each license renewal:

10 (a) Passage of an examination administered by the board within
11 the past 10 years.

12 (b) Passage of an examination administered by an approved
13 specialty certifying board within the past 10 years.

14 (c) Current diplomate, board-eligible, or board-qualified status
15 granted by an approved specialty certifying board within the past
16 10 years.

17 (d) Recertification of current status by an approved specialty
18 certifying board within the past 10 years.

19 (e) Successful completion of an approved residency or fellowship
20 program within the past 10 years.

21 (f) Granting or renewal of current staff privileges within the
22 past five years by a health care facility that is licensed, certified,
23 accredited, conducted, maintained, operated, or otherwise
24 approved by an agency of the federal or state government or an
25 organization approved by the Medical Board of California.

26 (g) Successful completion within the past five years of an
27 extended course of study approved by the board.

28 (h) Passage within the past 10 years of Part III of the
29 examination administered by the National Board of Podiatric
30 Medical Examiners.

31 1497. (a) The board may order the denial of an application
32 for, or the suspension of, or the revocation of, or the imposition
33 of probationary conditions upon, a certificate to practice podiatric
34 medicine for any of the causes set forth in Article 12 (commencing
35 with Section 2220) of Chapter 5 in accordance with Section 2222.

36 (b) The board may hear all matters, including but not limited
37 to, any contested case or may assign any such matters to an
38 administrative law judge. The proceedings shall be held in
39 accordance with Section 2230. If a contested case is heard by the
40 board itself, the administrative law judge who presided at the

1 hearing shall be present during the board's consideration of the
2 case and shall assist and advise the board.

3 1497.5. (a) The board may request the administrative law
4 judge, under his or her proposed decision in resolution of a
5 disciplinary proceeding before the board, to direct any licensee
6 found guilty of unprofessional conduct to pay to the board a sum
7 not to exceed the actual and reasonable costs of the investigation
8 and prosecution of the case.

9 (b) The costs to be assessed shall be fixed by the administrative
10 law judge and shall not be increased by the board unless the board
11 does not adopt a proposed decision and in making its own decision
12 finds grounds for increasing the costs to be assessed, not to exceed
13 the actual and reasonable costs of the investigation and
14 prosecution of the case.

15 (c) When the payment directed in the board's order for payment
16 of costs is not made by the licensee, the board may enforce the
17 order for payment by bringing an action in any appropriate court.
18 This right of enforcement shall be in addition to any other rights
19 the board may have as to any licensee directed to pay costs.

20 (d) In any judicial action for the recovery of costs, proof of the
21 board's decision shall be conclusive proof of the validity of the
22 order of payment and the terms for payment.

23 (e) (1) Except as provided in paragraph (2), the board shall
24 not renew or reinstate the license of any licensee who has failed
25 to pay all of the costs ordered under this section.

26 (2) Notwithstanding paragraph (1), the board may, in its
27 discretion, conditionally renew or reinstate for a maximum of one
28 year the license of any licensee who demonstrates financial
29 hardship and who enters into a formal agreement with the board
30 to reimburse the board within that one-year period for those unpaid
31 costs.

32 (f) All costs recovered under this section shall be deposited in
33 the Board of Podiatric Medicine Fund as a reimbursement in either
34 the fiscal year in which the costs are actually recovered or the
35 previous fiscal year, as the board may direct.

36 1498. (a) The board shall have the responsibility for reviewing
37 the quality of podiatric medical practice carried out by persons
38 licensed to practice podiatric medicine.

39 (b) Each member of the board, or any licensed doctor of
40 podiatric medicine appointed by the board, shall additionally have

1 *the authority to inspect, or require reports from, a general or*
2 *specialized hospital and the podiatric medical staff thereof, with*
3 *respect to the podiatric medical care, services, or facilities*
4 *provided therein, and may inspect podiatric medical patient*
5 *records with respect to the care, services, or facilities. The*
6 *authority to make inspections and to require reports as provided*
7 *by this section shall not be delegated by a member of the board to*
8 *any person other than a doctor of podiatric medicine and shall be*
9 *subject to the restrictions against disclosure described in Section*
10 *2263.*

11 *1499. There is in the State Treasury the Board of Podiatric*
12 *Medicine Fund. Notwithstanding Section 2445, the board shall*
13 *report to the Controller at the beginning of each calendar month*
14 *for the month preceding the amount and source of all revenue*
15 *received by the board, pursuant to this chapter, and shall pay the*
16 *entire amount thereof to the Treasurer for deposit into the fund.*
17 *All revenue received by the board from fees authorized to be*
18 *charged relating to the practice of podiatric medicine shall be*
19 *deposited in the fund as provided in this section, and shall be used*
20 *to carry out this chapter or the provisions of Chapter 5*
21 *(commencing with Section 2000) relating to the regulation of the*
22 *practice of podiatric medicine.*

23 *1499.5. The following fees apply to certificates to practice*
24 *podiatric medicine. The amount of fees prescribed for doctors of*
25 *podiatric medicine shall be those set forth in this section unless a*
26 *lower fee is established by the board in accordance with Section*
27 *1499.6. Fees collected pursuant to this section shall be fixed by*
28 *the board in amounts not to exceed the actual costs of providing*
29 *the service for which the fee is collected.*

30 *(a) Each applicant for a certificate to practice podiatric*
31 *medicine shall pay an application fee of twenty dollars (\$20) at*
32 *the time the application is filed. If the applicant qualifies for a*
33 *certificate, he or she shall pay a fee which shall be fixed by the*
34 *board at an amount not to exceed one hundred dollars (\$100) nor*
35 *less than five dollars (\$5) for the issuance of the certificate.*

36 *(b) The oral examination fee shall be seven hundred dollars*
37 *(\$700), or the actual cost, whichever is lower, and shall be paid*
38 *by each applicant. If the applicant's credentials are insufficient*
39 *or if the applicant does not desire to take the examination, and*
40 *has so notified the board 30 days prior to the examination date,*

1 *only the examination fee is returnable to the applicant. The board*
2 *may charge an examination fee for any subsequent reexamination*
3 *of the applicant.*

4 *(c) Each applicant who qualifies for a certificate, as a condition*
5 *precedent to its issuance, in addition to other fees required by this*
6 *section, shall pay an initial license fee. The initial license fee shall*
7 *be eight hundred dollars (\$800). The initial license shall expire*
8 *the second year after its issuance on the last day of the month of*
9 *birth of the licensee. The board may reduce the initial license fee*
10 *by up to 50 percent of the amount of the fee for any applicant who*
11 *is enrolled in a postgraduate training program approved by the*
12 *board or who has completed a postgraduate training program*
13 *approved by the board within six months prior to the payment of*
14 *the initial license fee.*

15 *(d) The biennial renewal fee shall be nine hundred dollars*
16 *(\$900). Any licensee enrolled in an approved residency program*
17 *shall be required to pay only 50 percent of the biennial renewal*
18 *fee at the time of his or her first renewal.*

19 *(e) The delinquency fee is one hundred fifty dollars (\$150).*

20 *(f) The duplicate wall certificate fee is forty dollars (\$40).*

21 *(g) The duplicate renewal receipt fee is forty dollars (\$40).*

22 *(h) The endorsement fee is thirty dollars (\$30).*

23 *(i) The letter of good standing fee or for loan deferment is thirty*
24 *dollars (\$30).*

25 *(j) There shall be a fee of sixty dollars (\$60) for the issuance of*
26 *a resident's license under Section 1475.*

27 *(k) The application fee for ankle certification under Section*
28 *1472 for persons licensed prior to January 1, 1984, shall be fifty*
29 *dollars (\$50). The examination and reexamination fee for this*
30 *certification shall be seven hundred dollars (\$700).*

31 *(l) The filing fee to appeal the failure of an oral examination*
32 *shall be twenty-five dollars (\$25).*

33 *(m) The fee for approval of a continuing education course or*
34 *program shall be one hundred dollars (\$100).*

35 *1499.6. The fees in this chapter shall be fixed by the board in*
36 *accordance with Section 313.1.*

37 *1499.7. (a) Certificates to practice podiatric medicine shall*
38 *expire at 12 midnight on the last day of the birth month of the*
39 *licensee during the second year of a two-year term.*

1 **(b)** *To renew an unexpired certificate, the licensee, on or before*
2 *the date on which the certificate would otherwise expire, shall*
3 *apply for renewal on a form prescribed by the board and pay the*
4 *prescribed renewal fee.*

5 1499.8. *Any licensee who demonstrates to the satisfaction of*
6 *the board that he or she is unable to practice podiatric medicine*
7 *due to a disability may request a waiver of the license renewal fee.*
8 *The granting of a waiver shall be at the discretion of the board*
9 *and may be terminated at any time. Waivers shall be based on the*
10 *inability of a licensee to practice podiatric medicine. A licensee*
11 *whose renewal fee has been waived pursuant to this section shall*
12 *not engage in the practice of podiatric medicine unless and until*
13 *the licensee pays the current renewal fee and does either of the*
14 *following:*

15 **(a)** *Establishes to the satisfaction of the board, on a form*
16 *prescribed by the board and signed under penalty of perjury, that*
17 *the licensee's disability either no longer exists or does not affect*
18 *his or her ability to practice podiatric medicine safely.*

19 **(b)** *Signs an agreement on a form prescribed by the board,*
20 *signed under penalty of perjury, in which the licensee agrees to*
21 *limit his or her practice in the manner prescribed by the reviewing*
22 *physician.*

23 SEC. 15. *Section 2052.5 of the Business and Professions Code*
24 *is amended to read:*

25 2052.5. **(a)** *The proposed registration program developed*
26 *pursuant to subdivision (b) shall provide that, for purposes of the*
27 *proposed registration program:*

28 **(1)** *A physician and surgeon practices medicine in this state*
29 *across state lines when that person is located outside of this state*
30 *but, through the use of any medium, including an electronic*
31 *medium, practices or attempts to practice, or advertises or holds*
32 *himself or herself out as practicing, any system or mode of treating*
33 *the sick or afflicted in this state, or diagnoses, treats, operates for,*
34 *or prescribes for any ailment, blemish, deformity, disease,*
35 *disfigurement, disorder, injury, or other physical or mental*
36 *condition of any person in this state.*

37 **(2)** *A doctor of podiatric medicine practices podiatric medicine*
38 *in this state across state lines when that person is located outside*
39 *of this state but, through the use of any medium, including an*

1 electronic medium, practices or attempts to practice podiatric
2 medicine, as defined in Section ~~2472~~, 1472, in this state.

3 (3) The proposed registration program shall not apply to any
4 consultation described in Section 2060.

5 (b) The board may, at its discretion, develop a proposed
6 registration program to permit a physician and surgeon, or a doctor
7 of podiatric medicine, located outside this state to register with
8 the board to practice medicine or podiatric medicine in this state
9 across state lines.

10 (1) The proposed registration program shall include proposed
11 requirements for registration, including, but not limited to, licensure
12 in the state or country where the physician and surgeon, or the
13 doctor of podiatric medicine, resides, and education and training
14 requirements.

15 (2) The proposed registration program may also include all of
16 the following: (A) standards for confidentiality, format, and
17 retention of medical records, (B) access to medical records by the
18 board, (C) registration fees, renewal fees, delinquency fees, and
19 replacement document fees in an amount not to exceed the actual
20 cost of administering the registration program, and (D) provisions
21 ensuring that enforcement and consumer education shall be integral
22 parts of administering the registration program.

23 (3) The proposed registration program may also provide all of
24 the following:

25 (A) All laws, rules, and regulations that govern the practice of
26 medicine or podiatric medicine in this state, including, but not
27 limited to, confidentiality and reporting requirements, shall apply
28 to a physician and surgeon, or a doctor of podiatric medicine, who
29 is registered by the board to practice medicine or podiatric medicine
30 in this state across state lines.

31 (B) The board may deny an application for registration or may
32 suspend, revoke, or otherwise discipline a registrant for any of the
33 following: (i) on any ground prescribed by this chapter, (ii) failure
34 to possess or to maintain a valid license in the state where the
35 registrant resides, or (iii) if the applicant or registrant is not licensed
36 by the state or country in which he or she resides, and that state or
37 country prohibits the practice of medicine or podiatric medicine
38 from that state or country into any other state or country without
39 a valid registration or license issued by the state or country in
40 which the applicant or registrant practices. Action to deny or

1 discipline a registrant shall be taken in the manner provided for in
2 this chapter.

3 (C) Any of the following shall be grounds for discipline of a
4 registrant: (i) to allow any person to engage in the practice of
5 medicine or podiatric medicine in this state across state lines under
6 his or her registration, including, but not limited to, any nurse,
7 physician assistant, medical assistant, or other person, (ii) to fail
8 to include his or her registration number on any invoice or other
9 type of billing statement submitted for care or treatment provided
10 to a patient located in this state, (iii) to practice medicine or
11 podiatric medicine in any other state or country without meeting
12 the legal requirements to practice medicine or podiatric medicine
13 in that state or country, or (iv) to fail to notify the board, in a
14 manner prescribed by the board, of any restrictions placed on his
15 or her medical license, or podiatric medical license, in any state.

16 (D) A registration issued pursuant to the registration program
17 shall automatically be suspended upon receipt of a copy, from the
18 state that issued the license, of the surrender, revocation,
19 suspension, or other similar type of action taken by another state
20 or country against a medical license, or podiatric medical license,
21 issued to a registrant. The board shall notify the registrant in writing
22 of the suspension and of the registrant's right to a hearing.

23 (4) Section 2314 shall not apply to the registration program.

24 (c) This section shall not be construed to authorize the board to
25 implement a registration program for physicians and surgeons or
26 doctors of podiatric medicine located outside this state. This section
27 is intended to authorize the board to develop a proposed registration
28 program to be authorized for implementation by future legislation.

29 (d) *For purposes of this section, "board" refers to either the*
30 *Medical Board of California or the California Board of Podiatric*
31 *Medicine, as applicable.*

32 ~~SEC. 2.~~

33 *SEC. 16.* Section 2423 of the Business and Professions Code
34 is amended to read:

35 2423. (a) Notwithstanding Section 2422:

36 (1) All physician and surgeon's certificates and certificates to
37 practice midwifery shall expire at 12 midnight on the last day of
38 the birth month of the licensee during the second year of a two-year
39 term if not renewed.

1 (2) Registrations of dispensing opticians will expire at midnight
2 on the last day of the month in which the license was issued during
3 the second year of a two-year term if not renewed.

4 (b) The board shall establish by regulation procedures for the
5 administration of a birth date renewal program, including, but not
6 limited to, the establishment of a system of staggered license
7 expiration dates such that a relatively equal number of licenses
8 expire monthly.

9 (c) To renew an unexpired license, the licensee shall, on or
10 before the dates on which it would otherwise expire, apply for
11 renewal on a form prescribed by the licensing authority and pay
12 the prescribed renewal fee.

13 *SEC. 17. Article 22 (commencing with Section 2460) of Chapter*
14 *5 of Division 2 of the Business and Professions Code is repealed.*

15 ~~SEC. 3. Section 2460 of the Business and Professions Code is~~
16 ~~amended to read:~~

17 ~~2460. (a) There is created within the Department of Consumer~~
18 ~~Affairs a California Board of Podiatric Medicine.~~

19 ~~(b) This section shall remain in effect only until January 1, 2017,~~
20 ~~and as of that date is repealed, unless a later enacted statute, that~~
21 ~~is enacted before January 1, 2017, deletes or extends that date.~~
22 ~~Notwithstanding any other provision of law, the repeal of this~~
23 ~~section renders the California Board of Podiatric Medicine subject~~
24 ~~to review by the appropriate policy committees of the Legislature.~~

25 ~~SEC. 4. Section 2461 of the Business and Professions Code is~~
26 ~~amended to read:~~

27 ~~2461. As used in this article:~~

28 ~~(a) "Board" means the California Board of Podiatric Medicine.~~

29 ~~(b) "Podiatric licensing authority" refers to any officer, board,~~
30 ~~commission, committee, or department of another state that may~~
31 ~~issue a license to practice podiatric medicine.~~

32 ~~SEC. 5. Section 2475 of the Business and Professions Code is~~
33 ~~amended to read:~~

34 ~~2475. Unless otherwise provided by law, no postgraduate~~
35 ~~trainee, intern, resident postdoctoral fellow, or instructor may~~
36 ~~engage in the practice of podiatric medicine, or receive~~
37 ~~compensation therefor, or offer to engage in the practice of~~
38 ~~podiatric medicine unless he or she holds a valid, unrevoked, and~~
39 ~~unsuspended certificate to practice podiatric medicine issued by~~
40 ~~the board. However, a graduate of an approved college or school~~

1 of podiatric medicine upon whom the degree doctor of podiatric
2 medicine has been conferred, who is issued a resident's license,
3 which may be renewed annually for up to eight years for this
4 purpose by the board, and who is enrolled in a postgraduate training
5 program approved by the board, may engage in the practice of
6 podiatric medicine whenever and wherever required as a part of
7 that program and may receive compensation for that practice under
8 the following conditions:

9 (a) A graduate with a resident's license in an approved
10 internship, residency, or fellowship program may participate in
11 training rotations outside the scope of podiatric medicine, under
12 the supervision of a physician and surgeon who holds a medical
13 doctor or doctor of osteopathy degree wherever and whenever
14 required as a part of the training program, and may receive
15 compensation for that practice. If the graduate fails to receive a
16 license to practice podiatric medicine under this chapter within
17 three years from the commencement of the postgraduate training,
18 all privileges and exemptions under this section shall automatically
19 cease.

20 (b) Hospitals functioning as a part of the teaching program of
21 an approved college or school of podiatric medicine in this state
22 may exchange instructors or resident or assistant resident doctors
23 of podiatric medicine with another approved college or school of
24 podiatric medicine not located in this state, or those hospitals may
25 appoint a graduate of an approved school as such a resident for
26 purposes of postgraduate training. Those instructors and residents
27 may practice and be compensated as provided in this section, but
28 that practice and compensation shall be for a period not to exceed
29 two years.

30 SEC. 6.— Section 2479 of the Business and Professions Code is
31 amended to read:

32 2479.— The board shall issue a certificate to practice podiatric
33 medicine to each applicant who meets the requirements of this
34 chapter. Every applicant for a certificate to practice podiatric
35 medicine shall comply with the provisions of Article 4
36 (commencing with Section 2080) which are not specifically
37 applicable to applicants for a physician's and surgeon's certificate,
38 in addition to the provisions of this article.

39 SEC. 7.— Section 2486 of the Business and Professions Code is
40 amended to read:

1 ~~2486. The board shall issue a certificate to practice podiatric~~
2 ~~medicine if the applicant has submitted directly to the board from~~
3 ~~the credentialing organizations verification that he or she meets~~
4 ~~all of the following requirements:~~

5 ~~(a) The applicant has graduated from an approved school or~~
6 ~~college of podiatric medicine and meets the requirements of Section~~
7 ~~2483.~~

8 ~~(b) The applicant, within the past 10 years, has passed parts I,~~
9 ~~II, and III of the examination administered by the National Board~~
10 ~~of Podiatric Medical Examiners of the United States or has passed~~
11 ~~a written examination that is recognized by the board to be the~~
12 ~~equivalent in content to the examination administered by the~~
13 ~~National Board of Podiatric Medical Examiners of the United~~
14 ~~States.~~

15 ~~(c) The applicant has satisfactorily completed the postgraduate~~
16 ~~training required by Section 2484.~~

17 ~~(d) The applicant has passed within the past 10 years any oral~~
18 ~~and practical examination that may be required of all applicants~~
19 ~~by the board to ascertain clinical competence.~~

20 ~~(e) The applicant has committed no acts or crimes constituting~~
21 ~~grounds for denial of a certificate under Division 1.5 (commencing~~
22 ~~with Section 475).~~

23 ~~(f) The board determines that no disciplinary action has been~~
24 ~~taken against the applicant by any podiatric licensing authority~~
25 ~~and that the applicant has not been the subject of adverse judgments~~
26 ~~or settlements resulting from the practice of podiatric medicine~~
27 ~~that the board determines constitutes evidence of a pattern of~~
28 ~~negligence or incompetence.~~

29 ~~(g) A disciplinary databank report regarding the applicant is~~
30 ~~received by the board from the Federation of Podiatric Medical~~
31 ~~Boards.~~

32 ~~SEC. 8. Section 2488 of the Business and Professions Code is~~
33 ~~amended to read:~~

34 ~~2488. Notwithstanding any other law, the board shall issue a~~
35 ~~certificate to practice podiatric medicine by credentialing if the~~
36 ~~applicant has submitted directly to the board from the credentialing~~
37 ~~organizations verification that he or she is licensed as a doctor of~~
38 ~~podiatric medicine in any other state and meets all of the following~~
39 ~~requirements:~~

1 ~~(a) The applicant has graduated from an approved school or~~
2 ~~college of podiatric medicine.~~

3 ~~(b) The applicant, within the past 10 years, has passed either~~
4 ~~part III of the examination administered by the National Board of~~
5 ~~Podiatric Medical Examiners of the United States or a written~~
6 ~~examination that is recognized by the board to be the equivalent~~
7 ~~in content to the examination administered by the National Board~~
8 ~~of Podiatric Medical Examiners of the United States.~~

9 ~~(c) The applicant has satisfactorily completed a postgraduate~~
10 ~~training program approved by the Council on Podiatric Medical~~
11 ~~Education.~~

12 ~~(d) The applicant, within the past 10 years, has passed any oral~~
13 ~~and practical examination that may be required of all applicants~~
14 ~~by the board to ascertain clinical competence.~~

15 ~~(e) The applicant has committed no acts or crimes constituting~~
16 ~~grounds for denial of a certificate under Division 1.5 (commencing~~
17 ~~with Section 475).~~

18 ~~(f) The board determines that no disciplinary action has been~~
19 ~~taken against the applicant by any podiatric licensing authority~~
20 ~~and that the applicant has not been the subject of adverse judgments~~
21 ~~or settlements resulting from the practice of podiatric medicine~~
22 ~~that the board determines constitutes evidence of a pattern of~~
23 ~~negligence or incompetence.~~

24 ~~(g) A disciplinary databank report regarding the applicant is~~
25 ~~received by the board from the Federation of Podiatric Medical~~
26 ~~Boards.~~

27 ~~SEC. 9. Section 2492 of the Business and Professions Code is~~
28 ~~amended to read:~~

29 ~~2492. (a) The board shall examine every applicant for a~~
30 ~~certificate to practice podiatric medicine to ensure a minimum of~~
31 ~~entry-level competence at the time and place designated by the~~
32 ~~board in its discretion, but at least twice a year.~~

33 ~~(b) Unless the applicant meets the requirements of Section 2486,~~
34 ~~applicants shall be required to have taken and passed the~~
35 ~~examination administered by the National Board of Podiatric~~
36 ~~Medical Examiners.~~

37 ~~(c) The board may appoint qualified persons to give the whole~~
38 ~~or any portion of any examination as provided in this article, who~~
39 ~~shall be designated as examination commissioners. The board may~~

1 fix the compensation of those persons subject to the provisions of
2 applicable state laws and regulations.

3 ~~(d) The provisions of Article 9 (commencing with Section 2170)~~
4 ~~shall apply to examinations administered by the board except where~~
5 ~~those provisions are in conflict with or inconsistent with the~~
6 ~~provisions of this article.~~

7 ~~SEC. 10. Section 2499 of the Business and Professions Code~~
8 ~~is amended to read:~~

9 ~~2499. There is in the State Treasury the Board of Podiatric~~
10 ~~Medicine Fund. Notwithstanding Section 2445, the board shall~~
11 ~~report to the Controller at the beginning of each calendar month~~
12 ~~for the month preceding the amount and source of all revenue~~
13 ~~received by the board, pursuant to this chapter, and shall pay the~~
14 ~~entire amount thereof to the Treasurer for deposit into the fund.~~
15 ~~All revenue received by the board from fees authorized to be~~
16 ~~charged relating to the practice of podiatric medicine shall be~~
17 ~~deposited in the fund as provided in this section, and shall be used~~
18 ~~to carry out the provisions of this chapter relating to the regulation~~
19 ~~of the practice of podiatric medicine.~~

20 ~~SEC. 11. Section 2499.7 is added to the Business and~~
21 ~~Professions Code, to read:~~

22 ~~2499.7. (a) Certificates to practice podiatric medicine shall~~
23 ~~expire at 12 midnight on the last day of the birth month of the~~
24 ~~licensee during the second year of a two-year term.~~

25 ~~(b) To renew an unexpired certificate, the licensee, on or before~~
26 ~~the date on which the certificate would otherwise expire, shall~~
27 ~~apply for renewal on a form prescribed by the board and pay the~~
28 ~~prescribed renewal fee.~~

29 ~~SEC. 12.~~

30 ~~SEC. 18. Section 2733 of the Business and Professions Code~~
31 ~~is amended to read:~~

32 ~~2733. (a) (1) (A) Upon approval of an application filed~~
33 ~~pursuant to subdivision (b) of Section 2732.1, and upon the~~
34 ~~payment of the fee prescribed by subdivision (k) of Section 2815,~~
35 ~~the board may issue a temporary license to practice professional~~
36 ~~nursing, and a temporary certificate to practice as a certified public~~
37 ~~health nurse for a period of six months from the date of issuance.~~

38 ~~(B) Upon approval of an application filed pursuant to~~
39 ~~subdivision (b) of Section 2732.1, and upon the payment of the~~
40 ~~fee prescribed by subdivision (d) of Section 2838.2, the board may~~

1 issue a temporary certificate to practice as a certified clinical nurse
2 specialist for a period of six months from the date of issuance.

3 (C) Upon approval of an application filed pursuant to
4 subdivision (b) of Section 2732.1, and upon the payment of the
5 fee prescribed by subdivision (e) of Section 2815.5, the board may
6 issue a temporary certificate to practice as a certified nurse-midwife
7 for a period of six months from the date of issuance.

8 (D) Upon approval of an application filed pursuant to
9 subdivision (b) of Section 2732.1, and upon the payment of the
10 fee prescribed by subdivision (d) of Section 2830.7, the board may
11 issue a temporary certificate to practice as a certified nurse
12 anesthetist for a period of six months from the date of issuance.

13 (E) Upon approval of an application filed pursuant to subdivision
14 (b) of Section 2732.1, and upon the payment of the fee prescribed
15 by subdivision (p) of Section 2815, the board may issue a
16 temporary certificate to practice as a certified nurse practitioner
17 for a period of six months from the date of issuance.

18 (2) A temporary license or temporary certificate shall terminate
19 upon notice thereof by certified mail, return receipt requested, if
20 it is issued by mistake or if the application for permanent licensure
21 is denied.

22 (b) Upon written application, the board may reissue a temporary
23 license or temporary certificate to any person who has applied for
24 a regular renewable license pursuant to subdivision (b) of Section
25 2732.1 and who, in the judgment of the board has been excusably
26 delayed in completing his or her application for or the minimum
27 requirements for a regular renewable license, but the board may
28 not reissue a temporary license or temporary certificate more than
29 twice to any one person.

30 ~~SEC. 13.~~

31 *SEC. 19.* Section 2746.51 of the Business and Professions Code
32 is amended to read:

33 2746.51. (a) Neither this chapter nor any other provision of
34 law shall be construed to prohibit a certified nurse-midwife from
35 furnishing or ordering drugs or devices, including controlled
36 substances classified in Schedule II, III, IV, or V under the
37 California Uniform Controlled Substances Act (Division 10
38 (commencing with Section 11000) of the Health and Safety Code),
39 when all of the following apply:

- 1 (1) The drugs or devices are furnished or ordered incidentally
2 to the provision of any of the following:
- 3 (A) Family planning services, as defined in Section 14503 of
4 the Welfare and Institutions Code.
- 5 (B) Routine health care or perinatal care, as defined in
6 subdivision (d) of Section 123485 of the Health and Safety Code.
- 7 (C) Care rendered, consistent with the certified nurse-midwife's
8 educational preparation or for which clinical competency has been
9 established and maintained, to persons within a facility specified
10 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
11 Health and Safety Code, a clinic as specified in Section 1204 of
12 the Health and Safety Code, a general acute care hospital as defined
13 in subdivision (a) of Section 1250 of the Health and Safety Code,
14 a licensed birth center as defined in Section 1204.3 of the Health
15 and Safety Code, or a special hospital specified as a maternity
16 hospital in subdivision (f) of Section 1250 of the Health and Safety
17 Code.
- 18 (2) The drugs or devices are furnished or ordered by a certified
19 nurse-midwife in accordance with standardized procedures or
20 protocols. For purposes of this section, standardized procedure
21 means a document, including protocols, developed and approved
22 by the supervising physician and surgeon, the certified
23 nurse-midwife, and the facility administrator or his or her designee.
24 The standardized procedure covering the furnishing or ordering
25 of drugs or devices shall specify all of the following:
- 26 (A) Which certified nurse-midwife may furnish or order drugs
27 or devices.
- 28 (B) Which drugs or devices may be furnished or ordered and
29 under what circumstances.
- 30 (C) The extent of physician and surgeon supervision.
- 31 (D) The method of periodic review of the certified
32 nurse-midwife's competence, including peer review, and review
33 of the provisions of the standardized procedure.
- 34 (3) If Schedule II or III controlled substances, as defined in
35 Sections 11055 and 11056 of the Health and Safety Code, are
36 furnished or ordered by a certified nurse-midwife, the controlled
37 substances shall be furnished or ordered in accordance with a
38 patient-specific protocol approved by the treating or supervising
39 physician and surgeon. For Schedule II controlled substance
40 protocols, the provision for furnishing the Schedule II controlled

1 substance shall address the diagnosis of the illness, injury, or
2 condition for which the Schedule II controlled substance is to be
3 furnished.

4 (4) The furnishing or ordering of drugs or devices by a certified
5 nurse-midwife occurs under physician and surgeon supervision.
6 For purposes of this section, no physician and surgeon shall
7 supervise more than four certified nurse-midwives at one time.
8 Physician and surgeon supervision shall not be construed to require
9 the physical presence of the physician, but does include all of the
10 following:

11 (A) Collaboration on the development of the standardized
12 procedure or protocol.

13 (B) Approval of the standardized procedure or protocol.

14 (C) Availability by telephonic contact at the time of patient
15 examination by the certified nurse-midwife.

16 (b) (1) The furnishing or ordering of drugs or devices by a
17 certified nurse-midwife is conditional on the issuance by the board
18 of a number to the applicant who has successfully completed the
19 requirements of paragraph (2). The number shall be included on
20 all transmittals of orders for drugs or devices by the certified
21 nurse-midwife. The board shall maintain a list of the certified
22 nurse-midwives that it has certified pursuant to this paragraph and
23 the number it has issued to each one. The board shall make the list
24 available to the California State Board of Pharmacy upon its
25 request. Every certified nurse-midwife who is authorized pursuant
26 to this section to furnish or issue a drug order for a controlled
27 substance shall register with the United States Drug Enforcement
28 Administration.

29 (2) The board has certified in accordance with paragraph (1)
30 that the certified nurse-midwife has satisfactorily completed a
31 course in pharmacology covering the drugs or devices to be
32 furnished or ordered under this section. The board shall establish
33 the requirements for satisfactory completion of this paragraph.
34 The board may charge the applicant a fee to cover all necessary
35 costs to implement this section, that shall be not less than four
36 hundred dollars (\$400) nor more than one thousand five hundred
37 dollars (\$1,500) for an initial application, nor less than one hundred
38 fifty dollars (\$150) nor more than one thousand dollars (\$1,000)
39 for an application for renewal. The board may charge a penalty
40 fee for failure to renew a furnishing number within the prescribed

1 time that shall be not less than seventy-five dollars (\$75) nor more
2 than five hundred dollars (\$500).

3 (3) A physician and surgeon may determine the extent of
4 supervision necessary pursuant to this section in the furnishing or
5 ordering of drugs and devices.

6 (4) A copy of the standardized procedure or protocol relating
7 to the furnishing or ordering of controlled substances by a certified
8 nurse-midwife shall be provided upon request to any licensed
9 pharmacist who is uncertain of the authority of the certified
10 nurse-midwife to perform these functions.

11 (5) Certified nurse-midwives who are certified by the board and
12 hold an active furnishing number, who are currently authorized
13 through standardized procedures or protocols to furnish Schedule
14 II controlled substances, and who are registered with the United
15 States Drug Enforcement Administration shall provide
16 documentation of continuing education specific to the use of
17 Schedule II controlled substances in settings other than a hospital
18 based on standards developed by the board.

19 (c) Drugs or devices furnished or ordered by a certified
20 nurse-midwife may include Schedule II controlled substances
21 under the California Uniform Controlled Substances Act (Division
22 10 (commencing with Section 11000) of the Health and Safety
23 Code) under the following conditions:

24 (1) The drugs and devices are furnished or ordered in accordance
25 with requirements referenced in paragraphs (2) to (4), inclusive,
26 of subdivision (a) and in paragraphs (1) to (3), inclusive, of
27 subdivision (b).

28 (2) When Schedule II controlled substances, as defined in
29 Section 11055 of the Health and Safety Code, are furnished or
30 ordered by a certified nurse-midwife, the controlled substances
31 shall be furnished or ordered in accordance with a patient-specific
32 protocol approved by the treating or supervising physician and
33 surgeon.

34 (d) Furnishing of drugs or devices by a certified nurse-midwife
35 means the act of making a pharmaceutical agent or agents available
36 to the patient in strict accordance with a standardized procedure
37 or protocol. Use of the term “furnishing” in this section shall
38 include the following:

39 (1) The ordering of a drug or device in accordance with the
40 standardized procedure or protocol.

1 (2) Transmitting an order of a supervising physician and
2 surgeon.

3 (e) “Drug order” or “order” for purposes of this section means
4 an order for medication or for a drug or device that is dispensed
5 to or for an ultimate user, issued by a certified nurse-midwife as
6 an individual practitioner, within the meaning of Section 1306.03
7 of Title 21 of the Code of Federal Regulations. Notwithstanding
8 any other provision of law, (1) a drug order issued pursuant to this
9 section shall be treated in the same manner as a prescription of the
10 supervising physician; (2) all references to “prescription” in this
11 code and the Health and Safety Code shall include drug orders
12 issued by certified nurse-midwives; and (3) the signature of a
13 certified nurse-midwife on a drug order issued in accordance with
14 this section shall be deemed to be the signature of a prescriber for
15 purposes of this code and the Health and Safety Code.

16 ~~SEC. 14.~~

17 *SEC. 20.* Section 2786.5 of the Business and Professions Code
18 is amended to read:

19 2786.5. (a) An institution of higher education or a private
20 postsecondary school of nursing approved by the board pursuant
21 to subdivision (b) of Section 2786 shall remit to the board for
22 deposit in the Board of Registered Nursing Fund the following
23 fees, in accordance with the following schedule:

24 (1) The fee for approval of a school of nursing shall be fixed
25 by the board at not less than forty thousand dollars (\$40,000) nor
26 more than eighty thousand dollars (\$80,000).

27 (2) The fee for continuing approval of a nursing program
28 established after January 1, 2013, shall be fixed by the board at
29 not less than fifteen thousand dollars (\$15,000) nor more than
30 thirty thousand dollars (\$30,000).

31 (3) The processing fee for authorization of a substantive change
32 to an approval of a school of nursing shall be fixed by the board
33 at not less than two thousand five hundred dollars (\$2,500) nor
34 more than five thousand dollars (\$5,000).

35 (b) If the board determines that the annual cost of providing
36 oversight and review of a school of nursing, as required by this
37 article, is less than the amount of any fees required to be paid by
38 that institution pursuant to this article, the board may decrease the
39 fees applicable to that institution to an amount that is proportional
40 to the board’s costs associated with that institution.

1 ~~SEC. 15.~~

2 *SEC. 21.* Section 2811 of the Business and Professions Code
3 is amended to read:

4 2811. (a) Each person holding a regular renewable license
5 under this chapter, whether in an active or inactive status, shall
6 apply for a renewal of his *or her* license and pay the biennial
7 renewal fee required by this chapter each two years on or before
8 the last day of the month following the month in which his *or her*
9 birthday occurs, beginning with the second birthday following the
10 date on which the license was issued, whereupon the board shall
11 renew the license.

12 (b) Each such license not renewed in accordance with this
13 section shall expire but may within a period of eight years
14 thereafter be reinstated upon payment of the fee required by this
15 chapter and upon submission of such proof of the applicant’s
16 qualifications as may be required by the board, except that during
17 such eight-year period no examination shall be required as a
18 condition for the reinstatement of any such expired license which
19 has lapsed solely by reason of nonpayment of the renewal fee.
20 After the expiration of such eight-year period the board may require
21 as a condition of reinstatement that the applicant pass such
22 examination as it deems necessary to determine his present fitness
23 to resume the practice of professional nursing.

24 (c) A license in an inactive status may be restored to an active
25 status if the licensee meets the continuing education standards of
26 Section 2811.5.

27 ~~SEC. 16.~~

28 *SEC. 22.* Section 2811.5 of the Business and Professions Code
29 is amended to read:

30 2811.5. (a) Each person renewing his or her license under
31 Section 2811 shall submit proof satisfactory to the board that,
32 during the preceding two-year period, he or she has been informed
33 of the developments in the registered nurse field or in any special
34 area of practice engaged in by the licensee, occurring since the
35 last renewal thereof, either by pursuing a course or courses of
36 continuing education in the registered nurse field or relevant to
37 the practice of the licensee, and approved by the board, or by other
38 means deemed equivalent by the board.

39 (b) For purposes of this section, the board shall, by regulation,
40 establish standards for continuing education. The standards shall

1 be established in a manner to ensure that a variety of alternative
2 forms of continuing education are available to licensees, including,
3 but not limited to, academic studies, in-service education, institutes,
4 seminars, lectures, conferences, workshops, extension studies, and
5 home study programs. The standards shall take cognizance of
6 specialized areas of practice, and content shall be relevant to the
7 practice of nursing and shall be related to the scientific knowledge
8 or technical skills required for the practice of nursing or be related
9 to direct or indirect patient or client care. The continuing education
10 standards established by the board shall not exceed 30 hours of
11 direct participation in a course or courses approved by the board,
12 or its equivalent in the units of measure adopted by the board.

13 (c) The board shall audit continuing education providers at least
14 once every five years to ensure adherence to regulatory
15 requirements, and shall withhold or rescind approval from any
16 provider that is in violation of the regulatory requirements.

17 (d) The board shall encourage continuing education in spousal
18 or partner abuse detection and treatment. In the event the board
19 establishes a requirement for continuing education coursework in
20 spousal or partner abuse detection or treatment, that requirement
21 shall be met by each licensee within no more than four years from
22 the date the requirement is imposed.

23 (e) In establishing standards for continuing education, the board
24 shall consider including a course in the special care needs of
25 individuals and their families facing end-of-life issues, including,
26 but not limited to, all of the following:

- 27 (1) Pain and symptom management.
- 28 (2) The psycho-social dynamics of death.
- 29 (3) Dying and bereavement.
- 30 (4) Hospice care.

31 (f) In establishing standards for continuing education, the board
32 may include a course on pain management.

33 (g) This section shall not apply to licensees during the first two
34 years immediately following their initial licensure in California
35 or any other governmental jurisdiction.

36 (h) The board may, in accordance with the intent of this section,
37 make exceptions from continuing education requirements for
38 licensees residing in another state or country, or for reasons of
39 health, military service, or other good cause.

1 ~~SEC. 17.~~

2 *SEC. 23.* Section 2815 of the Business and Professions Code
3 is amended to read:

4 2815. Subject to the provisions of Section 128.5, the amount
5 of the fees prescribed by this chapter in connection with the
6 issuance of licenses for registered nurses under its provisions is
7 that fixed by the following schedule:

8 (a) (1) The fee to be paid upon the filing by a graduate of an
9 approved school of nursing in this state of an application for a
10 licensure by examination shall be fixed by the board at not less
11 than three hundred dollars (\$300) nor more than one thousand
12 dollars (\$1,000).

13 (2) The fee to be paid upon the filing by a graduate of a school
14 of nursing in another state, district, or territory of the United States
15 of an application for a licensure by examination shall be fixed by
16 the board at not less than three hundred fifty dollars (\$350) nor
17 more than one thousand dollars (\$1,000).

18 (3) The fee to be paid upon the filing by a graduate of a school
19 of nursing in another country of an application for a licensure by
20 examination shall be fixed by the board at not less than seven
21 hundred fifty dollars (\$750) nor more than one thousand five
22 hundred dollars (\$1,500).

23 (4) The fee to be paid upon the filing of an application for
24 licensure by a repeat examination shall be fixed by the board at
25 not less than two hundred fifty dollars (\$250) and not more than
26 one thousand dollars (\$1,000).

27 (b) The fee to be paid for taking each examination shall be the
28 actual cost to purchase an examination from a vendor approved
29 by the board.

30 (c) (1) The fee to be paid for application by a person who is
31 licensed or registered as a nurse in another state, district, or territory
32 of the United States for licensure by endorsement shall be fixed
33 by the board at not less than three hundred fifty dollars (\$350) nor
34 more than one thousand dollars (\$1,000).

35 (2) The fee to be paid for application by a person who is licensed
36 or registered as a nurse in another country for licensure by
37 endorsement shall be fixed by the board at not less than seven
38 hundred fifty dollars (\$750) nor more than one thousand five
39 hundred dollars (\$1,500).

1 (d) (1) The biennial fee to be paid upon the filing of an
2 application for renewal of the license shall be not less than one
3 hundred eighty dollars (\$180) nor more than seven hundred fifty
4 dollars (\$750). In addition, an assessment of ten dollars (\$10) shall
5 be collected and credited to the Registered Nurse Education Fund,
6 pursuant to Section 2815.1.

7 (2) The fee to be paid upon the filing of an application for
8 reinstatement pursuant to subdivision (b) of Section 2811 shall be
9 not less than three hundred fifty dollars (\$350) nor more than one
10 thousand dollars (\$1,000).

11 (e) The penalty fee for failure to renew a license within the
12 prescribed time shall be fixed by the board at not more than 50
13 percent of the regular renewal fee, but not less than ninety dollars
14 (\$90) nor more than three hundred seventy-five dollars (\$375).

15 (f) The fee to be paid for approval of a continuing education
16 provider shall be fixed by the board at not less than five hundred
17 dollars (\$500) nor more than one thousand dollars (\$1,000).

18 (g) The biennial fee to be paid upon the filing of an application
19 for renewal of provider approval shall be fixed by the board at not
20 less than seven hundred fifty dollars (\$750) nor more than one
21 thousand dollars (\$1,000).

22 (h) The penalty fee for failure to renew provider approval within
23 the prescribed time shall be fixed at not more than 50 percent of
24 the regular renewal fee, but not less than one hundred twenty-five
25 dollars (\$125) nor more than five hundred dollars (\$500).

26 (i) The penalty for submitting insufficient funds or fictitious
27 check, draft or order on any bank or depository for payment of
28 any fee to the board shall be fixed at not less than fifteen dollars
29 (\$15) nor more than thirty dollars (\$30).

30 (j) The fee to be paid for an interim permit shall be fixed by the
31 board at not less than one hundred dollars (\$100) nor more than
32 two hundred fifty dollars (\$250).

33 (k) The fee to be paid for a temporary license shall be fixed by
34 the board at not less than one hundred dollars (\$100) nor more
35 than two hundred fifty dollars (\$250).

36 (l) The fee to be paid for processing endorsement papers to other
37 states shall be fixed by the board at not less than one hundred
38 dollars (\$100) nor more than two hundred dollars (\$200).

1 (m) The fee to be paid for a certified copy of a school transcript
2 shall be fixed by the board at not less than fifty dollars (\$50) nor
3 more than one hundred dollars (\$100).

4 (n) (1) The fee to be paid for a duplicate pocket license shall
5 be fixed by the board at not less than fifty dollars (\$50) nor more
6 than seventy-five dollars (\$75).

7 (2) The fee to be paid for a duplicate wall certificate shall be
8 fixed by the board at not less than sixty dollars (\$60) nor more
9 than one hundred dollars (\$100).

10 (o) (1) The fee to be paid by a registered nurse for an evaluation
11 of his or her qualifications to use the title “nurse practitioner” shall
12 be fixed by the board at not less than five hundred dollars (\$500)
13 nor more than one thousand five hundred dollars (\$1,500).

14 (2) The fee to be paid by a registered nurse for a temporary
15 certificate to practice as a nurse practitioner shall be fixed by the
16 board at not less than one hundred fifty dollars (\$150) nor more
17 than five hundred dollars (\$500).

18 (3) The fee to be paid upon the filing of an application for
19 renewal of a certificate to practice as a nurse practitioner shall be
20 not less than one hundred fifty dollars (\$150) nor more than one
21 thousand dollars (\$1,000).

22 (4) The penalty fee for failure to renew a certificate to practice
23 as a nurse practitioner within the prescribed time shall be not less
24 than seventy-five dollars (\$75) nor more than five hundred dollars
25 (\$500).

26 (p) The fee to be paid by a registered nurse for listing as a
27 “psychiatric mental health nurse” shall be fixed by the board at
28 not less than three hundred fifty dollars (\$350) nor more than seven
29 hundred fifty dollars (\$750).

30 (q) The fee to be paid for duplicate National Council Licensure
31 Examination for registered nurses (NCLEX-RN) examination
32 results shall be not less than sixty dollars (\$60) nor more than one
33 hundred dollars (\$100).

34 (r) The fee to be paid for a letter certifying a license shall be
35 not less than twenty dollars (\$20) nor more than thirty dollars
36 (\$30).

37 No further fee shall be required for a license or a renewal thereof
38 other than as prescribed by this chapter.

1 ~~SEC. 18.~~

2 *SEC. 24.* Section 2815.5 of the Business and Professions Code
3 is amended to read:

4 2815.5. The amount of the fees prescribed by this chapter in
5 connection with the issuance of certificates as nurse-midwives is
6 that fixed by the following schedule:

7 (a) The fee to be paid upon the filing of an application for a
8 certificate shall be fixed by the board at not less than five hundred
9 dollars (\$500) nor more than one thousand five hundred dollars
10 (\$1,500).

11 (b) The biennial fee to be paid upon the application for a renewal
12 of a certificate shall be fixed by the board at not less than one
13 hundred fifty dollars (\$150) nor more than one thousand dollars
14 (\$1,000).

15 (c) The penalty fee for failure to renew a certificate within the
16 prescribed time shall be 50 percent of the renewal fee in effect on
17 the date of the renewal of the license, but not less than seventy-five
18 dollars (\$75) nor more than five hundred dollars (\$500).

19 (d) The fee to be paid upon the filing of an application for the
20 nurse-midwife equivalency examination shall be fixed by the board
21 at not less than one hundred dollars (\$100) nor more than two
22 hundred dollars (\$200).

23 (e) The fee to be paid for a temporary certificate shall be fixed
24 by the board at not less than one hundred fifty dollars (\$150) nor
25 more than five hundred dollars (\$500).

26 ~~SEC. 19.~~

27 *SEC. 25.* Section 2816 of the Business and Professions Code
28 is amended to read:

29 2816. The nonrefundable fee to be paid by a registered nurse
30 for an evaluation of his or her qualifications to use the title “public
31 health nurse” shall be equal to the fees set out in subdivision (o)
32 of Section 2815. The fee to be paid upon the application for
33 renewal of the certificate to practice as a public health nurse shall
34 be fixed by the board at not less than one hundred twenty-five
35 dollars (\$125) and not more than five hundred dollars (\$500). All
36 fees payable under this section shall be collected by and paid to
37 the Registered Nursing Fund. It is the intention of the Legislature
38 that the costs of carrying out the purposes of this article shall be
39 covered by the revenue collected pursuant to this section.

1 ~~SEC. 20.~~

2 *SEC. 26.* Section 2830.7 of the Business and Professions Code
3 is amended to read:

4 2830.7. The amount of the fees prescribed by this chapter in
5 connection with the issuance of certificates as nurse anesthetists
6 is that fixed by the following schedule:

7 (a) The fee to be paid upon the filing of an application for a
8 certificate shall be fixed by the board at not less than five hundred
9 dollars (\$500) nor more than one thousand five hundred dollars
10 (\$1,500).

11 (b) The biennial fee to be paid upon the application for a renewal
12 of a certificate shall be fixed by the board at not less than one
13 hundred fifty dollars (\$150) nor more than one thousand dollars
14 (\$1,000).

15 (c) The penalty fee for failure to renew a certificate within the
16 prescribed time shall be 50 percent of the renewal fee in effect on
17 the date of the renewal of the license, but not less than seventy-five
18 dollars (\$75) nor more than five hundred dollars (\$500).

19 (d) The fee to be paid for a temporary certificate shall be fixed
20 by the board at not less than one hundred fifty dollars (\$150) nor
21 more than five hundred dollars (\$500).

22 ~~SEC. 21.~~

23 *SEC. 27.* Section 2836.3 of the Business and Professions Code
24 is amended to read:

25 2836.3. (a) The furnishing of drugs or devices by nurse
26 practitioners is conditional on issuance by the board of a number
27 to the nurse applicant who has successfully completed the
28 requirements of subdivision (g) of Section 2836.1. The number
29 shall be included on all transmittals of orders for drugs or devices
30 by the nurse practitioner. The board shall make the list of numbers
31 issued available to the Board of Pharmacy. The board may charge
32 the applicant a fee to cover all necessary costs to implement this
33 section, that shall be not less than four hundred dollars (\$400) nor
34 more than one thousand five hundred dollars (\$1,500) for an initial
35 application, nor less than one hundred fifty dollars (\$150) nor more
36 than one thousand dollars (\$1,000) for an application for renewal.
37 The board may charge a penalty fee for failure to renew a
38 furnishing number within the prescribed time that shall be not less
39 than seventy-five dollars (\$75) nor more than five hundred dollars
40 (\$500).

1 (b) The number shall be renewable at the time of the applicant's
2 registered nurse license renewal.

3 (c) The board may revoke, suspend, or deny issuance of the
4 numbers for incompetence or gross negligence in the performance
5 of functions specified in Sections 2836.1 and 2836.2.

6 ~~SEC. 22.~~

7 *SEC. 28.* Section 2838.2 of the Business and Professions Code
8 is amended to read:

9 2838.2. (a) A clinical nurse specialist is a registered nurse with
10 advanced education, who participates in expert clinical practice,
11 education, research, consultation, and clinical leadership as the
12 major components of his or her role.

13 (b) The board may establish categories of clinical nurse
14 specialists and the standards required to be met for nurses to hold
15 themselves out as clinical nurse specialists in each category. The
16 standards shall take into account the types of advanced levels of
17 nursing practice that are or may be performed and the clinical and
18 didactic education, experience, or both needed to practice safety
19 at those levels. In setting the standards, the board shall consult
20 with clinical nurse specialists, physicians and surgeons appointed
21 by the Medical Board with expertise with clinical nurse specialists,
22 and health care organizations that utilize clinical nurse specialists.

23 (c) A registered nurse who meets one of the following
24 requirements may apply to become a clinical nurse specialist:

25 (1) Possession of a master's degree in a clinical field of nursing.

26 (2) Possession of a master's degree in a clinical field related to
27 nursing with ~~course work~~ *coursework* in the components referred
28 to in subdivision (a).

29 (3) On or before July 1, 1998, meets the following requirements:

30 (A) Current licensure as a registered nurse.

31 (B) Performs the role of a clinical nurse specialist as described
32 in subdivision (a).

33 (C) Meets any other criteria established by the board.

34 (d) (1) A nonrefundable fee of not less than five hundred dollars
35 (\$500), but not to exceed one thousand five hundred dollars
36 (\$1,500) shall be paid by a registered nurse applying to be a clinical
37 nurse specialist for the evaluation of his or her qualifications to
38 use the title "clinical nurse specialist."

1 (2) The fee to be paid for a temporary certificate to practice as
2 a clinical nurse specialist shall be not less than thirty dollars (\$30)
3 nor more than fifty dollars (\$50).

4 (3) A biennial renewal fee shall be paid upon submission of an
5 application to renew the clinical nurse specialist certificate and
6 shall be established by the board at no less than one hundred fifty
7 dollars (\$150) and no more than one thousand dollars (\$1,000).

8 (4) The penalty fee for failure to renew a certificate within the
9 prescribed time shall be 50 percent of the renewal fee in effect on
10 the date of the renewal of the license, but not less than seventy-five
11 dollars (\$75) nor more than five hundred dollars (\$500).

12 (5) The fees authorized by this subdivision shall not exceed the
13 amount necessary to cover the costs to the board to administer this
14 section.

15 ~~SEC. 23.~~

16 *SEC. 29.* Section 4128.2 of the Business and Professions Code
17 is amended to read:

18 4128.2. (a) In addition to the pharmacy license requirement
19 described in Section 4110, a centralized hospital packaging
20 pharmacy shall obtain a specialty license from the board prior to
21 engaging in the functions described in Section 4128.

22 (b) An applicant seeking a specialty license pursuant to this
23 article shall apply to the board on forms established by the board.

24 (c) Before issuing the specialty license, the board shall inspect
25 the pharmacy and ensure that the pharmacy is in compliance with
26 this article and regulations established by the board.

27 (d) A license to perform the functions described in Section 4128
28 may only be issued to a pharmacy that is licensed by the board as
29 a hospital pharmacy.

30 (e) A license issued pursuant to this article shall be renewed
31 annually and is not transferrable.

32 (f) An applicant seeking renewal of a specialty license shall
33 apply to the board on forms established by the board.

34 (g) A license to perform the functions described in Section 4128
35 shall not be renewed until the pharmacy has been inspected by the
36 board and found to be in compliance with this article and
37 regulations established by the board.

38 (h) *Until July 1, 2017, the fee for issuance or annual renewal*
39 *of a centralized hospital packaging pharmacy license shall be six*

1 *hundred dollars (\$600) and may be increased by the board to eight*
2 *hundred dollars (\$800).*

3 *SEC. 30. Section 4170 of the Business and Professions Code*
4 *is amended to read:*

5 4170. (a) No prescriber shall dispense drugs or dangerous
6 devices to patients in his or her office or place of practice unless
7 all of the following conditions are met:

8 (1) The dangerous drugs or dangerous devices are dispensed to
9 the prescriber's own patient, and the drugs or dangerous devices
10 are not furnished by a nurse or physician attendant.

11 (2) The dangerous drugs or dangerous devices are necessary in
12 the treatment of the condition for which the prescriber is attending
13 the patient.

14 (3) The prescriber does not keep a pharmacy, open shop, or
15 drugstore, advertised or otherwise, for the retailing of dangerous
16 drugs, dangerous devices, or poisons.

17 (4) The prescriber fulfills all of the labeling requirements
18 imposed upon pharmacists by Section 4076, all of the
19 recordkeeping requirements of this chapter, and all of the packaging
20 requirements of good pharmaceutical practice, including the use
21 of childproof containers.

22 (5) The prescriber does not use a dispensing device unless he
23 or she personally owns the device and the contents of the device,
24 and personally dispenses the dangerous drugs or dangerous devices
25 to the patient packaged, labeled, and recorded in accordance with
26 paragraph (4).

27 (6) The prescriber, prior to dispensing, offers to give a written
28 prescription to the patient that the patient may elect to have filled
29 by the prescriber or by any pharmacy.

30 (7) The prescriber provides the patient with written disclosure
31 that the patient has a choice between obtaining the prescription
32 from the dispensing prescriber or obtaining the prescription at a
33 pharmacy of the patient's choice.

34 (8) A certified nurse-midwife who functions pursuant to a
35 standardized procedure or protocol described in Section 2746.51,
36 a nurse practitioner who functions pursuant to a standardized
37 procedure described in Section 2836.1, or protocol, a physician
38 assistant who functions pursuant to Section 3502.1, or a
39 naturopathic doctor who functions pursuant to Section 3640.5,
40 may hand to a patient of the supervising physician and surgeon a

1 properly labeled prescription drug prepackaged by a physician and
2 surgeon, a manufacturer as defined in this chapter, or a pharmacist.

3 (b) The Medical Board of California, *the California Board of*
4 *Podiatric Medicine*, the State Board of Optometry, the Bureau of
5 Naturopathic Medicine, the Dental Board of California, the
6 Osteopathic Medical Board of California, the Board of Registered
7 Nursing, the Veterinary Medical Board, and the Physician Assistant
8 Committee shall have authority with the California State Board of
9 Pharmacy to ensure compliance with this section, and those boards
10 are specifically charged with the enforcement of this chapter with
11 respect to their respective licensees.

12 (c) “Prescriber,” as used in this section, means a person, who
13 holds a physician’s and surgeon’s certificate, a license to practice
14 optometry, a license to practice naturopathic medicine, a license
15 to practice dentistry, a license to practice veterinary medicine, or
16 a certificate to practice podiatry, and who is duly registered by the
17 Medical Board of California, *the California Board of Podiatric*
18 *Medicine*, the State Board of Optometry, the Bureau of
19 Naturopathic Medicine, the Dental Board of California, the
20 Veterinary Medical Board, or the Board of Osteopathic Examiners
21 of this state.

22 *SEC. 31. Section 4175 of the Business and Professions Code*
23 *is amended to read:*

24 4175. (a) The California State Board of Pharmacy shall
25 promptly forward to the appropriate licensing entity, including the
26 Medical Board of California, *the California Board of Podiatric*
27 *Medicine*, the Veterinary Medical Board, the Dental Board of
28 California, the State Board of Optometry, the Osteopathic Medical
29 Board of California, the Board of Registered Nursing, the Bureau
30 of Naturopathic Medicine, or the Physician Assistant Committee,
31 all complaints received related to dangerous drugs or dangerous
32 devices dispensed by a prescriber, certified nurse-midwife, nurse
33 practitioner, naturopathic doctor, or physician assistant pursuant
34 to Section 4170.

35 (b) All complaints involving serious bodily injury due to
36 dangerous drugs or dangerous devices dispensed by prescribers,
37 certified nurse-midwives, nurse practitioners, naturopathic doctors,
38 or physician assistants pursuant to Section 4170 shall be handled
39 by the Medical Board of California, *the California Board of*
40 *Podiatric Medicine*, the Dental Board of California, the State Board

1 of Optometry, the Osteopathic Medical Board of California, the
2 Bureau of Naturopathic Medicine, the Board of Registered Nursing,
3 the Veterinary Medical Board, or the Physician Assistant
4 Committee as a case of greatest potential harm to a patient.

5 ~~SEC. 24.~~

6 *SEC. 32.* Section 4400 of the Business and Professions Code
7 is amended to read:

8 4400. The amount of fees and penalties prescribed by this
9 chapter, except as otherwise provided, is that fixed by the board
10 according to the following schedule:

11 (a) The fee for a nongovernmental pharmacy license shall be
12 four hundred dollars (\$400) and may be increased to five hundred
13 twenty dollars (\$520). The fee for the issuance of a temporary
14 nongovernmental pharmacy permit shall be two hundred fifty
15 dollars (\$250) and may be increased to three hundred twenty-five
16 dollars (\$325).

17 (b) The fee for a nongovernmental pharmacy license annual
18 renewal shall be two hundred fifty dollars (\$250) and may be
19 increased to three hundred twenty-five dollars (\$325).

20 (c) The fee for the pharmacist application and examination shall
21 be two hundred dollars (\$200) and may be increased to two
22 hundred sixty dollars (\$260).

23 (d) The fee for regrading an examination shall be ninety dollars
24 (\$90) and may be increased to one hundred fifteen dollars (\$115).
25 If an error in grading is found and the applicant passes the
26 examination, the regrading fee shall be refunded.

27 (e) The fee for a pharmacist license and biennial renewal shall
28 be one hundred fifty dollars (\$150) and may be increased to one
29 hundred ninety-five dollars (\$195).

30 (f) The fee for a nongovernmental wholesaler or third-party
31 logistics provider license and annual renewal shall be seven
32 hundred eighty dollars (\$780) and may be decreased to no less
33 than six hundred dollars (\$600). The application fee for any
34 additional location after licensure of the first 20 locations shall be
35 three hundred dollars (\$300) and may be decreased to no less than
36 two hundred twenty-five dollars (\$225). A temporary license fee
37 shall be seven hundred fifteen dollars (\$715) and may be decreased
38 to no less than five hundred fifty dollars (\$550).

1 (g) The fee for a hypodermic license and renewal shall be one
2 hundred twenty-five dollars (\$125) and may be increased to one
3 hundred sixty-five dollars (\$165).

4 (h) (1) The fee for application, investigation, and issuance of
5 a license as a designated representative pursuant to Section 4053,
6 or as a designated representative-3PL pursuant to Section 4053.1,
7 shall be three hundred thirty dollars (\$330) and may be decreased
8 to no less than two hundred fifty-five dollars (\$255).

9 (2) The fee for the annual renewal of a license as a designated
10 representative or designated representative-3PL shall be one
11 hundred ninety-five dollars (\$195) and may be decreased to no
12 less than one hundred fifty dollars (\$150).

13 (i) (1) The fee for the application, investigation, and issuance
14 of a license as a designated representative for a veterinary
15 food-animal drug retailer pursuant to Section 4053 shall be three
16 hundred thirty dollars (\$330) and may be decreased to no less than
17 two hundred fifty-five dollars (\$255).

18 (2) The fee for the annual renewal of a license as a designated
19 representative for a veterinary food-animal drug retailer shall be
20 one hundred ninety-five dollars (\$195) and may be decreased to
21 no less than one hundred fifty dollars (\$150).

22 (j) (1) The application fee for a nonresident wholesaler or
23 third-party logistics provider license issued pursuant to Section
24 4161 shall be seven hundred eighty dollars (\$780) and may be
25 decreased to no less than six hundred dollars (\$600).

26 (2) For nonresident wholesalers or third-party logistics providers
27 that have 21 or more facilities operating nationwide the application
28 fees for the first 20 locations shall be seven hundred eighty dollars
29 (\$780) and may be decreased to no less than six hundred dollars
30 (\$600). The application fee for any additional location after
31 licensure of the first 20 locations shall be three hundred dollars
32 (\$300) and may be decreased to no less than two hundred
33 twenty-five dollars (\$225). A temporary license fee shall be seven
34 hundred fifteen dollars (\$715) and may be decreased to no less
35 than five hundred fifty dollars (\$550).

36 (3) The annual renewal fee for a nonresident wholesaler license
37 or third-party logistics provider license issued pursuant to Section
38 4161 shall be seven hundred eighty dollars (\$780) and may be
39 decreased to no less than six hundred dollars (\$600).

1 (k) The fee for evaluation of continuing education courses for
2 accreditation shall be set by the board at an amount not to exceed
3 forty dollars (\$40) per course hour.

4 (l) The fee for an intern pharmacist license shall be ninety dollars
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).
6 The fee for transfer of intern hours or verification of licensure to
7 another state shall be twenty-five dollars (\$25) and may be
8 increased to thirty dollars (\$30).

9 (m) The board may waive or refund the additional fee for the
10 issuance of a license where the license is issued less than 45 days
11 before the next regular renewal date.

12 (n) The fee for the reissuance of any license, or renewal thereof,
13 that has been lost or destroyed or reissued due to a name change
14 shall be thirty-five dollars (\$35) and may be increased to forty-five
15 dollars (\$45).

16 (o) The fee for the reissuance of any license, or renewal thereof,
17 that must be reissued because of a change in the information, shall
18 be one hundred dollars (\$100) and may be increased to one hundred
19 thirty dollars (\$130).

20 (p) It is the intent of the Legislature that, in setting fees pursuant
21 to this section, the board shall seek to maintain a reserve in the
22 Pharmacy Board Contingent Fund equal to approximately one
23 year's operating expenditures.

24 (q) The fee for any applicant for a nongovernmental clinic
25 license shall be four hundred dollars (\$400) and may be increased
26 to five hundred twenty dollars (\$520) for each license. The annual
27 fee for renewal of the license shall be two hundred fifty dollars
28 (\$250) and may be increased to three hundred twenty-five dollars
29 (\$325) for each license.

30 (r) The fee for the issuance of a pharmacy technician license
31 shall be eighty dollars (\$80) and may be increased to one hundred
32 five dollars (\$105). The fee for renewal of a pharmacy technician
33 license shall be one hundred dollars (\$100) and may be increased
34 to one hundred thirty dollars (\$130).

35 (s) The fee for a veterinary food-animal drug retailer license
36 shall be four hundred five dollars (\$405) and may be increased to
37 four hundred twenty-five dollars (\$425). The annual renewal fee
38 for a veterinary food-animal drug retailer license shall be two
39 hundred fifty dollars (\$250) and may be increased to three hundred
40 twenty-five dollars (\$325).

1 (t) The fee for issuance of a retired license pursuant to Section
2 4200.5 shall be thirty-five dollars (\$35) and may be increased to
3 forty-five dollars (\$45).

4 (u) The fee for issuance or renewal of a nongovernmental sterile
5 compounding pharmacy license shall be six hundred dollars (\$600)
6 and may be increased to seven hundred eighty dollars (\$780). The
7 fee for a temporary license shall be five hundred fifty dollars (\$550)
8 and may be increased to seven hundred fifteen dollars (\$715).

9 (v) The fee for the issuance or renewal of a nonresident sterile
10 compounding pharmacy license shall be seven hundred eighty
11 dollars (\$780). In addition to paying that application fee, the
12 nonresident sterile compounding pharmacy shall deposit, when
13 submitting the application, a reasonable amount, as determined by
14 the board, necessary to cover the board's estimated cost of
15 performing the inspection required by Section 4127.2. If the
16 required deposit is not submitted with the application, the
17 application shall be deemed to be incomplete. If the actual cost of
18 the inspection exceeds the amount deposited, the board shall
19 provide to the applicant a written invoice for the remaining amount
20 and shall not take action on the application until the full amount
21 has been paid to the board. If the amount deposited exceeds the
22 amount of actual and necessary costs incurred, the board shall
23 remit the difference to the applicant.

24 (w) This section shall become inoperative on July 1, 2017, and
25 as of January 1, 2018, is repealed.

26 ~~SEC. 25.~~

27 *SEC. 33.* Section 4400 is added to the Business and Professions
28 Code, to read:

29 4400. The amount of fees and penalties prescribed by this
30 chapter, except as otherwise provided, is that fixed by the board
31 according to the following schedule:

32 (a) The fee for a nongovernmental pharmacy license shall be
33 five hundred twenty dollars (\$520) and may be increased to five
34 hundred seventy dollars (\$570). The fee for the issuance of a
35 temporary nongovernmental pharmacy permit shall be two hundred
36 fifty dollars (\$250) and may be increased to three hundred
37 twenty-five dollars (\$325).

38 (b) The fee for a nongovernmental pharmacy license annual
39 renewal shall be six hundred sixty-five dollars (\$665) and may be
40 increased to nine hundred thirty dollars (\$930).

1 (c) The fee for the pharmacist application and examination shall
2 be two hundred sixty dollars (\$260) and may be increased to two
3 hundred eighty-five dollars (\$285).

4 (d) The fee for regrading an examination shall be ninety dollars
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).
6 If an error in grading is found and the applicant passes the
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license shall be one hundred
9 ninety-five dollars (\$195) and may be increased to two hundred
10 fifteen dollars (\$215). The fee for a pharmacist biennial renewal
11 shall be three hundred sixty dollars (\$360) and may be increased
12 to five hundred five dollars (\$505).

13 (f) The fee for a nongovernmental wholesaler or third-party
14 logistics provider license and annual renewal shall be seven
15 hundred eighty dollars (\$780) and may be increased to eight
16 hundred twenty dollars (\$820). The application fee for any
17 additional location after licensure of the first 20 locations shall be
18 three hundred dollars (\$300) and may be decreased to no less than
19 two hundred twenty-five dollars (\$225). A temporary license fee
20 shall be seven hundred fifteen dollars (\$715) and may be decreased
21 to no less than five hundred fifty dollars (\$550).

22 (g) The fee for a hypodermic license shall be one hundred
23 seventy dollars (\$170) and may be increased to two hundred forty
24 dollars (\$240). The fee for a hypodermic license renewal shall be
25 two hundred dollars (\$200) and may be increased to two hundred
26 eighty dollars (\$280).

27 (h) (1) The fee for application, investigation, and issuance of
28 a license as a designated representative pursuant to Section 4053,
29 or as a designated representative-3PL pursuant to Section 4053.1,
30 shall be one hundred fifty dollars (\$150) and may be increased to
31 two hundred ten dollars (\$210).

32 (2) The fee for the annual renewal of a license as a designated
33 representative or designated representative-3PL shall be two
34 hundred fifteen dollars (\$215) and may be increased to three
35 hundred dollars (\$300).

36 (i) (1) The fee for the application, investigation, and issuance
37 of a license as a designated representative for a veterinary
38 food-animal drug retailer pursuant to Section 4053 shall be one
39 hundred fifty dollars (\$150) and may be increased to two hundred
40 ten dollars (\$210).

- 1 (2) The fee for the annual renewal of a license as a designated
2 representative for a veterinary food-animal drug retailer shall be
3 two hundred fifteen dollars (\$215) and may be increased to three
4 hundred dollars (\$300).
- 5 (j) (1) The application fee for a nonresident wholesaler or
6 third-party logistics provider license issued pursuant to Section
7 4161 shall be seven hundred eighty dollars (\$780) and may be
8 increased to eight hundred twenty dollars (\$820).
- 9 (2) For nonresident wholesalers or third-party logistics providers
10 that have 21 or more facilities operating nationwide the application
11 fees for the first 20 locations shall be seven hundred eighty dollars
12 (\$780) and may be increased to eight hundred twenty dollars
13 (\$820). The application fee for any additional location after
14 licensure of the first 20 locations shall be three hundred dollars
15 (\$300) and may be decreased to no less than two hundred
16 twenty-five dollars (\$225). A temporary license fee shall be seven
17 hundred fifteen dollars (\$715) and may be decreased to no less
18 than five hundred fifty dollars (\$550).
- 19 (3) The annual renewal fee for a nonresident wholesaler license
20 or third-party logistics provider license issued pursuant to Section
21 4161 shall be seven hundred eighty dollars (\$780) and may be
22 increased to eight hundred twenty dollars (\$820).
- 23 (k) The fee for evaluation of continuing education courses for
24 accreditation shall be set by the board at an amount not to exceed
25 forty dollars (\$40) per course hour.
- 26 (l) The fee for an intern pharmacist license shall be one hundred
27 sixty-five dollars (\$165) and may be increased to two hundred
28 thirty dollars (\$230). The fee for transfer of intern hours or
29 verification of licensure to another state shall be twenty-five dollars
30 (\$25) and may be increased to thirty dollars (\$30).
- 31 (m) The board may waive or refund the additional fee for the
32 issuance of a license where the license is issued less than 45 days
33 before the next regular renewal date.
- 34 (n) The fee for the reissuance of any license, or renewal thereof,
35 that has been lost or destroyed or reissued due to a name change
36 shall be thirty-five dollars (\$35) and may be increased to forty-five
37 dollars (\$45).
- 38 (o) The fee for the reissuance of any license, or renewal thereof,
39 that must be reissued because of a change in the information, shall

1 be one hundred dollars (\$100) and may be increased to one hundred
2 thirty dollars (\$130).

3 (p) It is the intent of the Legislature that, in setting fees pursuant
4 to this section, the board shall seek to maintain a reserve in the
5 Pharmacy Board Contingent Fund equal to approximately one
6 year's operating expenditures.

7 (q) The fee for any applicant for a nongovernmental clinic
8 license shall be five hundred twenty dollars (\$520) for each license
9 and may be increased to five hundred seventy dollars (\$570). The
10 annual fee for renewal of the license shall be three hundred
11 twenty-five dollars (\$325) for each license and may be increased
12 to three hundred sixty dollars (\$360).

13 (r) The fee for the issuance of a pharmacy technician license
14 shall be one hundred forty dollars (\$140) and may be increased to
15 one hundred ninety-five dollars (\$195). The fee for renewal of a
16 pharmacy technician license shall be one hundred forty dollars
17 (\$140) and may be increased to one hundred ninety-five dollars
18 (\$195).

19 (s) The fee for a veterinary food-animal drug retailer license
20 shall be four hundred thirty-five dollars (\$435) and may be
21 increased to six hundred ten dollars (\$610). The annual renewal
22 fee for a veterinary food-animal drug retailer license shall be three
23 hundred thirty dollars (\$330) and may be increased to four hundred
24 sixty dollars (\$460).

25 (t) The fee for issuance of a retired license pursuant to Section
26 4200.5 shall be thirty-five dollars (\$35) and may be increased to
27 forty-five dollars (\$45).

28 (u) The fee for issuance of a nongovernmental sterile
29 compounding pharmacy license shall be one thousand six hundred
30 forty-five dollars (\$1,645) and may be increased to two thousand
31 three hundred five dollars (\$2,305). The fee for a temporary license
32 shall be five hundred fifty dollars (\$550) and may be increased to
33 seven hundred fifteen dollars (\$715). The annual renewal fee of
34 the license shall be one thousand three hundred twenty-five dollars
35 (\$1,325) and may be increased to one thousand eight hundred
36 fifty-five dollars (\$1,855).

37 (v) The fee for the issuance of a nonresident sterile compounding
38 pharmacy license shall be two thousand three hundred eighty
39 dollars (\$2,380) and may be increased to three thousand three
40 hundred thirty-five dollars (\$3,335). The annual renewal of the

1 license shall be two thousand two hundred seventy dollars (\$2,270)
 2 and may be increased to three thousand one hundred eighty dollars
 3 (\$3,180). In addition to paying that application fee, the nonresident
 4 sterile compounding pharmacy shall deposit, when submitting the
 5 application, a reasonable amount, as determined by the board,
 6 necessary to cover the board’s estimated cost of performing the
 7 inspection required by Section 4127.2. If the required deposit is
 8 not submitted with the application, the application shall be deemed
 9 to be incomplete. If the actual cost of the inspection exceeds the
 10 amount deposited, the board shall provide to the applicant a written
 11 invoice for the remaining amount and shall not take action on the
 12 application until the full amount has been paid to the board. If the
 13 amount deposited exceeds the amount of actual and necessary
 14 costs incurred, the board shall remit the difference to the applicant.

15 (w) The fee for the issuance of a centralized hospital packaging
 16 license shall be eight hundred twenty dollars (\$820) and may be
 17 increased to one thousand one hundred fifty dollars (\$1,150). The
 18 annual renewal of the license shall be eight hundred five dollars
 19 (\$805) and may be increased to one thousand one hundred
 20 twenty-five dollars (\$1,125).

21 (x) This section shall become operative on July 1, 2017.

22 *SEC. 34. Section 4830 of the Business and Professions Code*
 23 *is amended to read:*

24 4830. (a) This chapter does not apply to:

25 (1) Veterinarians while serving in any armed branch of the
 26 military service of the United States or the United States
 27 Department of Agriculture while actually engaged and employed
 28 in their official capacity.

29 ~~(2) Regularly licensed veterinarians in actual consultation from~~
 30 ~~other states.~~

31 ~~(3) Regularly licensed veterinarians actually called from other~~
 32 ~~states to attend cases in this state, but who do not open an office~~
 33 ~~or appoint a place to do business within this state.~~

34 (2) *Veterinarians holding a current, valid license in good*
 35 *standing in another state or country who provide assistance to a*
 36 *California licensed veterinarian and attend on a specific case. The*
 37 *California licensed veterinarian shall maintain a valid*
 38 *veterinarian-client-patient relationship. The veterinarian providing*
 39 *the assistance shall not establish a veterinarian-client-patient*
 40 *relationship with the client by attending the case or at a future*

1 *time and shall not practice veterinary medicine, open an office,*
2 *appoint a place to meet patients, communicate with clients who*
3 *reside within the limits of this state, give orders, or have ultimate*
4 *authority over the care or primary diagnosis of a patient that is*
5 *located within this state.*

6 (3) Veterinarians called into the state by a law enforcement
7 agency or animal control agency pursuant to subdivision (b).

8 (4) Veterinarians employed by the University of California
9 while engaged in the performance of duties in connection with the
10 College of Agriculture, the Agricultural Experiment Station, the
11 School of Veterinary Medicine, or the agricultural extension work
12 of the university or employed by the Western University of Health
13 Sciences while engaged in the performance of duties in connection
14 with the College of Veterinary Medicine or the agricultural
15 extension work of the university.

16 (5) Students in the School of Veterinary Medicine of the
17 University of California or the College of Veterinary Medicine of
18 the Western University of Health Sciences who participate in
19 diagnosis and treatment as part of their educational experience,
20 including those in off-campus educational programs under the
21 direct supervision of a licensed veterinarian in good standing, as
22 defined in paragraph (1) of subdivision (b) of Section 4848,
23 appointed by the University of California, Davis, or the Western
24 University of Health Sciences.

25 (6) A veterinarian who is employed by the Meat and Poultry
26 Inspection Branch of the California Department of Food and
27 Agriculture while actually engaged and employed in his or her
28 official capacity. A person exempt under this paragraph shall not
29 otherwise engage in the practice of veterinary medicine unless he
30 or she is issued a license by the board.

31 (7) Unlicensed personnel employed by the Department of Food
32 and Agriculture or the United States Department of Agriculture
33 when in the course of their duties they are directed by a veterinarian
34 supervisor to conduct an examination, obtain biological specimens,
35 apply biological tests, or administer medications or biological
36 products as part of government disease or condition monitoring,
37 investigation, control, or eradication activities.

38 (b) (1) For purposes of paragraph (3) of subdivision (a), a
39 regularly licensed veterinarian in good standing who is called from
40 another state by a law enforcement agency or animal control

1 agency, as defined in Section 31606 of the Food and Agricultural
2 Code, to attend to cases that are a part of an investigation of an
3 alleged violation of federal or state animal fighting or animal
4 cruelty laws within a single geographic location shall be exempt
5 from the licensing requirements of this chapter if the law
6 enforcement agency or animal control agency determines that it
7 is necessary to call the veterinarian in order for the agency or
8 officer to conduct the investigation in a timely, efficient, and
9 effective manner. In determining whether it is necessary to call a
10 veterinarian from another state, consideration shall be given to the
11 availability of veterinarians in this state to attend to these cases.
12 An agency, department, or officer that calls a veterinarian pursuant
13 to this subdivision shall notify the board of the investigation.

14 (2) Notwithstanding any other provision of this chapter, a
15 regularly licensed veterinarian in good standing who is called from
16 another state to attend to cases that are a part of an investigation
17 described in paragraph (1) may provide veterinary medical care
18 for animals that are affected by the investigation with a temporary
19 shelter facility, and the temporary shelter facility shall be exempt
20 from the registration requirement of Section 4853 if all of the
21 following conditions are met:

22 (A) The temporary shelter facility is established only for the
23 purpose of the investigation.

24 (B) The temporary shelter facility provides veterinary medical
25 care, shelter, food, and water only to animals that are affected by
26 the investigation.

27 (C) The temporary shelter facility complies with Section 4854.

28 (D) The temporary shelter facility exists for not more than 60
29 days, unless the law enforcement agency or animal control agency
30 determines that a longer period of time is necessary to complete
31 the investigation.

32 (E) Within 30 calendar days upon completion of the provision
33 of veterinary health care services at a temporary shelter facility
34 established pursuant to this section, the veterinarian called from
35 another state by a law enforcement agency or animal control agency
36 to attend to a case shall file a report with the board. The report
37 shall contain the date, place, type, and general description of the
38 care provided, along with a listing of the veterinary health care
39 practitioners who participated in providing that care.

1 (c) For purposes of paragraph (3) of subdivision (a), the board
2 may inspect temporary facilities established pursuant to this
3 section.

4 ~~SEC. 26.~~

5 *SEC. 35.* Section 4999 of the Business and Professions Code
6 is amended to read:

7 4999. “Telephone medical advice service” means any business
8 entity that employs, or contracts or subcontracts, directly or
9 indirectly, with, the full-time equivalent of five or more persons
10 functioning as health care professionals, whose primary function
11 is to provide telephone medical advice, that provides telephone
12 medical advice services to a patient at a California address.
13 “Telephone medical advice service” does not include a medical
14 group that operates in multiple locations in California if no more
15 than five full-time equivalent persons at any one location perform
16 telephone medical advice services and those persons limit the
17 telephone medical advice services to patients being treated at that
18 location.

19 ~~SEC. 27.~~

20 *SEC. 36.* Section 4999.1 of the Business and Professions Code
21 is repealed.

22 ~~SEC. 28.~~

23 *SEC. 37.* Section 4999.2 of the Business and Professions Code
24 is amended to read:

25 4999.2. A telephone medical advice service shall be responsible
26 for complying with the following requirements:

27 (a) (1) Ensuring that all health care professionals who provide
28 medical advice services are appropriately licensed, certified, or
29 registered as a physician and surgeon pursuant to Chapter 5
30 (commencing with Section 2000) or the Osteopathic Initiative Act,
31 as a dentist, dental hygienist, dental hygienist in alternative
32 practice, or dental hygienist in extended functions pursuant to
33 Chapter 4 (commencing with Section 1600), as an occupational
34 therapist pursuant to Chapter 5.6 (commencing with Section 2570),
35 as a registered nurse pursuant to Chapter 6 (commencing with
36 Section 2700), as a psychologist pursuant to Chapter 6.6
37 (commencing with Section 2900), as a naturopathic doctor pursuant
38 to Chapter 8.2 (commencing with Section 3610), as a marriage
39 and family therapist pursuant to Chapter 13 (commencing with
40 Section 4980), as a licensed clinical social worker pursuant to

1 Chapter 14 (commencing with Section 4991), as a licensed
2 professional clinical counselor pursuant to Chapter 16
3 (commencing with Section 4999.10), as an optometrist pursuant
4 to Chapter 7 (commencing with Section 3000), or as a chiropractor
5 pursuant to the Chiropractic Initiative Act, and operating consistent
6 with the laws governing their respective scopes of practice in the
7 state within which they provide telephone medical advice services,
8 except as provided in subdivision (b).

9 (2) Ensuring that all health care professionals who provide
10 telephone medical advice services from an out-of-state location,
11 as identified in paragraph (1), are licensed, registered, or certified
12 in the state within which they are providing the telephone medical
13 advice services and are operating consistent with the laws
14 governing their respective scopes of practice.

15 (b) Ensuring that the telephone medical advice provided is
16 consistent with good professional practice.

17 (c) Maintaining records of telephone medical advice services,
18 including records of complaints, provided to patients in California
19 for a period of at least five years.

20 (d) Ensuring that no staff member uses a title or designation
21 when speaking to an enrollee, subscriber, or consumer that may
22 cause a reasonable person to believe that the staff member is a
23 licensed, certified, or registered health care professional described
24 in paragraph (1) of subdivision (a), unless the staff member is a
25 licensed, certified, or registered professional.

26 (e) Complying with all directions and requests for information
27 made by the department.

28 (f) Notifying the department within 30 days of any change of
29 name, physical location, mailing address, or telephone number of
30 any business, owner, partner, corporate officer, or agent for service
31 of process in California, together with copies of all resolutions or
32 other written communications that substantiate these changes.

33 ~~SEC. 29.~~

34 ~~SEC. 38.~~ Section 4999.3 of the Business and Professions Code
35 is repealed.

36 ~~SEC. 30.~~

37 ~~SEC. 39.~~ Section 4999.4 of the Business and Professions Code
38 is repealed.

1 ~~SEC. 31.~~

2 ~~SEC. 40.~~ Section 4999.5 of the Business and Professions Code
3 is repealed.

4 ~~SEC. 32.~~

5 ~~SEC. 41.~~ Section 4999.5 is added to the Business and
6 Professions Code, to read:

7 4999.5. The respective healing arts licensing boards shall be
8 responsible for enforcing this chapter and any other laws and
9 regulations affecting California licensed health care professionals
10 providing telephone medical advice services.

11 ~~SEC. 33.~~

12 ~~SEC. 42.~~ Section 4999.6 of the Business and Professions Code
13 is repealed.

14 ~~SEC. 34.~~ ~~Section 7137 of the Business and Professions Code~~
15 ~~is amended to read:~~

16 ~~7137. The board shall set fees by regulation. These fees shall~~
17 ~~not exceed the following schedule:~~

18 ~~(a) (1) The application fee for an original license in a single~~
19 ~~classification shall not be more than three hundred sixty dollars~~
20 ~~(\$360).~~

21 ~~(2) The application fee for each additional classification applied~~
22 ~~for in connection with an original license shall not be more than~~
23 ~~seventy-five dollars (\$75).~~

24 ~~(3) The application fee for each additional classification pursuant~~
25 ~~to Section 7059 shall not be more than three hundred dollars~~
26 ~~(\$300).~~

27 ~~(4) The application fee to replace a responsible managing officer,~~
28 ~~responsible managing manager, responsible managing member,~~
29 ~~or responsible managing employee pursuant to Section 7068.2~~
30 ~~shall not be more than three hundred dollars (\$300).~~

31 ~~(5) The application fee to add personnel, other than a qualifying~~
32 ~~individual, to an existing license shall not be more than one~~
33 ~~hundred fifty dollars (\$150).~~

34 ~~(b) The fee for rescheduling an examination for an applicant~~
35 ~~who has applied for an original license, additional classification,~~
36 ~~a change of responsible managing officer, responsible managing~~
37 ~~manager, responsible managing member, or responsible managing~~
38 ~~employee, or for an asbestos certification or hazardous substance~~
39 ~~removal certification, shall not be more than sixty dollars (\$60).~~

1 ~~(e) The fee for scheduling or rescheduling an examination for~~
2 ~~a licensee who is required to take the examination as a condition~~
3 ~~of probation shall not be more than sixty dollars (\$60).~~

4 ~~(d) The initial license fee for an active or inactive license shall~~
5 ~~not be more than two hundred twenty dollars (\$220).~~

6 ~~(e) (1) The renewal fee for an active license shall not be more~~
7 ~~than four hundred thirty dollars (\$430).~~

8 ~~(2) The renewal fee for an inactive license shall not be more~~
9 ~~than two hundred twenty dollars (\$220).~~

10 ~~(f) The delinquency fee is an amount equal to 50 percent of the~~
11 ~~renewal fee, if the license is renewed after its expiration.~~

12 ~~(g) The registration fee for a home improvement salesperson~~
13 ~~shall not be more than ninety dollars (\$90).~~

14 ~~(h) The renewal fee for a home improvement salesperson~~
15 ~~registration shall not be more than ninety dollars (\$90).~~

16 ~~(i) The application fee for an asbestos certification examination~~
17 ~~shall not be more than ninety dollars (\$90).~~

18 ~~(j) The application fee for a hazardous substance removal or~~
19 ~~remedial action certification examination shall not be more than~~
20 ~~ninety dollars (\$90).~~

21 ~~(k) In addition to any other fees charged to C-10 and C-7~~
22 ~~contractors, the board may charge a fee not to exceed twenty dollars~~
23 ~~(\$20), which shall be used by the board to enforce provisions of~~
24 ~~the Labor Code related to electrician certification.~~

25 ~~(l) The board shall, by regulation, establish criteria for the~~
26 ~~approval of expedited processing of applications. Approved~~
27 ~~expedited processing of applications for licensure or registration,~~
28 ~~as required by other provisions of law, shall not be subject to this~~
29 ~~subdivision.~~

30 *SEC. 43. Section 7137 of the Business and Professions Code*
31 *is amended to read:*

32 7137. The board shall set fees by regulation. These fees shall
33 not exceed the following schedule:

34 (a) The application fee for an original license in a single
35 classification shall not be more than three hundred dollars (\$300).

36 The application fee for each additional classification applied for
37 in connection with an original license shall not be more than
38 seventy-five dollars (\$75).

39 The application fee for each additional classification pursuant
40 to Section 7059 shall not be more than seventy-five dollars (\$75).

1 The application fee to replace a responsible managing officer,
2 responsible managing manager, responsible managing member,
3 or responsible managing employee pursuant to Section 7068.2
4 shall not be more than seventy-five dollars (\$75).

5 (b) The fee for rescheduling an examination for an applicant
6 who has applied for an original license, additional classification,
7 a change of responsible managing officer, responsible managing
8 manager, responsible managing member, or responsible managing
9 employee, or for an asbestos certification or hazardous substance
10 removal certification, shall not be more than sixty dollars (\$60).

11 (c) The fee for scheduling or rescheduling an examination for
12 a licensee who is required to take the examination as a condition
13 of probation shall not be more than sixty dollars (\$60).

14 (d) The initial license fee for an active or inactive license shall
15 not be more than one hundred eighty dollars (\$180).

16 (e) The renewal fee for an active license shall not be more than
17 three hundred sixty dollars (\$360).

18 The renewal fee for an inactive license shall not be more than
19 one hundred eighty dollars (\$180).

20 (f) The delinquency fee is an amount equal to 50 percent of the
21 renewal fee, if the license is renewed after its expiration.

22 (g) The registration fee for a home improvement salesperson
23 shall not be more than seventy-five dollars (\$75).

24 (h) The renewal fee for a home improvement salesperson
25 registration shall not be more than seventy-five dollars (\$75).

26 (i) The application fee for an asbestos certification examination
27 shall not be more than seventy-five dollars (\$75).

28 (j) The application fee for a hazardous substance removal or
29 remedial action certification examination shall not be more than
30 seventy-five dollars (\$75).

31 (k) In addition to any other fees charged to C-10 and C-7
32 contractors, the board may charge a fee not to exceed twenty dollars
33 (\$20), which shall be used by the board to enforce provisions of
34 the Labor Code related to electrician certification.

35 (l) *This section shall become inoperative on July 1, 2017, and*
36 *as of January 1, 2018, is repealed.*

37 *SEC. 44. Section 7137 is added to the Business and Professions*
38 *Code, to read:*

39 *7137. The board may set fees by regulation. These fees shall*
40 *be set according to the following schedule:*

1 (a) (1) The application fee for an original license in a single
2 classification shall be three hundred thirty dollars (\$330) and may
3 be increased to not more than three hundred seventy-five dollars
4 (\$375).

5 (2) The application fee for each additional classification applied
6 for in connection with an original license shall not be more than
7 eighty-five dollars (\$85).

8 (3) The application fee for each additional classification
9 pursuant to Section 7059 shall be one hundred fifty dollars (\$150)
10 and may be increased to not more than one hundred seventy-five
11 dollars (\$175).

12 (4) The application fee to replace a responsible managing
13 officer, responsible managing manager, responsible managing
14 member, or responsible managing employee pursuant to Section
15 7068.2 shall be one hundred fifty dollars (\$150) and may be
16 increased to not more than one hundred seventy-five dollars (\$175).

17 (5) The application fee to add personnel, other than a qualifying
18 individual, to an existing license shall be one hundred dollars
19 (\$100) and may be increased to not more than one hundred fifteen
20 dollars (\$115).

21 (b) The fee for rescheduling an examination for an applicant
22 who has applied for an original license, additional classification,
23 a change of responsible managing officer, responsible managing
24 manager, responsible managing member, or responsible managing
25 employee, or for an asbestos certification or hazardous substance
26 removal certification, shall not be more than seventy dollars (\$70).

27 (c) The fee for scheduling or rescheduling an examination for
28 a licensee who is required to take the examination as a condition
29 of probation shall not be more than seventy dollars (\$70).

30 (d) The initial license fee for an active or inactive license shall
31 be two hundred dollars (\$200) and may be increased to not more
32 than two hundred twenty-five dollars (\$225).

33 (e) (1) The renewal fee for an active license shall be four
34 hundred dollars (\$400) and may be increased to not more than
35 four hundred fifty dollars (\$450).

36 (2) The renewal fee for an inactive license shall be two hundred
37 dollars (\$200) and may be increased to not more than two hundred
38 twenty-five dollars (\$225).

39 (f) The delinquency fee is an amount equal to 50 percent of the
40 renewal fee, if the license is renewed after its expiration.

1 (g) *The registration fee for a home improvement salesperson*
2 *shall be eighty-three dollars (\$83) and may be increased to not*
3 *more than ninety-five dollars (\$95).*

4 (h) *The renewal fee for a home improvement salesperson*
5 *registration shall be eighty-three dollars (\$83) and may be*
6 *increased to not more than ninety-five dollars (\$95).*

7 (i) *The application fee for an asbestos certification examination*
8 *shall be eighty-three dollars (\$83) and may be increased to not*
9 *more than ninety-five dollars (\$95).*

10 (j) *The application fee for a hazardous substance removal or*
11 *remedial action certification examination shall be eighty-three*
12 *dollars (\$83) and may be increased to not more than ninety-five*
13 *dollars (\$95).*

14 (k) *In addition to any other fees charged to C-10 and C-7*
15 *contractors, the board may charge a fee not to exceed twenty*
16 *dollars (\$20), which shall be used by the board to enforce*
17 *provisions of the Labor Code related to electrician certification.*

18 (l) *The board shall, by regulation, establish criteria for the*
19 *approval of expedited processing of applications. Approved*
20 *expedited processing of applications for licensure or registration,*
21 *as required by other provisions of law, shall not be subject to this*
22 *subdivision.*

23 (m) *This section shall become operative on July 1, 2017.*

24 ~~SEC. 35.~~

25 *SEC. 45.* Section 7153.3 of the Business and Professions Code
26 is amended to read:

27 7153.3. (a) To renew a home improvement salesperson
28 registration, which has not expired, the registrant shall before the
29 time at which the registration would otherwise expire, apply for
30 renewal on a form prescribed by the registrar and pay a renewal
31 fee prescribed by this chapter. Renewal of an unexpired registration
32 shall continue the registration in effect for the two-year period
33 following the expiration date of the registration, when it shall
34 expire if it is not again renewed.

35 (b) An application for renewal of registration is delinquent if
36 the application is not postmarked or received via electronic
37 transmission as authorized by Section 7156.6 by the date on which
38 the registration would otherwise expire. A registration may,
39 however, still be renewed at any time within three years after its
40 expiration upon the filing of an application for renewal on a form

1 prescribed by the registrar and the payment of the renewal fee
2 prescribed by this chapter and a delinquent renewal penalty equal
3 ~~to 50 percent of the renewal fee.~~ *in the amount of twenty-five*
4 *dollars (\$25).* If a registration is not renewed within three years,
5 the person shall make a new application for registration pursuant
6 to Section 7153.1.

7 (c) The registrar may refuse to renew a registration for failure
8 by the registrant to complete the application for renewal of
9 registration. If a registrant fails to return the application rejected
10 for insufficiency or incompleteness within 90 days from the
11 original date of rejection, the application and fee shall be deemed
12 abandoned. Any application abandoned may not be reinstated.
13 However, the person may file a new application for registration
14 pursuant to Section 7153.1.

15 The registrar may review and accept the petition of a person who
16 disputes the abandonment of his or her renewal application upon
17 a showing of good cause. This petition shall be received within 90
18 days of the date the application for renewal is deemed abandoned.

19 *(d) This section shall become inoperative on July 1, 2017, and*
20 *as of January 1, 2018, is repealed.*

21 *SEC. 46. Section 7153.3 is added to the Business and*
22 *Professions Code, to read:*

23 *7153.3. (a) To renew a home improvement salesperson*
24 *registration, which has not expired, the registrant shall before the*
25 *time at which the registration would otherwise expire, apply for*
26 *renewal on a form prescribed by the registrar and pay a renewal*
27 *fee prescribed by this chapter. Renewal of an unexpired*
28 *registration shall continue the registration in effect for the two-year*
29 *period following the expiration date of the registration, when it*
30 *shall expire if it is not again renewed.*

31 *(b) An application for renewal of registration is delinquent if*
32 *the application is not postmarked or received via electronic*
33 *transmission as authorized by Section 7156.6 by the date on which*
34 *the registration would otherwise expire. A registration may,*
35 *however, still be renewed at any time within three years after its*
36 *expiration upon the filing of an application for renewal on a form*
37 *prescribed by the registrar and the payment of the renewal fee*
38 *prescribed by this chapter and a delinquent renewal penalty equal*
39 *to 50 percent of the renewal fee. If a registration is not renewed*

1 *within three years, the person shall make a new application for*
2 *registration pursuant to Section 7153.1.*

3 *(c) (1) The registrar may refuse to renew a registration for*
4 *failure by the registrant to complete the application for renewal*
5 *of registration. If a registrant fails to return the application*
6 *rejected for insufficiency or incompleteness within 90 days from*
7 *the original date of rejection, the application and fee shall be*
8 *deemed abandoned. Any application abandoned may not be*
9 *reinstated. However, the person may file a new application for*
10 *registration pursuant to Section 7153.1.*

11 *(2) The registrar may review and accept the petition of a person*
12 *who disputes the abandonment of his or her renewal application*
13 *upon a showing of good cause. This petition shall be received*
14 *within 90 days of the date the application for renewal is deemed*
15 *abandoned.*

16 *(d) This section shall become operative on July 1, 2017.*

17 ~~SEC. 36.~~

18 *SEC. 47.* Section 8031 of the Business and Professions Code
19 is amended to read:

20 8031. The amount of the fees required by this chapter is that
21 fixed by the board in accordance with the following schedule:

22 (a) The fee for filing an application for each examination shall
23 be no more than forty dollars (\$40).

24 (b) The fee for examination and reexamination for the written
25 or practical part of the examination shall be in an amount fixed by
26 the board, which shall be equal to the actual cost of preparing,
27 administering, grading, and analyzing the examination, but shall
28 not exceed seventy-five dollars (\$75) for each separate part, for
29 each administration.

30 (c) The initial certificate fee is an amount equal to the renewal
31 fee in effect on the last regular renewal date before the date on
32 which the certificate is issued, except that, if the certificate will
33 expire less than 180 days after its issuance, then the fee is 50
34 percent of the renewal fee in effect on the last regular renewal date
35 before the date on which the certificate is issued, or fifty dollars
36 (\$50), whichever is greater. The board may, by appropriate
37 regulation, provide for the waiver or refund of the initial certificate
38 fee where the certificate is issued less than 45 days before the date
39 on which it will expire.

1 (d) By a resolution adopted by the board, a renewal fee may be
2 established in such amounts and at such times as the board may
3 deem appropriate to meet its operational expenses and funding
4 responsibilities as set forth in this chapter. The renewal fee shall
5 not be more than two hundred fifty dollars (\$250) nor less than
6 ten dollars (\$10) annually, with the following exception:

7 Any person who is employed full time by the State of California
8 as a hearing reporter and who does not otherwise render shorthand
9 reporting services for a fee shall be exempt from licensure while
10 in state employment and shall not be subject to the renewal fee
11 provisions of this subdivision until 30 days after leaving state
12 employment. The renewal fee shall, in addition to the amount fixed
13 by this subdivision, include any unpaid fees required by this section
14 plus any delinquency fee.

15 (e) The duplicate certificate fee shall be no greater than ten
16 dollars (\$10).

17 (f) The penalty for failure to notify the board of a change of
18 name or address as required by Section 8024.6 shall be no greater
19 than fifty dollars (\$50).

20 ~~SEC. 37:~~

21 *SEC. 48.* Section 8516 of the Business and Professions Code
22 is amended to read:

23 8516. (a) This section, and Section 8519, apply only to wood
24 destroying pests or organisms.

25 (b) A registered company or licensee shall not commence work
26 on a contract, or sign, issue, or deliver any documents expressing
27 an opinion or statement relating to the absence or presence of wood
28 destroying pests or organisms until an inspection has been made
29 by a licensed Branch 3 field representative or operator employed
30 by a registered company, except as provided in Section 8519.5.
31 The address of each property inspected or upon which work is
32 completed shall be reported on a form prescribed by the board and
33 shall be filed with the board no later than 10 business days after
34 the commencement of an inspection or upon completed work.

35 Every property inspected pursuant to this subdivision or Section
36 8518 shall be assessed a filing fee pursuant to Section 8674.

37 Failure of a registered company to report and file with the board
38 the address of any property inspected or work completed pursuant
39 to Section 8518 or this section is grounds for disciplinary action
40 and shall subject the registered company to a fine of not more than

1 two thousand five hundred dollars (\$2,500). The address of an
2 inspection report prepared for use by an attorney for litigation
3 purposes shall not be required to be reported to the board and shall
4 not be assessed a filing fee.

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

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

22 (1) The start date of the inspection and the name of the licensed
23 field representative or operator making the inspection.

24 (2) The name and address of the person or firm ordering the
25 report.

26 (3) The name and address of the property owner and any person
27 who is a party in interest.

28 (4) The address or location of the property.

29 (5) A general description of the building or premises inspected.

30 (6) A foundation diagram or sketch of the structure or structures
31 or portions of the structure or structures inspected, including the
32 approximate location of any infested or infected areas evident, and
33 the parts of the structure where conditions that would ordinarily
34 subject those parts to attack by wood destroying pests or organisms
35 exist. Reporting of the infested or infected wood members, or parts
36 of the structure identified, shall be listed in the inspection report
37 to clearly identify them, as is typical in standard construction
38 components, including, but not limited to, siding, studs, rafters,
39 floor joists, fascia, subfloor, sheathing, and trim boards.

1 (7) Information regarding the substructure, foundation walls
2 and footings, porches, patios and steps, air vents, abutments, attic
3 spaces, roof framing that includes the eaves, rafters, fascias,
4 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
5 or other parts subject to attack by wood destroying pests or
6 organisms. Conditions usually deemed likely to lead to infestation
7 or infection, such as earth-wood contacts, excessive cellulose
8 debris, faulty grade levels, excessive moisture conditions, evidence
9 of roof leaks, and insufficient ventilation are to be reported.

10 (8) One of the following statements, as appropriate, printed in
11 bold type:

12 (A) The exterior surface of the roof was not inspected. If you
13 want the water tightness of the roof determined, you should contact
14 a roofing contractor who is licensed by the Contractors' State
15 License Board.

16 (B) The exterior surface of the roof was inspected to determine
17 whether or not wood destroying pests or organisms are present.

18 (9) Indication or description of any areas that are inaccessible
19 or not inspected with recommendation for further inspection if
20 practicable. If, after the report has been made in compliance with
21 this section, authority is given later to open inaccessible areas, a
22 supplemental report on conditions in these areas shall be made.

23 (10) Recommendations for corrective measures.

24 (11) Information regarding the pesticide or pesticides to be used
25 for their control or prevention as set forth in subdivision (a) of
26 Section 8538.

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

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

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

1 A reinspection shall be an inspection of those items previously
2 listed on an original report to determine if the recommendations
3 have been completed. Each reinspection shall be reported on an
4 original inspection report form and shall be labeled “Reinspection.”
5 Each reinspection shall also identify the original report by date.

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

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

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

14
15 “NOTICE: Reports on this structure prepared by various
16 registered companies should list the same findings (i.e. termite
17 infestations, termite damage, fungus damage, etc.). However,
18 recommendations to correct these findings may vary from company
19 to company. You have a right to seek a second opinion from
20 another company.”

21
22 (c) At the time a report is ordered, the registered company or
23 licensee shall inform the person or entity ordering the report, that
24 a separate report is available pursuant to this subdivision. If a
25 separate report is requested at the time the inspection report is
26 ordered, the registered company or licensee shall separately identify
27 on the report each recommendation for corrective measures as
28 follows:

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

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

38 (d) When a corrective condition is identified, either as paragraph
39 (1) or (2) of subdivision (c), and the property owner or the property
40 owner’s designated agent chooses not to correct those conditions,

1 the registered company or licensee shall not be liable for damages
2 resulting from a failure to correct those conditions or subject to
3 any disciplinary action by the board. Nothing in this subdivision,
4 however, shall relieve a registered company or a licensee of any
5 liability resulting from negligence, fraud, dishonest dealing, other
6 violations pursuant to this chapter, or contractual obligations
7 between the registered company or licensee and the responsible
8 parties.

9 (e) The inspection report form prescribed by the board shall
10 separately identify the infestation or infection that is evident and
11 the conditions that are present that are deemed likely to lead to
12 infestation or infection. If a separate form is requested, the form
13 shall explain the infestation or infection that is evident and the
14 conditions that are present that are deemed likely to lead to
15 infestation or infection and the difference between those conditions.
16 In no event, however, shall conditions deemed likely to lead to
17 infestation or infection be characterized as actual “defects” or as
18 actual “active” infestations or infections or in need of correction
19 as a precondition to issuing a certification pursuant to Section
20 8519.

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

29 (g) For purposes of this section, “control service agreement”
30 means an agreement, including extended warranties, to have a
31 licensee conduct over a period of time regular inspections and
32 other activities related to the control or eradication of wood
33 destroying pests and organisms. Under a control service agreement
34 a registered company shall refer to the original report and contract
35 in a manner as to identify them clearly, and the report shall be
36 assumed to be a true report of conditions as originally issued,
37 except it may be modified after a control service inspection. A
38 registered company is not required to issue a report as outlined in
39 paragraphs (1) to (11), inclusive, of subdivision (b) after each
40 control service inspection. If after control service inspection, no

1 modification of the original report is made in writing, then it will
2 be assumed that conditions are as originally reported. A control
3 service contract shall state specifically the particular wood
4 destroying pests or organisms and the portions of the buildings or
5 structures covered by the contract.

6 (h) A registered company or licensee may enter into and
7 maintain a control service agreement provided the following
8 requirements are met:

9 (1) The control service agreement shall be in writing, signed by
10 both parties, and shall specifically include the following:

11 (A) The wood destroying pests and organisms covered by the
12 control service agreement.

13 (B) Any wood destroying pest or organism that is not covered
14 must be specifically listed.

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

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

22 (E) A reference to the original inspection report.

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

25 (G) Whether the fee includes structural repairs.

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

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

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

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

38 (4) A full inspection of the property covered by the control
39 service agreement shall be conducted and a report filed pursuant
40 to subdivision (b) at least once every three years from the date that

1 the agreement was entered into, unless the consumer cancels the
2 contract within three years from the date the agreement was entered
3 into.

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

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

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

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

12 (D) Correction of the infestation or infection takes place within
13 45 days of its discovery.

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

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

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

26 ~~SEC. 38.~~

27 *SEC. 49.* Section 8518 of the Business and Professions Code
28 is amended to read:

29 8518. (a) When a registered company completes work under
30 a contract, it shall prepare, on a form prescribed by the board, a
31 notice of work completed and not completed, and shall furnish
32 that notice to the owner of the property or the owner's agent within
33 10 business days after completing the work. The notice shall
34 include a statement of the cost of the completed work and estimated
35 cost of work not completed.

36 (b) The address of each property inspected or upon which work
37 was completed shall be reported on a form prescribed by the board
38 and shall be filed with the board no later than 10 business days
39 after completed work.

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

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

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

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

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

20 *SEC. 50. Section 13401 of the Corporations Code is amended*
21 *to read:*

22 13401. As used in this part:

23 (a) “Professional services” means any type of professional
24 services that may be lawfully rendered only pursuant to a license,
25 certification, or registration authorized by the Business and
26 Professions Code, the Chiropractic Act, or the Osteopathic Act.

27 (b) “Professional corporation” means a corporation organized
28 under the General Corporation Law or pursuant to subdivision (b)
29 of Section 13406 that is engaged in rendering professional services
30 in a single profession, except as otherwise authorized in Section
31 13401.5, pursuant to a certificate of registration issued by the
32 governmental agency regulating the profession as herein provided
33 and that in its practice or business designates itself as a professional
34 or other corporation as may be required by statute. However, any
35 professional corporation or foreign professional corporation
36 rendering professional services by persons duly licensed by the
37 Medical Board of California or any examining committee under
38 the jurisdiction of the board, California, the California Board of
39 Podiatric Medicine, the Osteopathic Medical Board of California,
40 the Dental Board of California, the Dental Hygiene Committee of

1 California, the California State Board of Pharmacy, the Veterinary
2 Medical Board, the California Architects Board, the Court
3 Reporters Board of California, the Board of Behavioral Sciences,
4 the Speech-Language Pathology and Audiology Board, the Board
5 of Registered Nursing, or the State Board of Optometry shall not
6 be required to obtain a certificate of registration in order to render
7 those professional services.

8 (c) “Foreign professional corporation” means a corporation
9 organized under the laws of a state of the United States other than
10 this state that is engaged in a profession of a type for which there
11 is authorization in the Business and Professions Code for the
12 performance of professional services by a foreign professional
13 corporation.

14 (d) “Licensed person” means any natural person who is duly
15 licensed under the provisions of the Business and Professions
16 Code, the Chiropractic Act, or the Osteopathic Act to render the
17 same professional services as are or will be rendered by the
18 professional corporation or foreign professional corporation of
19 which he or she is, or intends to become, an officer, director,
20 shareholder, or employee.

21 (e) “Disqualified person” means a licensed person who for any
22 reason becomes legally disqualified (temporarily or permanently)
23 to render the professional services that the particular professional
24 corporation or foreign professional corporation of which he or she
25 is an officer, director, shareholder, or employee is or was rendering.

26 ~~SEC. 39:~~

27 *SEC. 51.* Section 1348.8 of the Health and Safety Code is
28 amended to read:

29 1348.8. (a) A health care service plan that provides, operates,
30 or contracts for telephone medical advice services to its enrollees
31 and subscribers shall do all of the following:

32 (1) Ensure that the in-state or out-of-state telephone medical
33 advice service complies with the requirements of Chapter 15
34 (commencing with Section 4999) of Division 2 of the Business
35 and Professions Code.

36 (2) Ensure that the staff providing telephone medical advice
37 services for the in-state or out-of-state telephone medical advice
38 service are licensed as follows:

39 (A) For full service health care service plans, the staff hold a
40 valid California license as a registered nurse or a valid license in

1 the state within which they provide telephone medical advice
2 services as a physician and surgeon or physician assistant, and are
3 operating in compliance with the laws governing their respective
4 scopes of practice.

5 (B) (i) For specialized health care service plans providing,
6 operating, or contracting with a telephone medical advice service
7 in California, the staff shall be appropriately licensed, registered,
8 or certified as a dentist pursuant to Chapter 4 (commencing with
9 Section 1600) of Division 2 of the Business and Professions Code,
10 as a dental hygienist pursuant to Article 7 (commencing with
11 Section 1740) of Chapter 4 of Division 2 of the Business and
12 Professions Code, as a physician and surgeon pursuant to Chapter
13 5 (commencing with Section 2000) of Division 2 of the Business
14 and Professions Code or the Osteopathic Initiative Act, as a
15 registered nurse pursuant to Chapter 6 (commencing with Section
16 2700) of Division 2 of the Business and Professions Code, as a
17 psychologist pursuant to Chapter 6.6 (commencing with Section
18 2900) of Division 2 of the Business and Professions Code, as an
19 optometrist pursuant to Chapter 7 (commencing with Section 3000)
20 of Division 2 of the Business and Professions Code, as a marriage
21 and family therapist pursuant to Chapter 13 (commencing with
22 Section 4980) of Division 2 of the Business and Professions Code,
23 as a licensed clinical social worker pursuant to Chapter 14
24 (commencing with Section 4991) of Division 2 of the Business
25 and Professions Code, as a professional clinical counselor pursuant
26 to Chapter 16 (commencing with Section 4999.10) of Division 2
27 of the Business and Professions Code, or as a chiropractor pursuant
28 to the Chiropractic Initiative Act, and operating in compliance
29 with the laws governing their respective scopes of practice.

30 (ii) For specialized health care service plans providing,
31 operating, or contracting with an out-of-state telephone medical
32 advice service, the staff shall be health care professionals, as
33 identified in clause (i), who are licensed, registered, or certified
34 in the state within which they are providing the telephone medical
35 advice services and are operating in compliance with the laws
36 governing their respective scopes of practice. All registered nurses
37 providing telephone medical advice services to both in-state and
38 out-of-state business entities registered pursuant to this chapter
39 shall be licensed pursuant to Chapter 6 (commencing with Section
40 2700) of Division 2 of the Business and Professions Code.

1 (3) Ensure that every full service health care service plan
2 provides for a physician and surgeon who is available on an on-call
3 basis at all times the service is advertised to be available to
4 enrollees and subscribers.

5 (4) Ensure that staff members handling enrollee or subscriber
6 calls, who are not licensed, certified, or registered as required by
7 paragraph (2), do not provide telephone medical advice. Those
8 staff members may ask questions on behalf of a staff member who
9 is licensed, certified, or registered as required by paragraph (2),
10 in order to help ascertain the condition of an enrollee or subscriber
11 so that the enrollee or subscriber can be referred to licensed staff.
12 However, under no circumstances shall those staff members use
13 the answers to those questions in an attempt to assess, evaluate,
14 advise, or make any decision regarding the condition of an enrollee
15 or subscriber or determine when an enrollee or subscriber needs
16 to be seen by a licensed medical professional.

17 (5) Ensure that no staff member uses a title or designation when
18 speaking to an enrollee or subscriber that may cause a reasonable
19 person to believe that the staff member is a licensed, certified, or
20 registered professional described in Section 4999.2 of the Business
21 and Professions Code unless the staff member is a licensed,
22 certified, or registered professional.

23 (6) Ensure that the in-state or out-of-state telephone medical
24 advice service designates an agent for service of process in
25 California and files this designation with the director.

26 (7) ~~Requires~~ *Require* that the in-state or out-of-state telephone
27 medical advice service makes and maintains records for a period
28 of five years after the telephone medical advice services are
29 provided, including, but not limited to, oral or written transcripts
30 of all medical advice conversations with the health care service
31 plan's enrollees or subscribers in California and copies of all
32 complaints. If the records of telephone medical advice services
33 are kept out of state, the health care service plan shall, upon the
34 request of the director, provide the records to the director within
35 10 days of the request.

36 (8) Ensure that the telephone medical advice services are
37 provided consistent with good professional practice.

38 (b) The director shall forward to the Department of Consumer
39 Affairs, within 30 days of the end of each calendar quarter, data

1 regarding complaints filed with the department concerning
2 telephone medical advice services.

3 (c) For purposes of this section, “telephone medical advice”
4 means a telephonic communication between a patient and a health
5 care professional in which the health care professional’s primary
6 function is to provide to the patient a telephonic response to the
7 patient’s questions regarding his or her or a family member’s
8 medical care or treatment. “Telephone medical advice” includes
9 assessment, evaluation, or advice provided to patients or their
10 family members.

11 ~~SEC. 40.~~

12 *SEC. 52.* Section 10279 of the Insurance Code is amended to
13 read:

14 10279. (a) Every disability insurer that provides group or
15 individual policies of disability, or both, that provides, operates,
16 or contracts for, telephone medical advice services to its insureds
17 shall do all of the following:

18 (1) Ensure that the in-state or out-of-state telephone medical
19 advice service complies with the requirements of Chapter 15
20 (commencing with Section 4999) of Division 2 of the Business
21 and Professions Code.

22 (2) Ensure that the staff providing telephone medical advice
23 services for the in-state or out-of-state telephone medical advice
24 service hold a valid California license as a registered nurse or a
25 valid license in the state within which they provide telephone
26 medical advice services as a physician and surgeon or physician
27 assistant and are operating consistent with the laws governing their
28 respective scopes of practice.

29 (3) Ensure that a physician and surgeon is available on an on-call
30 basis at all times the service is advertised to be available to
31 enrollees and subscribers.

32 (4) Ensure that the in-state or out-of-state telephone medical
33 advice service designates an agent for service of process in
34 California and files this designation with the commissioner.

35 (5) Require that the in-state or out-of-state telephone medical
36 advice service makes and maintains records for a period of five
37 years after the telephone medical advice services are provided,
38 including, but not limited to, oral or written transcripts of all
39 medical advice conversations with the disability insurer’s insureds
40 in California and copies of all complaints. If the records of

1 telephone medical advice services are kept out of state, the insurer
2 shall, upon the request of the director, provide the records to the
3 director within 10 days of the request.

4 (6) Ensure that the telephone medical advice services are
5 provided consistent with good professional practice.

6 (b) The commissioner shall forward to the Department of
7 Consumer Affairs, within 30 days of the end of each calendar
8 quarter, data regarding complaints filed with the department
9 concerning telephone medical advice services.

10 ~~SEC. 41.~~

11 *SEC. 53.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Hernandez	BILL NUMBER:	SB 1076
SPONSOR:	California Nurses Association	BILL STATUS:	Assembly Committee on Health
SUBJECT:	General acute care hospitals: observation services	DATE LAST AMENDED:	April 18, 2016

SUMMARY:

This bill was introduced on February 16, 2016.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

(2) Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of every calendar quarter.

(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.

ANALYSIS:

Amended analysis as of 4/18:

(1) This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of

these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) This bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

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

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT: (as of 5/4/16)

California Nurses Association (source)

California Alliance for Retired Americans

California Labor Federation

California Psychiatric Association

California School Employees Association

OPPOSE: (as of 5/4/16)

Tenet Health (unless amended)

AMENDED IN SENATE APRIL 18, 2016

SENATE BILL

No. 1076

Introduced by Senator Hernandez

February 16, 2016

An act to amend Section 128740 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Hernandez. General acute care hospitals: observation services.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same ~~staffing standards~~ *licensed nurse-to-patient ratios* as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written ~~notice immediately upon admission for observation services or placement into observation status, or immediately following a change from inpatient status to observation status,~~ *notice, as prescribed*, that his or her care is being provided on

an outpatient ~~basis~~. *basis, which may affect the patient’s health coverage reimbursement.* The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of every calendar quarter.

This bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

(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.

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

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

1 SECTION 1. Section 1253.7 is added to the Health and Safety
 2 Code, to read:
 3 1253.7. (a) For purposes of this chapter, “observation services”
 4 means outpatient services provided by a general acute care ~~hospital,~~
 5 *hospital and that have been ordered by a provider,* to those patients
 6 who have unstable or uncertain conditions potentially serious
 7 enough to warrant close observation, but not so serious as to
 8 warrant inpatient admission to the hospital. Observation services
 9 may include the use of a bed, monitoring by nursing and other
 10 staff, and any other services that are reasonable and necessary to
 11 safely evaluate a patient’s condition or determine the need for a
 12 possible inpatient admission to the hospital.
 13 ~~(b) Notwithstanding subdivisions (d) and (e) of Section 1275,~~
 14 ~~observation services provided by the general acute care hospital~~
 15 ~~in an outpatient observation unit, including the services provided~~

1 in a freestanding physical plant, as defined in subdivision (h) of
2 Section 1275, shall comply with the same staffing standards,
3 including, but not limited to, licensed nurse-to-patient ratios, as
4 supplemental emergency services.

5 (e) A patient receiving observation services shall receive written
6 notice immediately upon admission for observation services or
7 placement into observation status, or immediately following a
8 change from inpatient status to observation status, that his or her
9 care is being provided on an outpatient basis, and that this may
10 affect reimbursement by Medicare, Medi-Cal, or private payers
11 of health care services, or cost-sharing arrangements through his
12 or her health care coverage.

13 (d) Observation units not provided in inpatient beds or attached
14 to emergency services

15 (b) When a patient in an inpatient unit of a hospital or in an
16 observation unit, as defined in subdivision (c), is receiving
17 observation services, or following a change in a patient's status
18 from inpatient to observation, the patient shall receive written
19 notice, as soon as practicable, that he or she is on observation
20 status. The notice shall state that while on observation status, the
21 patient's care is being provided on an outpatient basis, which may
22 affect his or her health care coverage reimbursement.

23 (c) For purposes of this chapter, "observation unit" means an
24 area in which observation services are provided in a setting outside
25 of any inpatient unit and that is not part of an emergency
26 department of a general acute care hospital. A hospital may
27 establish one or more observation units that shall be marked with
28 signage identifying the observation unit area as an outpatient area.
29 The signage shall use the term "outpatient" in the title of the
30 designated area to indicate clearly to all patients and family
31 members that the observation services provided in the center are
32 not inpatient services. Identifying an observation unit by a name
33 or term other than that used in this subdivision does not exempt
34 the general acute care hospital from compliance with the
35 requirements of this section.

36 (e) Observation services shall be deemed outpatient or
37 ambulatory services that are revenue-producing cost centers
38 associated with hospital-based or satellite services locations that
39 emphasize outpatient care. Identifying an observation unit by a
40 name or term other than that used in this subdivision does not

1 ~~exempt the general acute care hospital from compliance with the~~
2 ~~requirements of this section.~~

3 *(d) Notwithstanding subdivisions (d) and (e) of Section 1275,*
4 *an observation unit shall comply with the same licensed*
5 *nurse-to-patient ratios as supplemental emergency services. This*
6 *subdivision is not intended to alter or amend the effect of any*
7 *regulation adopted pursuant to Section 1276.4 as of the effective*
8 *date of the act that added this subdivision.*

9 SEC. 2. Section 128740 of the Health and Safety Code is
10 amended to read:

11 128740. (a) Commencing with the first calendar quarter of
12 1992, the following summary financial and utilization data shall
13 be reported to the office by each hospital within 45 days of the
14 end of every calendar quarter. Adjusted reports reflecting changes
15 as a result of audited financial statements may be filed within four
16 months of the close of the hospital's fiscal or calendar year. The
17 quarterly summary financial and utilization data shall conform to
18 the uniform description of accounts as contained in the Accounting
19 and Reporting Manual for California Hospitals and shall include
20 all of the following:

- 21 (1) Number of licensed beds.
- 22 (2) Average number of available beds.
- 23 (3) Average number of staffed beds.
- 24 (4) Number of discharges.
- 25 (5) Number of inpatient days.
- 26 (6) Number of outpatient visits, excluding observation service
27 visits.
- 28 (7) Number of observation service visits and number of hours
29 of services provided.
- 30 (8) Total operating expenses.
- 31 (9) Total inpatient gross revenues by payer, including Medicare,
32 Medi-Cal, county indigent programs, other third parties, and other
33 payers.
- 34 (10) Total outpatient gross revenues by payer, including
35 Medicare, Medi-Cal, county indigent programs, other third parties,
36 and other payers.
- 37 (11) Total observation service gross revenues by payer,
38 including Medicare, Medi-Cal, county indigent programs, other
39 third parties, and other payers.

1 (12) Deductions from revenue in total and by component,
2 including the following: Medicare contractual adjustments,
3 Medi-Cal contractual adjustments, and county indigent program
4 contractual adjustments, other contractual adjustments, bad debts,
5 charity care, restricted donations and subsidies for indigents,
6 support for clinical teaching, teaching allowances, and other
7 deductions.

8 (13) Total capital expenditures.

9 (14) Total net fixed assets.

10 (15) Total number of inpatient days, outpatient visits excluding
11 observation services, observation services, and discharges by payer,
12 including Medicare, Medi-Cal, county indigent programs, other
13 third parties, self-pay, charity, and other payers.

14 (16) Total net patient revenues by payer including Medicare,
15 Medi-Cal, county indigent programs, other third parties, and other
16 payers.

17 (17) Other operating revenue.

18 (18) Nonoperating revenue net of nonoperating expenses.

19 (b) Hospitals reporting pursuant to subdivision (d) of Section
20 128760 may provide the items in paragraphs (8), (9), (10), (12),
21 (16), and (18) of subdivision (a) on a group basis, as described in
22 subdivision (f) of Section 128760.

23 (c) The office shall make available to any person, at cost, a hard
24 copy of any hospital report made pursuant to this section and in
25 addition to hard copies, shall make available at cost, a computer
26 tape of all reports made pursuant to this section within 105 days
27 of the end of every calendar quarter.

28 (d) The office shall adopt guidelines, by regulation, for the
29 identification, assessment, and reporting of charity care services.
30 In establishing the guidelines, the office shall consider the
31 principles and practices recommended by professional health care
32 industry accounting associations for differentiating between charity
33 services and bad debts. The office shall further conduct the onsite
34 validations of health facility accounting and reporting procedures
35 and records as are necessary to ensure that reported data are
36 consistent with regulatory guidelines.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 1139
SPONSOR:	California Pan-Ethnic Health Network Pre-Health Dreamers	BILL STATUS:	Assembly Committee on Health
SUBJECT:	Health Professionals: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments	DATE LAST AMENDED:	April 19, 2016

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 “medical residency programs” to its subject. The bill adds as Section (1) 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.

Section (2) refers to the Health Professions Education Foundation; no changes.

Amended summary and analysis as of 4/19:

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

California Pan-Ethnic Health Network (sponsor)
Pre-Health Dreamers (sponsor)
American Academy of Pediatrics
American Civil Liberties Union of California
Asian Law Alliance
California Immigrant Policy Center
California Mental Health Connection
California Primary Care Association
California State Council of the Service Employees
International Union (SEIU)
Community Health Partnership
Courage Campaign
Department of Medicine at the University of
California, Irvine
Doctors for America
Educators for Fair Consideration
The Greenling Institute
Having Our Say Coalition
Health Access California
Inland Empire Immigrant Youth Coalition
Latino Medical Student Association
National Association of Social Workers
National Immigration Law Center
Services, Immigrant Right, and Education Network(SIREN)
Stanford University's Latino Medical Student
Association
Western Center on Law & Poverty
Six Individual Letters

OPPOSE:

Californians for Population Stabilization

AMENDED IN SENATE APRIL 19, 2016

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1139

Introduced by Senator Lara
(Coauthor: Senator Hall)

February 18, 2016

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

SB 1139, as amended, Lara. Health professionals: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayment.

(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.

(2) Existing law ~~requires~~ *establishes* 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.~~ *and makes the office responsible for administering various programs with respect to the health care professions.*

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,~~ *administered by the office* from denying an application based on the citizenship status or immigration status of the applicant.

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

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

- 1 SECTION 1. Section 2064.3 is added to the Business and
- 2 Professions Code, to read:
- 3 2064.3. Notwithstanding any other law:
- 4 (a) Any student, including a person without lawful immigration
- 5 status, a person who is exempt from nonresident tuition pursuant
- 6 to Section 68130.5 of the Education Code, or a person who is both

1 without lawful immigration status and exempt from nonresident
2 tuition pursuant to Section 68130.5 of the Education Code, who
3 meets the requirements for admission is eligible to participate in
4 a medical school program and a medical residency training program
5 at any public or private postsecondary educational institution that
6 offers such a program.

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

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

14 128371. (a) The Legislature finds and declares that it is in the
15 best interest of the State of California to provide persons who are
16 not lawfully present in the United States with the state benefits
17 provided by Health Professions Education Foundation programs,
18 and therefore, enacts this section pursuant to Section 1621(d) of
19 Title 8 of the United States Code.

20 (b) A program ~~within the Health Professions Education~~
21 ~~Foundation~~ *listed in subdivision (d)* shall not deny an application
22 based on the citizenship status or immigration status of the
23 applicant.

24 (c) For any program ~~within the Health Professions Education~~
25 ~~Foundation~~, *listed in subdivision (d)*, when mandatory disclosure
26 of a social security number is required, an applicant shall provide
27 his or her social security number, if one has been issued, or an
28 individual tax identification number that has been or will be
29 submitted.

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

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

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

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

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

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

1 ~~(6) The Steven M. Thompson Medical School Scholarship~~
2 ~~Account created pursuant to Section 128580.~~

3 ~~(7)~~

4 (6) Loan forgiveness and scholarship programs created pursuant
5 to Section 5820 of the Welfare and Institutions Code.

6 (7) *The Song-Brown Health Care Workforce Training Act*
7 *created pursuant to Article 1 (commencing with Section 128200)*
8 *of Chapter 4.*

9 (8) *To the extent permitted under federal law, the program*
10 *administered by the office pursuant to the federal National Health*
11 *Service Corps State Loan Repayment Program (42 U.S.C. Sec.*
12 *254q-1), commonly known as the California State Loan Repayment*
13 *Program.*

14 (9) *The programs administered by the office pursuant to the*
15 *Health Professions Career Opportunity Program (Section 127885),*
16 *commonly known as the Mini Grants Program and the California's*
17 *Student/Resident Experiences and Rotations in Community Health,*
18 *or CalSEARCH, Program.*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Morrell	BILL NUMBER:	SB 1155
SPONSOR:	Morrell	BILL STATUS:	Assembly Desk
SUBJECT:	Professions and vocations: licenses: military service	DATE LAST AMENDED:	May 31, 2016

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.

Amended analysis as of 5/31:

This bill, on and after January 1, 2018, 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. The bill would require that a veteran be granted only one fee waiver, except as specified.

BOARD POSITION: Watch (4/14/16)

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.

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1155

Introduced by Senator Morrell

February 18, 2016

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~~ *bill, on and after January 1, 2018, 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: veteran. The bill would require that a veteran be granted only one fee waiver, except as specified.*

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

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

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

3 114.6. Notwithstanding any other provision of law, every board
4 within the department shall grant a fee waiver for the application
5 for and issuance of ~~a~~ *an initial* license to an individual who is an
6 honorably discharged veteran who served as an active duty member
7 of the California National Guard or the United States Armed
8 Forces. Under this program, all of the following apply:

9 (a) A veteran shall be granted only one fee ~~waiver:~~ *waiver,*
10 *except as specified in subdivision (b). After a fee waiver has been*
11 *issued by any board within the department pursuant to this section,*
12 *the veteran is no longer eligible for a waiver.*

13 (b) *If a board charges a fee for the application for a license and*
14 *another fee for the issuance of a license, the veteran shall be*
15 *granted fee waivers for both the application for and issuance of*
16 *a license.*

17 ~~(b)~~

18 (c) The fee waiver shall apply only to an application of and a
19 license issued to an individual veteran and not to an application
20 of or a license issued to *an individual veteran on behalf of a*
21 *business or other entity.*

22 ~~(e)~~

23 (d) A waiver shall not be issued for ~~a renewal of a license or~~
24 ~~for the application for and issuance of a license other than one~~
25 ~~initial license.~~ *any of the following:*

26 (1) *Renewal of a license.*

27 (2) *The application for and issuance of an additional license,*
28 *a certificate, a registration, or a permit associated with the initial*
29 *license.*

- 1 (3) *The application for an examination.*
- 2 (e) *This section shall become operative on January 1, 2018.*

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1195
SPONSOR:	Hill	BILL STATUS:	Senate Inactive file
SUBJECT:	Professions and vocations: board actions	DATE LAST AMENDED:	June 1, 2016

SUMMARY:

This bill was introduced on February 18, 2016, under a different title. It was amended on April 6.

Section 1. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

Section 2. Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

Section 3. Refers to the Veterinary Medical Practice Act; please refer to the bill.

Section 4. Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.

Section 5. 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. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

Section 6. Please refer to the bill.

ANALYSIS:

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

Section 2. This bill would instead prohibit the executive officer from being a licensee of the board.

Section 3. Please refer to the bill.

Section 4. This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

Section 5. This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decision makers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the

proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decision makers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

Section 6. Please refer to the bill.

Amended analysis as of 6/1:

This bill changes the subject from Professions and vocations: board actions: competitive impact to Professions and vocations: board actions.

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive decision or other action, except as specified, of a board within the department to determine whether it furthers state law and to approve, disapprove, request further information, or modify the board decision or action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request for review or the director's decision to review the board decision.

The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.

The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified.

The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.

Section 4. Analysis: The Government Claims Act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.

Section 5. This bill would delete language related to competitive impact. The bill would require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.

BOARD POSITION: Oppose (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (5/12/16)

SUPPORT:

Center for Public Interest Law

OPPOSE:

California Nurses Association

California Pharmacists Association

California Psychiatric Association

California Society of Certified Public Accountants

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1195

Introduced by Senator Hill

February 18, 2016

An act to amend Sections 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, ~~4825.1~~, 4830, ~~and 4846.5~~ 4846.5, 4904, and 4905 of, and to add Sections ~~4826.3, 4826.5, 4826.7,~~ 109.5, 4826.5, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections ~~825, 11346.5, 11349, and 11349.1~~ 825 and 11346.5 of the Government Code, relating to professional regulation, and making an appropriation therefor: *regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. Professions and vocations: board ~~actions:~~ ~~competitive impact.~~ *actions.*

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or

monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of ~~a consumer or licensee~~, *the board making the decision or the Legislature*, to review ~~a~~ *any nonministerial market-sensitive decision or other action*, except as specified, of a board within the department to determine whether it ~~unreasonably restrains trade furthers state law~~ and to approve, disapprove, *request further information*, or modify the board decision or action, as specified. The bill would require the director to *issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee: request for review or the director's decision to review the board decision. The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.* The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. ~~The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law.~~ The

bill would prohibit any rule or regulation from having any force or effect if the director does not approve the ~~regulation because it has an impermissible anticompetitive effect.~~ *rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.*

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

(3) The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. The bill would authorize a veterinarian ~~and or~~ registered veterinary technician who is under the direct supervision of a *licensed* veterinarian ~~with a current and active license~~ to compound a drug for ~~anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified.~~ *animal use pursuant to federal law and regulations promulgated by the board and would require those regulations to, at*

a minimum, address the storage of drugs, the level and type of supervision required for compounding drugs by a registered veterinary technician, and the equipment necessary for safe compounding of drugs. The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences—~~while and~~ engaged in the performance of specified duties to be licensed as a veterinarian in the state or ~~hold be issued a university license issued by the board. license,~~ *as specified.* The bill would ~~require an applicant~~ *authorize an individual to apply for and be issued a university license to meet if he or she meets certain requirements, including that the applicant passes a specified exam, paying an application and license fee.* The bill would require a university license, among other things, to automatically cease to be valid upon termination or cessation of employment by the University of California or the Western University of Health Sciences. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. ~~By requiring additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation.~~ *This bill would provide that the Veterinary Medical Board Contingent Fund is available for expenditure only upon an appropriation by the Legislature.* By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) ~~Existing law,~~ *The Government Claims Act*, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. *That act prohibits*

the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. *The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.*

(5) 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. ~~That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.~~

~~This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy. also require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.~~

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

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

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

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

1 SECTION 1. Section 109 of the Business and Professions Code
2 is amended to read:

3 109. (a) ~~The director~~ *decisions of any of the boards comprising*
4 *the department with respect to passing candidates and revoking*
5 *or otherwise imposing discipline on licenses shall not be subject*
6 *to review by the director and are final within the limits provided*
7 *by this code that are applicable to the particular board.*

8 (b) *The director may initiate an investigation of any allegations*
9 *of misconduct in the preparation, administration, or scoring of an*
10 *examination which is administered by a board, or in the review of*
11 *qualifications which are a part of the licensing process of any*
12 *board. A request for investigation shall be made by the director to*
13 *the Division of Investigation through the chief of the division or*
14 *to any law enforcement agency in the jurisdiction where the alleged*
15 *misconduct occurred.*

16 ~~(b)-(1)-~~

17 (1) *The director may intervene in any matter of any board where*
18 *an investigation by the Division of Investigation discloses probable*
19 *cause to believe that the conduct or activity of a board, or its*
20 *members or ~~employees~~ employees, constitutes a violation of*
21 *criminal law.*

22 (2) *The term “intervene,” as used in paragraph (1) of this section*
23 *may include, but is not limited to, an application for a restraining*
24 *order or injunctive relief as specified in Section 123.5, or a referral*
25 *or request for criminal prosecution. For purposes of this section,*
26 *the director shall be deemed to have standing under Section 123.5*
27 *and shall seek representation of the Attorney General, or other*
28 *appropriate counsel in the event of a conflict in pursuing that*
29 *action.*

30 (c) *The director may, upon his or her own initiative, and shall,*
31 *upon request by ~~a consumer or licensee,~~ the board making the*
32 *decision or the Legislature, review any nonministerial*
33 *market-sensitive board action or decision ~~or other action to~~*

1 ~~determine whether it unreasonably restrains trade. Such a review~~
2 ~~shall proceed as follows: by the board to determine whether it~~
3 ~~further state law. Market-sensitive actions or decisions are those~~
4 ~~that create barriers to market participation and restrict competition~~
5 ~~including, but not limited to, examination passage scores,~~
6 ~~advertising restrictions, price regulation, enlarging or restricting~~
7 ~~scope of practice qualifications for licensure, and a pattern or~~
8 ~~program of disciplinary actions affecting multiple individuals that~~
9 ~~creates barriers to market participation. If the board action or~~
10 ~~decision is determined to be a market-sensitive action or decision,~~
11 ~~the director shall review the board action or decision to determine~~
12 ~~whether that action or decision furthers a clearly articulated and~~
13 ~~affirmatively expressed state policy. Review under this subdivision~~
14 ~~shall serve to cease implementation of the market-sensitive action~~
15 ~~or decision until the review is finalized and the action or decision~~
16 ~~is found to further state law.~~

17 ~~(1) The director shall assess whether the action or decision~~
18 ~~reflects a clearly articulated and affirmatively expressed state law.~~
19 ~~If the director determines that the action or decision does not reflect~~
20 ~~a clearly articulated and affirmatively expressed state law, the~~
21 ~~director shall disapprove the board action or decision and it shall~~
22 ~~not go into effect.~~

23 ~~(2) If the action or decision is a reflection of clearly articulated~~
24 ~~and affirmatively expressed state law, the director shall assess~~
25 ~~whether the action or decision was the result of the board's exercise~~
26 ~~of ministerial or discretionary judgment. If the director finds no~~
27 ~~exercise of discretionary judgment, but merely the direct~~
28 ~~application of statutory or constitutional provisions, the director~~
29 ~~shall close the investigation and review of the board action or~~
30 ~~decision.~~

31 ~~(3) If the director concludes under paragraph (2) that the board~~
32 ~~exercised discretionary judgment, the director shall review the~~
33 ~~board action or decision as follows:~~

34 ~~(A) The~~

35 ~~(1) Any review by the director under this subdivision shall~~
36 ~~conduct include a full substantive review of the board action or~~
37 ~~decision using based upon all the relevant facts, data, market~~
38 ~~conditions, facts in the record provided by the board and any~~
39 ~~additional information provided by the director, which may include~~
40 ~~data, public comment, studies, or other documentary evidence~~

1 pertaining to the market impacted by the board's action or decision
2 and determine whether the anticompetitive effects of the action or
3 decision are clearly outweighed by the benefit to the public. The
4 director may seek, designate, employ, or contract for the services
5 of independent antitrust or economic experts pursuant to Section
6 307. These experts shall not be active participants in the market
7 affected by the board action or decision. *decision.*

8 (B) If the board action or decision was not previously subject
9 to a public comment period, the director shall release the subject
10 matter of his or her investigation for a 30-day public comment
11 period and shall consider all comments received.

12 (C) If the director determines that the action or decision furthers
13 the public protection mission of the board and the impact on
14 competition is justified, the director may approve the action or
15 decision.

16 (D) If the director determines that the action furthers the public
17 protection mission of the board and the impact on competition is
18 justified, the director may approve the action or decision. If the
19 director finds the action or decision does not further the public
20 protection mission of the board or finds that the action or decision
21 is not justified, the director shall either refuse to approve it or shall
22 modify the action or decision to ensure that any restraints of trade
23 are related to, and advance, clearly articulated state law or public
24 policy.

25 (2) *The director shall take one of the following actions:*

26 (A) *Approve the action or decision upon determination that it*
27 *further state law.*

28 (B) *Disapprove the action or decision if it does not further state*
29 *law. If the director disapproves the board action or decision, the*
30 *director may recommend modifications to the board action or*
31 *decision, which, if adopted, shall not become effective until final*
32 *approval by the director pursuant to this subdivision.*

33 (C) *Modify the action or decision to ensure that it furthers state*
34 *law.*

35 (D) *Request further information from the board if the record*
36 *provided is insufficient to make a determination that the action or*
37 *decision furthers state law. Upon submission of further information*
38 *from the board and any information provided by the director, the*
39 *director shall make a final determination to approve, disapprove,*
40 *or modify the board's action or decision.*

1 ~~(4)~~
2 (d) The director shall issue, and post on the department’s Internet
3 Web site, his or her final written decision ~~approving, modifying,~~
4 ~~or disapproving~~ on the board action or decision with an explanation
5 of the reasons *that action or decision does or does not further state*
6 *law and the rationale behind the director’s decision within 90 days*
7 ~~from receipt of the request from a consumer or licensee.~~ *board’s*
8 *or Legislature’s request for review or the director’s decision to*
9 *review the board action or decision.* Notwithstanding any other
10 law, the decision of the director shall be final, except if the state
11 or federal constitution requires an appeal of the director’s decision.

12 ~~(d)~~
13 (e) The review set forth in ~~paragraph (3)~~ of subdivision (c) shall
14 not apply ~~when an individual seeks to the~~ review of any
15 disciplinary *action* or ~~other action pertaining solely to that~~
16 ~~individual.~~ *any other sanction or citation imposed by a board upon*
17 *a licensee.*

18 ~~(e)~~
19 (f) The director shall report to the Chairs of the Senate Business,
20 Professions, and Economic Development Committee and the
21 Assembly Business and Professions Committee annually,
22 commencing March 1, 2017, regarding his or her disapprovals,
23 modifications, or findings from any audit, review, or monitoring
24 and evaluation conducted pursuant to this section. That report shall
25 be submitted in compliance with Section 9795 of the Government
26 Code.

27 ~~(f) If the director has already reviewed a board action or decision~~
28 ~~pursuant to this section or Section 313.1, the director shall not~~
29 ~~review that action or decision again.~~

30 (g) This section shall not be construed to affect, impede, or
31 delay any disciplinary actions of any board.

32 SEC. 2. *Section 109.5 is added to the Business and Professions*
33 *Code, to read:*

34 109.5. *The executive officer of any board, committee, or*
35 *commission within the department shall not be an active licensee*
36 *of any profession that board, committee, or commission regulates.*

37 ~~SEC. 2.~~

38 SEC. 3. Section 116 of the Business and Professions Code is
39 amended to read:

1 116. (a) The director may audit and review, upon his or her
2 own initiative, or upon the request of a consumer or licensee,
3 inquiries and complaints regarding licensees, dismissals of
4 disciplinary cases, the opening, conduct, or closure of
5 investigations, informal conferences, and discipline short of formal
6 accusation by any board or bureau within the department.

7 (b) The director shall report to the Chairs of the Senate Business,
8 Professions, and Economic Development Committee and the
9 Assembly Business and Professions Committee annually,
10 commencing March 1, 2017, regarding his or her findings from
11 any audit, review, or monitoring and evaluation conducted pursuant
12 to this section. This report shall be submitted in compliance with
13 Section 9795 of the Government Code.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 153 of the Business and Professions Code is
16 amended to read:

17 153. The director may investigate the work of the several
18 boards in his *or her* department and may obtain a copy of all
19 records and full and complete data in all official matters in
20 possession of the boards, their members, officers, or employees.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 307 of the Business and Professions Code is
23 amended to read:

24 307. The director may contract for the services of experts and
25 consultants where necessary to carry out this chapter and may
26 provide compensation and reimbursement of expenses for those
27 experts and consultants in accordance with state law.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 313.1 of the Business and Professions Code
30 is amended to read:

31 313.1. (a) Notwithstanding any other law to the contrary, no
32 rule or regulation and no fee change proposed or promulgated by
33 any of the boards, commissions, or committees within the
34 department, shall take effect pending compliance with this section.

35 (b) The director shall be formally notified of and shall review,
36 in accordance with the requirements of Article 5 (commencing
37 with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title
38 2 of the Government Code, the requirements in subdivision (c) of
39 Section 109, and this section, all of the following:

1 (1) All notices of proposed action, any modifications and
2 supplements thereto, and the text of proposed regulations.

3 (2) Any notices of sufficiently related changes to regulations
4 previously noticed to the public, and the text of proposed
5 regulations showing modifications to the text.

6 (3) Final rulemaking records.

7 (4) All relevant ~~facts~~, *facts in the rulemaking record, which may*
8 *include* data, public comments, ~~market conditions, studies,~~ or other
9 documentary evidence pertaining to the ~~market impacted by the~~
10 ~~proposed regulation. This information shall be included in the~~
11 ~~written decision of the director required under paragraph (4) of~~
12 ~~subdivision (c) of Section 109. proposed regulation to determine~~
13 *whether it furthers state law. If the regulation does not further*
14 *state law, it shall not be approved.*

15 (c) The submission of all notices and final rulemaking records
16 to the director and the director's approval, as authorized by this
17 section, shall be a precondition to the filing of any rule or
18 regulation with the Office of Administrative Law. The Office of
19 Administrative Law shall have no jurisdiction to review a rule or
20 regulation subject to this section until after the director's review
21 and approval. The filing of any document with the Office of
22 Administrative Law shall be accompanied by a certification that
23 the board, commission, or committee has complied with the
24 requirements of this section.

25 (d) Following the receipt of any final rulemaking record subject
26 to subdivision (a), the director shall have the authority for a period
27 of 30 days to ~~approve~~ *approve, disapprove, or require modification*
28 *of* a proposed rule or regulation ~~or disapprove a proposed rule or~~
29 ~~regulation~~ on the ground that it is injurious to the public health,
30 safety, or ~~welfare~~, *welfare* or ~~has an impermissible anticompetitive~~
31 ~~effect. The director may modify a rule or regulation as a condition~~
32 ~~of approval. Any modifications to regulations by the director shall~~
33 ~~be subject to a 30-day public comment period before the director~~
34 ~~issues a final decision regarding the modified regulation. If the~~
35 ~~director does not approve the rule or regulation within the 30-day~~
36 ~~period, the rule or regulation shall not be submitted to the Office~~
37 ~~of Administrative Law and the rule or regulation shall have no~~
38 ~~effect. does not further state law. If the director does not approve~~
39 *the rule or regulation within the 30-day period, the rule or*

1 *regulation shall not be submitted to the Office of Administrative*
2 *Law and the rule or regulation shall have no effect.*

3 (e) Final rulemaking records shall be filed with the director
4 within the one-year notice period specified in Section 11346.4 of
5 the Government Code. If necessary for compliance with this
6 section, the one-year notice period may be extended, as specified
7 by this subdivision.

8 (1) In the event that the one-year notice period lapses during
9 the director's 30-day review period, or within 60 days following
10 the notice of the director's disapproval, it may be extended for a
11 maximum of 90 days.

12 (2) If the director approves the final rulemaking record, the
13 board, commission, or committee shall have five days from the
14 receipt of the record from the director within which to file it with
15 the Office of Administrative Law.

16 (3) If the director disapproves a rule or regulation, it shall have
17 no force or effect unless, within 60 days of the notice of
18 disapproval, (A) the disapproval is overridden by a unanimous
19 vote of the members of the board, commission, or committee, and
20 (B) the board, commission, or committee files the final rulemaking
21 record with the Office of Administrative Law in compliance with
22 this section and the procedures required by Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code. This paragraph shall not apply to any
25 decision disapproved by the director under subdivision (e) of
26 Section 109: *effect.*

27 (f) This section shall not be construed to prohibit the director
28 from affirmatively approving a proposed rule, regulation, or fee
29 change at any time within the 30-day period after it has been
30 submitted to him or her, in which event it shall become effective
31 upon compliance with this section and the procedures required by
32 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
33 3 of Title 2 of the Government Code.

34 ~~SEC. 6.~~

35 *SEC. 7.* Section 2708 of the Business and Professions Code is
36 amended to read:

37 2708. (a) The board shall appoint an executive officer who
38 shall perform the duties delegated by the board and who shall be
39 responsible to it for the accomplishment of those duties.

1 (b) The executive officer shall not be a licensee under this
2 chapter and shall possess other qualifications as determined by the
3 board.

4 (c) The executive officer shall not be a member of the board.

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

8 ~~SEC. 7:~~

9 *SEC. 8.* Section 4800 of the Business and Professions Code is
10 amended to read:

11 4800. (a) There is in the Department of Consumer Affairs a
12 Veterinary Medical Board in which the administration of this
13 chapter is vested. The board consists of the following members:

- 14 (1) Four licensed veterinarians.
- 15 (2) One registered veterinary technician.
- 16 (3) Three public members.

17 (b) This section shall remain in effect only until January 1, 2021,
18 and as of that date is repealed.

19 (c) Notwithstanding any other law, the repeal of this section
20 renders the board subject to review by the appropriate policy
21 committees of the Legislature. However, the review of the board
22 shall be limited to those issues identified by the appropriate policy
23 committees of the Legislature and shall not involve the preparation
24 or submission of a sunset review document or evaluative
25 questionnaire.

26 ~~SEC. 8:~~

27 *SEC. 9.* Section 4804.5 of the Business and Professions Code
28 is amended to read:

29 4804.5. (a) The board may appoint a person exempt from civil
30 service who shall be designated as an executive officer and who
31 shall exercise the powers and perform the duties delegated by the
32 board and vested in him or her by this chapter.

33 (b) This section shall remain in effect only until January 1, 2021,
34 and as of that date is repealed.

35 ~~SEC. 9. Section 4825.1 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~4825.1. These definitions shall govern the construction of this~~
38 ~~chapter as it applies to veterinary medicine.~~

1 (a) “Diagnosis” means the act or process of identifying or
2 determining the health status of an animal through examination
3 and the opinion derived from that examination.

4 (b) “Animal” means any member of the animal kingdom other
5 than humans, and includes fowl, fish, and reptiles, wild or
6 domestic, whether living or dead.

7 (c) “Food animal” means any animal that is raised for the
8 production of an edible product intended for consumption by
9 humans. The edible product includes, but is not limited to, milk,
10 meat, and eggs. Food animal includes, but is not limited to, cattle
11 (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

12 (d) “Livestock” includes all animals, poultry, aquatic and
13 amphibian species that are raised, kept, or used for profit. It does
14 not include those species that are usually kept as pets such as dogs,
15 cats, and pet birds, or companion animals, including equines.

16 (e) “Compounding,” for the purposes of veterinary medicine,
17 shall have the same meaning given in Section 1735 of Title 16 of
18 the California Code of Regulations, except that every reference
19 therein to “pharmacy” and “pharmacist” shall be replaced with
20 “veterinary premises” and “veterinarian,” and except that only a
21 licensed veterinarian or a licensed registered veterinarian technician
22 under direct supervision of a veterinarian may perform
23 compounding and shall not delegate to or supervise any part of
24 the performance of compounding by any other person.

25 SEC. 10. Section 4826.3 is added to the Business and
26 Professions Code, to read:

27 4826.3. (a) Notwithstanding Section 4051, a veterinarian or
28 registered veterinarian technician under the direct supervision of
29 a veterinarian with a current and active license may compound a
30 drug for anesthesia, the prevention, cure, or relief of a wound,
31 fracture, bodily injury, or disease of an animal in a premises
32 currently and actively registered with the board and only under
33 the following conditions:

34 (1) Where there is no FDA-approved animal or human drug that
35 can be used as labeled or in an appropriate extralabel manner to
36 properly treat the disease, symptom, or condition for which the
37 drug is being prescribed.

38 (2) Where the compounded drug is not available from a
39 compounding pharmacy, outsourcing facility, or other
40 compounding supplier in a dosage form and concentration to

1 appropriately treat the disease, symptom, or condition for which
2 the drug is being prescribed.

3 ~~(3) Where the need and prescription for the compounded~~
4 ~~medication has arisen within an established~~
5 ~~veterinarian-client-patient relationship as a means to treat a specific~~
6 ~~occurrence of a disease, symptom, or condition observed and~~
7 ~~diagnosed by the veterinarian in a specific animal that threatens~~
8 ~~the health of the animal or will cause suffering or death if left~~
9 ~~untreated.~~

10 ~~(4) Where the quantity compounded does not exceed a quantity~~
11 ~~demonstrably needed to treat a patient with which the veterinarian~~
12 ~~has a current veterinarian-client-patient relationship.~~

13 ~~(5) Except as specified in subdivision (c), where the compound~~
14 ~~is prepared only with commercially available FDA-approved~~
15 ~~animal or human drugs as active ingredients.~~

16 ~~(b) A compounded veterinary drug may be prepared from an~~
17 ~~FDA-approved animal or human drug for extralabel use only when~~
18 ~~there is no approved animal or human drug that, when used as~~
19 ~~labeled or in an appropriate extralabel manner will, in the available~~
20 ~~dosage form and concentration, treat the disease, symptom, or~~
21 ~~condition. Compounding from an approved human drug for use~~
22 ~~in food-producing animals is not permitted if an approved animal~~
23 ~~drug can be used for compounding.~~

24 ~~(c) A compounded veterinary drug may be prepared from bulk~~
25 ~~drug substances only when:~~

26 ~~(1) The drug is compounded and dispensed by the veterinarian~~
27 ~~to treat an individually identified animal patient under his or her~~
28 ~~care.~~

29 ~~(2) The drug is not intended for use in food-producing animals.~~

30 ~~(3) If the drug contains a bulk drug substance that is a~~
31 ~~component of any marketed FDA-approved animal or human drug,~~
32 ~~there is a change between the compounded drug and the~~
33 ~~comparable marketed drug made for an individually identified~~
34 ~~animal patient that produces a clinical difference for that~~
35 ~~individually identified animal patient, as determined by the~~
36 ~~veterinarian prescribing the compounded drug for his or her patient.~~

37 ~~(4) There are no FDA-approved animal or human drugs that~~
38 ~~can be used as labeled or in an appropriate extralabel manner to~~
39 ~~properly treat the disease, symptom, or condition for which the~~
40 ~~drug is being prescribed.~~

1 ~~(5) All bulk drug substances used in compounding are~~
2 ~~manufactured by an establishment registered under Section 360~~
3 ~~of Title 21 of the United States Code and are accompanied by a~~
4 ~~valid certificate of analysis.~~

5 ~~(6) The drug is not sold or transferred by the veterinarian~~
6 ~~compounding the drug, except that the veterinarian shall be~~
7 ~~permitted to administer the drug to a patient under his or her care~~
8 ~~or dispense it to the owner or caretaker of an animal under his or~~
9 ~~her care.~~

10 ~~(7) Within 15 days of becoming aware of any product defect or~~
11 ~~serious adverse event associated with any drug compounded by~~
12 ~~the veterinarian from bulk drug substances, the veterinarian shall~~
13 ~~report it to the federal Food and Drug Administration on Form~~
14 ~~FDA 1932a.~~

15 ~~(8) In addition to any other requirements, the label of any~~
16 ~~veterinary drug compounded from bulk drug substances shall~~
17 ~~indicate the species of the intended animal patient, the name of~~
18 ~~the animal patient, and the name of the owner or caretaker of the~~
19 ~~patient.~~

20 ~~(d) Each compounded veterinary drug preparation shall meet~~
21 ~~the labeling requirements of Section 4076 and Sections 1707.5~~
22 ~~and 1735.4 of Title 16 of the California Code of Regulations,~~
23 ~~except that every reference therein to “pharmacy” and “pharmacist”~~
24 ~~shall be replaced by “veterinary premises” and “veterinarian,” and~~
25 ~~any reference to “patient” shall be understood to refer to the animal~~
26 ~~patient. In addition, each label on a compounded veterinary drug~~
27 ~~preparation shall include withdrawal and holding times, if needed,~~
28 ~~and the disease, symptom, or condition for which the drug is being~~
29 ~~prescribed. Any compounded veterinary drug preparation that is~~
30 ~~intended to be sterile, including for injection, administration into~~
31 ~~the eye, or inhalation, shall in addition meet the labeling~~
32 ~~requirements of Section 1751.2 of Title 16 of the California Code~~
33 ~~of Regulations, except that every reference therein to “pharmacy”~~
34 ~~and “pharmacist” shall be replaced by “veterinary premises” and~~
35 ~~“veterinarian,” and any reference to “patient” shall be understood~~
36 ~~to refer to the animal patient.~~

37 ~~(e) Any veterinarian, registered veterinarian technician who is~~
38 ~~under the direct supervision of a veterinarian, and veterinary~~
39 ~~premises engaged in compounding shall meet the compounding~~
40 ~~requirements for pharmacies and pharmacists stated by the~~

1 provisions of Article 4.5 (commencing with Section 1735) of Title
2 16 of the California Code of Regulations, except that every
3 reference therein to “pharmacy” and “pharmacist” shall be replaced
4 by “veterinary premises” and “veterinarian,” and any reference to
5 “patient” shall be understood to refer to the animal patient:

6 (1) Section 1735.1 of Title 16 of the California Code of
7 Regulations.

8 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of
9 Section 1735.2 of Title 16 of the California Code of Regulations.

10 (3) Section 1735.3 of Title 16 of the California Code of
11 Regulations, except that only a licensed veterinarian or registered
12 veterinarian technician may perform compounding and shall not
13 delegate to or supervise any part of the performance of
14 compounding by any other person.

15 (4) Section 1735.4 of Title 16 of the California Code of
16 Regulations.

17 (5) Section 1735.5 of Title 16 of the California Code of
18 Regulations.

19 (6) Section 1735.6 of Title 16 of the California Code of
20 Regulations.

21 (7) Section 1735.7 of Title 16 of the California Code of
22 Regulations.

23 (8) Section 1735.8 of Title 16 of the California Code of
24 Regulations.

25 (f) Any veterinarian, registered veterinarian technician under
26 the direct supervision of a veterinarian, and veterinary premises
27 engaged in sterile compounding shall meet the sterile compounding
28 requirements for pharmacies and pharmacists under Article 7
29 (commencing with Section 1751) of Title 16 of the California Code
30 of Regulations, except that every reference therein to “pharmacy”
31 and “pharmacist” shall be replaced by “veterinary premises” and
32 “veterinarian,” and any reference to “patient” shall be understood
33 to refer to the animal patient.

34 (g) The California State Board of Pharmacy shall have authority
35 with the board to ensure compliance with this section and shall
36 have the right to inspect any veterinary premises engaged in
37 compounding, along with or separate from the board, to ensure
38 compliance with this section. The board is specifically charged
39 with enforcing this section with regard to its licensees.

1 ~~SEC. 11. Section 4826.5 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~4826.5. Failure by a licensed veterinarian, registered~~
4 ~~veterinarian technician, or veterinary premises to comply with the~~
5 ~~provisions of this article shall be deemed unprofessional conduct~~
6 ~~and constitute grounds for discipline.~~

7 ~~SEC. 12. Section 4826.7 is added to the Business and~~
8 ~~Professions Code, to read:~~

9 ~~4826.7. The board may adopt regulations to implement the~~
10 ~~provisions of this article.~~

11 *SEC. 10. Section 4826.5 is added to the Business and*
12 *Professions Code, to read:*

13 *4826.5. Notwithstanding any other law, a licensed veterinarian*
14 *or a registered veterinary technician under the supervision of a*
15 *licensed veterinarian may compound drugs for animal use pursuant*
16 *to Section 530 of Title 21 of the Code of Federal Regulations and*
17 *in accordance with regulations promulgated by the board. The*
18 *regulations promulgated by the board shall, at a minimum, address*
19 *the storage of drugs, the level and type of supervision required for*
20 *compounding drugs by a registered veterinary technician, and the*
21 *equipment necessary for the safe compounding of drugs. Any*
22 *violation of the regulations adopted by the board pursuant to this*
23 *section shall constitute grounds for an enforcement or disciplinary*
24 *action.*

25 ~~SEC. 13.~~

26 *SEC. 11. Section 4830 of the Business and Professions Code*
27 *is amended to read:*

28 4830. (a) This chapter does not apply to:

29 (1) Veterinarians while serving in any armed branch of the
30 military service of the United States or the United States
31 Department of Agriculture while actually engaged and employed
32 in their official capacity.

33 (2) Regularly licensed veterinarians in actual consultation from
34 other states.

35 (3) Regularly licensed veterinarians actually called from other
36 states to attend cases in this state, but who do not open an office
37 or appoint a place to do business within this state.

38 (4) Students in the School of Veterinary Medicine of the
39 University of California or the College of Veterinary Medicine of
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,
2 including those in off-campus educational programs under the
3 direct supervision of a licensed veterinarian in good standing, as
4 defined in paragraph (1) of subdivision (b) of Section 4848,
5 appointed by the University of California, Davis, or the Western
6 University of Health Sciences.

7 (5) A veterinarian who is employed by the Meat and Poultry
8 Inspection Branch of the California Department of Food and
9 Agriculture while actually engaged and employed in his or her
10 official capacity. A person exempt under this paragraph shall not
11 otherwise engage in the practice of veterinary medicine unless he
12 or she is issued a license by the board.

13 (6) Unlicensed personnel employed by the Department of Food
14 and Agriculture or the United States Department of Agriculture
15 when in the course of their duties they are directed by a veterinarian
16 supervisor to conduct an examination, obtain biological specimens,
17 apply biological tests, or administer medications or biological
18 products as part of government disease or condition monitoring,
19 investigation, control, or eradication activities.

20 (b) (1) For purposes of paragraph (3) of subdivision (a), a
21 regularly licensed veterinarian in good standing who is called from
22 another state by a law enforcement agency or animal control
23 agency, as defined in Section 31606 of the Food and Agricultural
24 Code, to attend to cases that are a part of an investigation of an
25 alleged violation of federal or state animal fighting or animal
26 cruelty laws within a single geographic location shall be exempt
27 from the licensing requirements of this chapter if the law
28 enforcement agency or animal control agency determines that it
29 is necessary to call the veterinarian in order for the agency or
30 officer to conduct the investigation in a timely, efficient, and
31 effective manner. In determining whether it is necessary to call a
32 veterinarian from another state, consideration shall be given to the
33 availability of veterinarians in this state to attend to these cases.
34 An agency, department, or officer that calls a veterinarian pursuant
35 to this subdivision shall notify the board of the investigation.

36 (2) Notwithstanding any other provision of this chapter, a
37 regularly licensed veterinarian in good standing who is called from
38 another state to attend to cases that are a part of an investigation
39 described in paragraph (1) may provide veterinary medical care
40 for animals that are affected by the investigation with a temporary

1 shelter facility, and the temporary shelter facility shall be exempt
2 from the registration requirement of Section 4853 if all of the
3 following conditions are met:

4 (A) The temporary shelter facility is established only for the
5 purpose of the investigation.

6 (B) The temporary shelter facility provides veterinary medical
7 care, shelter, food, and water only to animals that are affected by
8 the investigation.

9 (C) The temporary shelter facility complies with Section 4854.

10 (D) The temporary shelter facility exists for not more than 60
11 days, unless the law enforcement agency or animal control agency
12 determines that a longer period of time is necessary to complete
13 the investigation.

14 (E) Within 30 calendar days upon completion of the provision
15 of veterinary health care services at a temporary shelter facility
16 established pursuant to this section, the veterinarian called from
17 another state by a law enforcement agency or animal control agency
18 to attend to a case shall file a report with the board. The report
19 shall contain the date, place, type, and general description of the
20 care provided, along with a listing of the veterinary health care
21 practitioners who participated in providing that care.

22 (c) For purposes of paragraph (3) of subdivision (a), the board
23 may inspect temporary facilities established pursuant to this
24 section.

25 ~~SEC. 14.~~

26 *SEC. 12.* Section 4846.5 of the Business and Professions Code
27 is amended to read:

28 4846.5. (a) Except as provided in this section, the board shall
29 issue renewal licenses only to those applicants that have completed
30 a minimum of 36 hours of continuing education in the preceding
31 two years.

32 (b) (1) Notwithstanding any other law, continuing education
33 hours shall be earned by attending courses relevant to veterinary
34 medicine and sponsored or cosponsored by any of the following:

35 (A) American Veterinary Medical Association (AVMA)
36 accredited veterinary medical colleges.

37 (B) Accredited colleges or universities offering programs
38 relevant to veterinary medicine.

39 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association's affiliated state
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American
8 Veterinary Medical Association or its state affiliated veterinary
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for
14 Continuing Medical Education (ACCME) or approved by the
15 American Medical Association (AMA), providers recognized by
16 the American Dental Association Continuing Education
17 Recognition Program (ADA CERP), and AMA or ADA affiliated
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those
20 veterinarians taking self-study courses, which may include, but
21 are not limited to, reading journals, viewing video recordings, or
22 listening to audio recordings. The taking of these courses shall be
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing
27 education approval bodies for the purpose of approving continuing
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval
30 shall have the option of applying to the board or to a
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,
33 on a prospective basis, that a provider of continuing veterinary
34 medical education authorized pursuant to paragraph (1) or (3) is
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses
37 sponsored or cosponsored by those entities listed in paragraph (1)
38 between January 1, 2000, and January 1, 2001, shall be credited
39 toward a veterinarian's continuing education requirement under
40 this section.

1 (c) Every person renewing his or her license issued pursuant to
2 Section 4846.4, or any person applying for relicensure or for
3 reinstatement of his or her license to active status, shall submit
4 proof of compliance with this section to the board certifying that
5 he or she is in compliance with this section. Any false statement
6 submitted pursuant to this section shall be a violation subject to
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license
9 renewal. This section shall apply only to second and subsequent
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all
12 applicants to verify the completion of the continuing education
13 requirement. Applicants shall maintain records of completion of
14 required continuing education coursework for a period of four
15 years and shall make these records available to the board for
16 auditing purposes upon request. If the board, during this audit,
17 questions whether any course reported by the veterinarian satisfies
18 the continuing education requirement, the veterinarian shall provide
19 information to the board concerning the content of the course; the
20 name of its sponsor and cosponsor, if any; and specify the specific
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an
23 inactive license under Section 701 shall submit an application on
24 a form provided by the board. In order to restore an inactive license
25 to active status, the veterinarian shall have completed a minimum
26 of 36 hours of continuing education within the last two years
27 preceding application. The inactive license status of a veterinarian
28 shall not deprive the board of its authority to institute or continue
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article
31 by a veterinarian constitutes unprofessional conduct and grounds
32 for disciplinary action or for the issuance of a citation and the
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing
35 education requirement any veterinarian who for reasons of health,
36 military service, or undue hardship cannot meet those requirements.
37 Applications for waivers shall be submitted on a form provided
38 by the board.

39 (i) The administration of this section may be funded through
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed
2 the costs of administering the corresponding provisions of this
3 section.

4 (j) For those continuing education providers not listed in
5 paragraph (1) of subdivision (b), the board or its recognized
6 national approval agent shall establish criteria by which a provider
7 of continuing education shall be approved. The board shall initially
8 review and approve these criteria and may review the criteria as
9 needed. The board or its recognized agent shall monitor, maintain,
10 and manage related records and data. The board may impose an
11 application fee, not to exceed two hundred dollars (\$200)
12 biennially, for continuing education providers not listed in
13 paragraph (1) of subdivision (b).

14 (k) (1) Beginning January 1, 2018, a licensed veterinarian who
15 renews his or her license shall complete a minimum of one credit
16 hour of continuing education on the judicious use of medically
17 important antimicrobial drugs every four years as part of his or
18 her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important
20 antimicrobial drug” means an antimicrobial drug listed in Appendix
21 A of the federal Food and Drug Administration’s Guidance for
22 Industry #152, including critically important, highly important,
23 and important antimicrobial drugs, as that appendix may be
24 amended.

25 ~~SEC. 15.~~

26 *SEC. 13.* Section 4848.1 is added to the Business and
27 Professions Code, to read:

28 4848.1. (a) A veterinarian engaged in the practice of veterinary
29 medicine, as defined in Section 4826, employed by the University
30 of California ~~while and~~ engaged in the performance of duties in
31 connection with the School of Veterinary Medicine or employed
32 by the Western University of Health Sciences ~~while and~~ engaged
33 in the performance of duties in connection with the College of
34 Veterinary Medicine shall be ~~licensed in California or shall hold~~
35 *issued* a university license ~~issued by the board. pursuant to this~~
36 *section or hold a license to practice veterinary medicine in this*
37 *state.*

38 (b) ~~An applicant is eligible to hold~~ *individual may apply for and*
39 *be issued* a university license if all of the following are satisfied:

1 (1) ~~The applicant~~ *He or she* is currently employed by the
2 University of California or Western University of Health Sciences
3 *Sciences*, as defined in subdivision (a).

4 (2) ~~Passes~~ *He or she passes* an examination concerning the
5 statutes and regulations of the Veterinary Medicine Practice Act,
6 administered by the board, pursuant to subparagraph (C) of
7 paragraph (2) of subdivision (a) of Section 4848.

8 (3) ~~Successfully~~ *He or she successfully* completes the approved
9 educational curriculum described in paragraph (5) of subdivision
10 (b) of Section 4848 on regionally specific and important diseases
11 and conditions.

12 (4) *He or she completes and submits the application specified*
13 *by the board and pays the application fee, pursuant to subdivision*
14 *(g) of Section 4905, and the initial license fee, pursuant to*
15 *subdivision (h) of Section 4905.*

16 (c) A university license:

17 (1) Shall be numbered as described in Section 4847.

18 (2) Shall *automatically* cease to be valid upon termination *or*
19 *cessation* of employment by the University of California or by the
20 Western University of Health Sciences.

21 (3) Shall be subject to the license renewal provisions in Section
22 ~~4846.4.~~ *4846.4 and the payment of the renewal fee pursuant to*
23 *subdivision (i) of Section 4905.*

24 (4) Shall be subject to denial, revocation, or suspension pursuant
25 to Sections ~~4875 and 4883.~~ *480, 4875, and 4883.*

26 (5) *Authorizes the holder to practice veterinary medicine only*
27 *at the educational institution described in subdivision (a) and any*
28 *locations formally affiliated with those institutions.*

29 (d) An individual who holds a university license is exempt from
30 satisfying the license renewal requirements of Section 4846.5.

31 ~~SEC. 16.~~

32 *SEC. 14.* Section 4853.7 is added to the Business and
33 Professions Code, to read:

34 4853.7. A premise registration that is not renewed within five
35 years after its expiration may not be renewed and shall not be
36 restored, reissued, or reinstated thereafter. However, an application
37 for a new premise registration may be submitted and obtained if
38 both of the following conditions are met:

39 (a) No fact, circumstance, or condition exists that, if the premise
40 registration was issued, would justify its revocation or suspension.

1 (b) All of the fees that would be required for the initial premise
2 registration are paid at the time of application.

3 *SEC. 15. Section 4904 of the Business and Professions Code*
4 *is amended to read:*

5 4904. All fees collected on behalf of the board and all receipts
6 of every kind and nature shall be reported each month for the month
7 preceding to the State Controller and at the same time the entire
8 amount shall be paid into the State Treasury and shall be credited
9 to the Veterinary Medical Board Contingent Fund. This contingent
10 fund shall be *available, upon appropriation by the Legislature,*
11 *for the use of the Veterinary Medical Board and out of it and not*
12 ~~otherwise shall be paid all expenses of the board.~~ *Board.*

13 *SEC. 16. Section 4905 of the Business and Professions Code*
14 *is amended to read:*

15 4905. The following fees shall be collected by the board and
16 shall be credited to the Veterinary Medical Board Contingent Fund:

17 (a) The fee for filing an application for examination shall be set
18 by the board in an amount it determines is reasonably necessary
19 to provide sufficient funds to carry out the purpose of this chapter,
20 not to exceed three hundred fifty dollars (\$350).

21 (b) The fee for the California state board examination shall be
22 set by the board in an amount it determines is reasonably necessary
23 to provide sufficient funds to carry out the purpose of this chapter,
24 not to exceed three hundred fifty dollars (\$350).

25 (c) The fee for the Veterinary Medicine Practice Act
26 examination shall be set by the board in an amount it determines
27 reasonably necessary to provide sufficient funds to carry out the
28 purpose of this chapter, not to exceed one hundred dollars (\$100).

29 (d) The initial license fee shall be set by the board not to exceed
30 five hundred dollars (\$500) except that, if the license is issued less
31 than one year before the date on which it will expire, then the fee
32 shall be set by the board at not to exceed two hundred fifty dollars
33 (\$250). The board may, by appropriate regulation, provide for the
34 waiver or refund of the initial license fee where the license is issued
35 less than 45 days before the date on which it will expire.

36 (e) The renewal fee shall be set by the board for each biennial
37 renewal period in an amount it determines is reasonably necessary
38 to provide sufficient funds to carry out the purpose of this chapter,
39 not to exceed five hundred dollars (\$500).

1 (f) The temporary license fee shall be set by the board in an
2 amount it determines is reasonably necessary to provide sufficient
3 funds to carry out the purpose of this chapter, not to exceed two
4 hundred fifty dollars (\$250).

5 (g) *The fee for filing an application for a university license shall*
6 *be one hundred twenty-five dollars (\$125), which may be revised*
7 *by the board in regulation but shall not exceed three hundred fifty*
8 *dollars (\$350).*

9 (h) *The initial license fee for a university license shall be two*
10 *hundred ninety dollars (\$290), which may be revised by the board*
11 *in regulation but shall not exceed five hundred dollars (\$500).*

12 (i) *The biennial renewal fee for a university license shall be two*
13 *hundred ninety dollars (\$290), which may be revised by the board*
14 *in regulation but shall not exceed five hundred dollars (\$500).*

15 ~~(g)~~

16 (j) The delinquency fee shall be set by the board, not to exceed
17 fifty dollars (\$50).

18 ~~(h)~~

19 (k) The fee for issuance of a duplicate license is twenty-five
20 dollars (\$25).

21 ~~(i)~~

22 (l) Any charge made for duplication or other services shall be
23 set at the cost of rendering the service, except as specified in
24 subdivision~~(h)~~: (k).

25 ~~(j)~~

26 (m) The fee for failure to report a change in the mailing address
27 is twenty-five dollars (\$25).

28 ~~(k)~~

29 (n) The initial and annual renewal fees for registration of
30 veterinary premises shall be set by the board in an amount not to
31 exceed four hundred dollars (\$400) annually.

32 ~~(l)~~

33 (o) If the money transferred from the Veterinary Medical Board
34 Contingent Fund to the General Fund pursuant to the Budget Act
35 of 1991 is redeposited into the Veterinary Medical Board
36 Contingent Fund, the fees assessed by the board shall be reduced
37 correspondingly. However, the reduction shall not be so great as
38 to cause the Veterinary Medical Board Contingent Fund to have
39 a reserve of less than three months of annual authorized board
40 expenditures. The fees set by the board shall not result in a

1 Veterinary Medical Board Contingent Fund reserve of more than
2 10 months of annual authorized board expenditures.

3 SEC. 17. Section 825 of the Government Code is amended to
4 read:

5 825. (a) Except as otherwise provided in this section, if an
6 employee or former employee of a public entity requests the public
7 entity to defend him or her against any claim or action against him
8 or her for an injury arising out of an act or omission occurring
9 within the scope of his or her employment as an employee of the
10 public entity and the request is made in writing not less than 10
11 days before the day of trial, and the employee or former employee
12 reasonably cooperates in good faith in the defense of the claim or
13 action, the public entity shall pay any judgment based thereon or
14 any compromise or settlement of the claim or action to which the
15 public entity has agreed.

16 If the public entity conducts the defense of an employee or
17 former employee against any claim or action with his or her
18 reasonable good-faith cooperation, the public entity shall pay any
19 judgment based thereon or any compromise or settlement of the
20 claim or action to which the public entity has agreed. However,
21 where the public entity conducted the defense pursuant to an
22 agreement with the employee or former employee reserving the
23 rights of the public entity not to pay the judgment, compromise,
24 or settlement until it is established that the injury arose out of an
25 act or omission occurring within the scope of his or her
26 employment as an employee of the public entity, the public entity
27 is required to pay the judgment, compromise, or settlement only
28 if it is established that the injury arose out of an act or omission
29 occurring in the scope of his or her employment as an employee
30 of the public entity.

31 Nothing in this section authorizes a public entity to pay that part
32 of a claim or judgment that is for punitive or exemplary damages.

33 (b) Notwithstanding subdivision (a) or any other provision of
34 law, a public entity is authorized to pay that part of a judgment
35 that is for punitive or exemplary damages if the governing body
36 of that public entity, acting in its sole discretion except in cases
37 involving an entity of the state government, finds all of the
38 following:

1 (1) The judgment is based on an act or omission of an employee
2 or former employee acting within the course and scope of his or
3 her employment as an employee of the public entity.

4 (2) At the time of the act giving rise to the liability, the employee
5 or former employee acted, or failed to act, in good faith, without
6 actual malice and in the apparent best interests of the public entity.

7 (3) Payment of the claim or judgment would be in the best
8 interests of the public entity.

9 As used in this subdivision with respect to an entity of state
10 government, “a decision of the governing body” means the
11 approval of the Legislature for payment of that part of a judgment
12 that is for punitive damages or exemplary damages, upon
13 recommendation of the appointing power of the employee or
14 former employee, based upon the finding by the Legislature and
15 the appointing authority of the existence of the three conditions
16 for payment of a punitive or exemplary damages claim. The
17 provisions of subdivision (a) of Section 965.6 shall apply to the
18 payment of any claim pursuant to this subdivision.

19 The discovery of the assets of a public entity and the introduction
20 of evidence of the assets of a public entity shall not be permitted
21 in an action in which it is alleged that a public employee is liable
22 for punitive or exemplary damages.

23 The possibility that a public entity may pay that part of a
24 judgment that is for punitive damages shall not be disclosed in any
25 trial in which it is alleged that a public employee is liable for
26 punitive or exemplary damages, and that disclosure shall be
27 grounds for a mistrial.

28 (c) Except as provided in subdivision (d), if the provisions of
29 this section are in conflict with the provisions of a memorandum
30 of understanding reached pursuant to Chapter 10 (commencing
31 with Section 3500) of Division 4 of Title 1, the memorandum of
32 understanding shall be controlling without further legislative action,
33 except that if those provisions of a memorandum of understanding
34 require the expenditure of funds, the provisions shall not become
35 effective unless approved by the Legislature in the annual Budget
36 Act.

37 (d) The subject of payment of punitive damages pursuant to this
38 section or any other provision of law shall not be a subject of meet
39 and confer under the provisions of Chapter 10 (commencing with

1 Section 3500) of Division 4 of Title 1, or pursuant to any other
2 law or authority.

3 (e) Nothing in this section shall affect the provisions of Section
4 818 prohibiting the award of punitive damages against a public
5 entity. This section shall not be construed as a waiver of a public
6 entity's immunity from liability for punitive damages under Section
7 1981, 1983, or 1985 of Title 42 of the United States Code.

8 (f) (1) Except as provided in paragraph (2), a public entity shall
9 not pay a judgment, compromise, or settlement arising from a
10 claim or action against an elected official, if the claim or action is
11 based on conduct by the elected official by way of tortiously
12 intervening or attempting to intervene in, or by way of tortiously
13 influencing or attempting to influence the outcome of, any judicial
14 action or proceeding for the benefit of a particular party by
15 contacting the trial judge or any commissioner, court-appointed
16 arbitrator, court-appointed mediator, or court-appointed special
17 referee assigned to the matter, or the court clerk, bailiff, or marshal
18 after an action has been filed, unless he or she was counsel of
19 record acting lawfully within the scope of his or her employment
20 on behalf of that party. Notwithstanding Section 825.6, if a public
21 entity conducted the defense of an elected official against such a
22 claim or action and the elected official is found liable by the trier
23 of fact, the court shall order the elected official to pay to the public
24 entity the cost of that defense.

25 (2) If an elected official is held liable for monetary damages in
26 the action, the plaintiff shall first seek recovery of the judgment
27 against the assets of the elected official. If the elected official's
28 assets are insufficient to satisfy the total judgment, as determined
29 by the court, the public entity may pay the deficiency if the public
30 entity is authorized by law to pay that judgment.

31 (3) To the extent the public entity pays any portion of the
32 judgment or is entitled to reimbursement of defense costs pursuant
33 to paragraph (1), the public entity shall pursue all available
34 creditor's remedies against the elected official, including
35 garnishment, until that party has fully reimbursed the public entity.

36 (4) This subdivision shall not apply to any criminal or civil
37 enforcement action brought in the name of the people of the State
38 of California by an elected district attorney, city attorney, or
39 attorney general.

1 (g) Notwithstanding subdivision (a), a public entity shall pay
2 for a judgment or settlement for treble damage antitrust awards
3 against a member of a regulatory board for an act or omission
4 occurring within the scope of his or her employment as a member
5 of a regulatory board.

6 (h) *Treble damages awarded pursuant to the federal Clayton*
7 *Act (Sections 12 to 27 of Title 15 of, and Sections 52 to 53 of Title*
8 *29 of, the United States Code) for a violation of the federal*
9 *Sherman Act (Sections 1 to 6, 6a, and 7 of Title 15 of the United*
10 *States Code) are not punitive or exemplary damages under the*
11 *Government Claims Act (Division 3.6 (commencing with Section*
12 *810) of Title 1 of the Government Code) for purposes of this*
13 *section.*

14 SEC. 18. Section 11346.5 of the Government Code is amended
15 to read:

16 11346.5. (a) The notice of proposed adoption, amendment, or
17 repeal of a regulation shall include the following:

18 (1) A statement of the time, place, and nature of proceedings
19 for adoption, amendment, or repeal of the regulation.

20 (2) Reference to the authority under which the regulation is
21 proposed and a reference to the particular code sections or other
22 provisions of law that are being implemented, interpreted, or made
23 specific.

24 (3) An informative digest drafted in plain English in a format
25 similar to the Legislative Counsel's digest on legislative bills. The
26 informative digest shall include the following:

27 (A) A concise and clear summary of existing laws and
28 regulations, if any, related directly to the proposed action and of
29 the effect of the proposed action.

30 (B) If the proposed action differs substantially from an existing
31 comparable federal regulation or statute, a brief description of the
32 significant differences and the full citation of the federal regulations
33 or statutes.

34 (C) A policy statement overview explaining the broad objectives
35 of the regulation and the specific benefits anticipated by the
36 proposed adoption, amendment, or repeal of a regulation, including,
37 to the extent applicable, nonmonetary benefits such as the
38 protection of public health and safety, worker safety, or the
39 environment, the prevention of discrimination, the promotion of

1 fairness or social equity, and the increase in openness and
2 transparency in business and government, among other things.

3 (D) An evaluation of whether the proposed regulation is
4 inconsistent or incompatible with existing state regulations.

5 (4) Any other matters as are prescribed by statute applicable to
6 the specific state agency or to any specific regulation or class of
7 regulations.

8 (5) A determination as to whether the regulation imposes a
9 mandate on local agencies or school districts and, if so, whether
10 the mandate requires state reimbursement pursuant to Part 7
11 (commencing with Section 17500) of Division 4.

12 (6) An estimate, prepared in accordance with instructions
13 adopted by the Department of Finance, of the cost or savings to
14 any state agency, the cost to any local agency or school district
15 that is required to be reimbursed under Part 7 (commencing with
16 Section 17500) of Division 4, other nondiscretionary cost or
17 savings imposed on local agencies, and the cost or savings in
18 federal funding to the state.

19 For purposes of this paragraph, “cost or savings” means
20 additional costs or savings, both direct and indirect, that a public
21 agency necessarily incurs in reasonable compliance with
22 regulations.

23 (7) If a state agency, in proposing to adopt, amend, or repeal
24 any administrative regulation, makes an initial determination that
25 the action may have a significant, statewide adverse economic
26 impact directly affecting business, including the ability of
27 California businesses to compete with businesses in other states,
28 it shall include the following information in the notice of proposed
29 action:

30 (A) Identification of the types of businesses that would be
31 affected.

32 (B) A description of the projected reporting, recordkeeping, and
33 other compliance requirements that would result from the proposed
34 action.

35 (C) The following statement: “The (name of agency) has made
36 an initial determination that the (adoption/amendment/repeal) of
37 this regulation may have a significant, statewide adverse economic
38 impact directly affecting business, including the ability of
39 California businesses to compete with businesses in other states.
40 The (name of agency) (has/has not) considered proposed

1 alternatives that would lessen any adverse economic impact on
2 business and invites you to submit proposals. Submissions may
3 include the following considerations:

4 (i) The establishment of differing compliance or reporting
5 requirements or timetables that take into account the resources
6 available to businesses.

7 (ii) Consolidation or simplification of compliance and reporting
8 requirements for businesses.

9 (iii) The use of performance standards rather than prescriptive
10 standards.

11 (iv) Exemption or partial exemption from the regulatory
12 requirements for businesses.”

13 (8) If a state agency, in adopting, amending, or repealing any
14 administrative regulation, makes an initial determination that the
15 action will not have a significant, statewide adverse economic
16 impact directly affecting business, including the ability of
17 California businesses to compete with businesses in other states,
18 it shall make a declaration to that effect in the notice of proposed
19 action. In making this declaration, the agency shall provide in the
20 record facts, evidence, documents, testimony, or other evidence
21 upon which the agency relies to support its initial determination.

22 An agency’s initial determination and declaration that a proposed
23 adoption, amendment, or repeal of a regulation may have or will
24 not have a significant, adverse impact on businesses, including the
25 ability of California businesses to compete with businesses in other
26 states, shall not be grounds for the office to refuse to publish the
27 notice of proposed action.

28 (9) A description of all cost impacts, known to the agency at
29 the time the notice of proposed action is submitted to the office,
30 that a representative private person or business would necessarily
31 incur in reasonable compliance with the proposed action.

32 If no cost impacts are known to the agency, it shall state the
33 following:

34 “The agency is not aware of any cost impacts that a
35 representative private person or business would necessarily incur
36 in reasonable compliance with the proposed action.”

37 (10) A statement of the results of the economic impact
38 assessment required by subdivision (b) of Section 11346.3 or the
39 standardized regulatory impact analysis if required by subdivision
40 (c) of Section 11346.3, a summary of any comments submitted to

1 the agency pursuant to subdivision (f) of Section 11346.3 and the
2 agency's response to those comments.

3 (11) The finding prescribed by subdivision (d) of Section
4 11346.3, if required.

5 (12) (A) A statement that the action would have a significant
6 effect on housing costs, if a state agency, in adopting, amending,
7 or repealing any administrative regulation, makes an initial
8 determination that the action would have that effect.

9 (B) The agency officer designated in paragraph (15) shall make
10 available to the public, upon request, the agency's evaluation, if
11 any, of the effect of the proposed regulatory action on housing
12 costs.

13 (C) The statement described in subparagraph (A) shall also
14 include the estimated costs of compliance and potential benefits
15 of a building standard, if any, that were included in the initial
16 statement of reasons.

17 (D) For purposes of model codes adopted pursuant to Section
18 18928 of the Health and Safety Code, the agency shall comply
19 with the requirements of this paragraph only if an interested party
20 has made a request to the agency to examine a specific section for
21 purposes of estimating the costs of compliance and potential
22 benefits for that section, as described in Section 11346.2.

23 (13) ~~If the regulatory action is submitted by a state board on
24 which a controlling number of decisionmakers are active market
25 participants in the market the board regulates, a statement that the
26 adopting agency has evaluated the impact of the proposed
27 regulation on competition, and that the proposed regulation furthers
28 a clearly articulated and affirmatively expressed state law to restrain
29 competition. board within the Department of Consumer Affairs,
30 a statement that the Director of Consumer Affairs has reviewed
31 the proposed regulation and determined that the proposed
32 regulation furthers state law.~~

33 (14) A statement that the adopting agency must determine that
34 no reasonable alternative considered by the agency or that has
35 otherwise been identified and brought to the attention of the agency
36 would be more effective in carrying out the purpose for which the
37 action is proposed, would be as effective and less burdensome to
38 affected private persons than the proposed action, or would be
39 more cost effective to affected private persons and equally effective
40 in implementing the statutory policy or other provision of law. For

1 a major regulation, as defined by Section 11342.548, proposed on
2 or after November 1, 2013, the statement shall be based, in part,
3 upon the standardized regulatory impact analysis of the proposed
4 regulation, as required by Section 11346.3, as well as upon the
5 benefits of the proposed regulation identified pursuant to
6 subparagraph (C) of paragraph (3).

7 (15) The name and telephone number of the agency
8 representative and designated backup contact person to whom
9 inquiries concerning the proposed administrative action may be
10 directed.

11 (16) The date by which comments submitted in writing must
12 be received to present statements, arguments, or contentions in
13 writing relating to the proposed action in order for them to be
14 considered by the state agency before it adopts, amends, or repeals
15 a regulation.

16 (17) Reference to the fact that the agency proposing the action
17 has prepared a statement of the reasons for the proposed action,
18 has available all the information upon which its proposal is based,
19 and has available the express terms of the proposed action, pursuant
20 to subdivision (b).

21 (18) A statement that if a public hearing is not scheduled, any
22 interested person or his or her duly authorized representative may
23 request, no later than 15 days prior to the close of the written
24 comment period, a public hearing pursuant to Section 11346.8.

25 (19) A statement indicating that the full text of a regulation
26 changed pursuant to Section 11346.8 will be available for at least
27 15 days prior to the date on which the agency adopts, amends, or
28 repeals the resulting regulation.

29 (20) A statement explaining how to obtain a copy of the final
30 statement of reasons once it has been prepared pursuant to
31 subdivision (a) of Section 11346.9.

32 (21) If the agency maintains an Internet Web site or other similar
33 forum for the electronic publication or distribution of written
34 material, a statement explaining how materials published or
35 distributed through that forum can be accessed.

36 (22) If the proposed regulation is subject to Section 11346.6, a
37 statement that the agency shall provide, upon request, a description
38 of the proposed changes included in the proposed action, in the
39 manner provided by Section 11346.6, to accommodate a person
40 with a visual or other disability for which effective communication

1 is required under state or federal law and that providing the
2 description of proposed changes may require extending the period
3 of public comment for the proposed action.

4 (b) The agency representative designated in paragraph (15) of
5 subdivision (a) shall make available to the public upon request the
6 express terms of the proposed action. The representative shall also
7 make available to the public upon request the location of public
8 records, including reports, documentation, and other materials,
9 related to the proposed action. If the representative receives an
10 inquiry regarding the proposed action that the representative cannot
11 answer, the representative shall refer the inquiry to another person
12 in the agency for a prompt response.

13 (c) This section shall not be construed in any manner that results
14 in the invalidation of a regulation because of the alleged inadequacy
15 of the notice content or the summary or cost estimates, or the
16 alleged inadequacy or inaccuracy of the housing cost estimates, if
17 there has been substantial compliance with those requirements.

18 ~~SEC. 19. Section 11349 of the Government Code is amended~~
19 ~~to read:~~

20 ~~11349. The following definitions govern the interpretation of~~
21 ~~this chapter:~~

22 (a) ~~“Necessity” means the record of the rulemaking proceeding~~
23 ~~demonstrates by substantial evidence the need for a regulation to~~
24 ~~effectuate the purpose of the statute, court decision, or other~~
25 ~~provision of law that the regulation implements, interprets, or~~
26 ~~makes specific, taking into account the totality of the record. For~~
27 ~~purposes of this standard, evidence includes, but is not limited to,~~
28 ~~facts, studies, and expert opinion.~~

29 (b) ~~“Authority” means the provision of law which permits or~~
30 ~~obligates the agency to adopt, amend, or repeal a regulation.~~

31 (c) ~~“Clarity” means written or displayed so that the meaning of~~
32 ~~regulations will be easily understood by those persons directly~~
33 ~~affected by them.~~

34 (d) ~~“Consistency” means being in harmony with, and not in~~
35 ~~conflict with or contradictory to, existing statutes, court decisions,~~
36 ~~or other provisions of law.~~

37 (e) ~~“Reference” means the statute, court decision, or other~~
38 ~~provision of law which the agency implements, interprets, or makes~~
39 ~~specific by adopting, amending, or repealing a regulation.~~

1 (f) “Nonduplication” means that a regulation does not serve the
2 same purpose as a state or federal statute or another regulation.
3 This standard requires that an agency proposing to amend or adopt
4 a regulation must identify any state or federal statute or regulation
5 which is overlapped or duplicated by the proposed regulation and
6 justify any overlap or duplication. This standard is not intended
7 to prohibit state agencies from printing relevant portions of
8 enabling legislation in regulations when the duplication is necessary
9 to satisfy the clarity standard in paragraph (3) of subdivision (a)
10 of Section 11349.1. This standard is intended to prevent the
11 indiscriminate incorporation of statutory language in a regulation.

12 (g) “Competitive impact” means that the record of the
13 rulemaking proceeding or other documentation demonstrates that
14 the regulation is authorized by a clearly articulated and
15 affirmatively expressed state law, that the regulation furthers the
16 public protection mission of the state agency, and that the impact
17 on competition is justified in light of the applicable regulatory
18 rationale for the regulation.

19 SEC. 20. Section 11349.1 of the Government Code is amended
20 to read:

21 11349.1. (a) The office shall review all regulations adopted,
22 amended, or repealed pursuant to the procedure specified in Article
23 5 (commencing with Section 11346) and submitted to it for
24 publication in the California Code of Regulations Supplement and
25 for transmittal to the Secretary of State and make determinations
26 using all of the following standards:

27 (1) Necessity.

28 (2) Authority.

29 (3) Clarity.

30 (4) Consistency.

31 (5) Reference.

32 (6) Nonduplication.

33 (7) For those regulations submitted by a state board on which
34 a controlling number of decisionmakers are active market
35 participants in the market the board regulates, the office shall
36 review for competitive impact.

37 In reviewing regulations pursuant to this section, the office shall
38 restrict its review to the regulation and the record of the rulemaking
39 except as directed in subdivision (h). The office shall approve the

1 regulation or order of repeal if it complies with the standards set
2 forth in this section and with this chapter.

3 (b) In reviewing proposed regulations for the criteria in
4 subdivision (a), the office may consider the clarity of the proposed
5 regulation in the context of related regulations already in existence.

6 (c) The office shall adopt regulations governing the procedures
7 it uses in reviewing regulations submitted to it. The regulations
8 shall provide for an orderly review and shall specify the methods,
9 standards, presumptions, and principles the office uses, and the
10 limitations it observes, in reviewing regulations to establish
11 compliance with the standards specified in subdivision (a). The
12 regulations adopted by the office shall ensure that it does not
13 substitute its judgment for that of the rulemaking agency as
14 expressed in the substantive content of adopted regulations.

15 (d) The office shall return any regulation subject to this chapter
16 to the adopting agency if any of the following occur:

17 (1) The adopting agency has not prepared the estimate required
18 by paragraph (6) of subdivision (a) of Section 11346.5 and has not
19 included the data used and calculations made and the summary
20 report of the estimate in the file of the rulemaking.

21 (2) The agency has not complied with Section 11346.3.
22 “Noncompliance” means that the agency failed to complete the
23 economic impact assessment or standardized regulatory impact
24 analysis required by Section 11346.3 or failed to include the
25 assessment or analysis in the file of the rulemaking proceeding as
26 required by Section 11347.3.

27 (3) The adopting agency has prepared the estimate required by
28 paragraph (6) of subdivision (a) of Section 11346.5, the estimate
29 indicates that the regulation will result in a cost to local agencies
30 or school districts that is required to be reimbursed under Part 7
31 (commencing with Section 17500) of Division 4, and the adopting
32 agency fails to do any of the following:

33 (A) Cite an item in the Budget Act for the fiscal year in which
34 the regulation will go into effect as the source from which the
35 Controller may pay the claims of local agencies or school districts.

36 (B) Cite an accompanying bill appropriating funds as the source
37 from which the Controller may pay the claims of local agencies
38 or school districts.

39 (C) Attach a letter or other documentation from the Department
40 of Finance which states that the Department of Finance has

1 approved a request by the agency that funds be included in the
2 Budget Bill for the next following fiscal year to reimburse local
3 agencies or school districts for the costs mandated by the
4 regulation.

5 (D) Attach a letter or other documentation from the Department
6 of Finance which states that the Department of Finance has
7 authorized the augmentation of the amount available for
8 expenditure under the agency's appropriation in the Budget Act
9 which is for reimbursement pursuant to Part 7 (commencing with
10 Section 17500) of Division 4 to local agencies or school districts
11 from the unencumbered balances of other appropriations in the
12 Budget Act and that this augmentation is sufficient to reimburse
13 local agencies or school districts for their costs mandated by the
14 regulation.

15 (4) The proposed regulation conflicts with an existing state
16 regulation and the agency has not identified the manner in which
17 the conflict may be resolved.

18 (5) The agency did not make the alternatives determination as
19 required by paragraph (4) of subdivision (a) of Section 11346.9.

20 (6) The office decides that the record of the rulemaking
21 proceeding or other documentation for the proposed regulation
22 does not demonstrate that the regulation is authorized by a clearly
23 articulated and affirmatively expressed state law, that the regulation
24 does not further the public protection mission of the state agency,
25 or that the impact on competition is not justified in light of the
26 applicable regulatory rationale for the regulation.

27 (e) The office shall notify the Department of Finance of all
28 regulations returned pursuant to subdivision (d).

29 (f) The office shall return a rulemaking file to the submitting
30 agency if the file does not comply with subdivisions (a) and (b)
31 of Section 11347.3. Within three state working days of the receipt
32 of a rulemaking file, the office shall notify the submitting agency
33 of any deficiency identified. If no notice of deficiency is mailed
34 to the adopting agency within that time, a rulemaking file shall be
35 deemed submitted as of the date of its original receipt by the office.
36 A rulemaking file shall not be deemed submitted until each
37 deficiency identified under this subdivision has been corrected.

38 (g) Notwithstanding any other law, return of the regulation to
39 the adopting agency by the office pursuant to this section is the
40 exclusive remedy for a failure to comply with subdivision (c) of

1 ~~Section 11346.3 or paragraph (10) of subdivision (a) of Section~~
2 ~~11346.5.~~

3 ~~(h) The office may designate, employ, or contract for the~~
4 ~~services of independent antitrust or applicable economic experts~~
5 ~~when reviewing proposed regulations for competitive impact.~~
6 ~~When reviewing a regulation for competitive impact, the office~~
7 ~~shall do all of the following:~~

8 ~~(1) If the Director of Consumer Affairs issued a written decision~~
9 ~~pursuant to subdivision (e) of Section 109 of the Business and~~
10 ~~Professions Code, the office shall review and consider the decision~~
11 ~~and all supporting documentation in the rulemaking file.~~

12 ~~(2) Consider whether the anticompetitive effects of the proposed~~
13 ~~regulation are clearly outweighed by the public policy merits.~~

14 ~~(3) Provide a written opinion setting forth the office's findings~~
15 ~~and substantive conclusions under paragraph (2), including, but~~
16 ~~not limited to, whether rejection or modification of the proposed~~
17 ~~regulation is necessary to ensure that restraints of trade are related~~
18 ~~to and advance the public policy underlying the applicable~~
19 ~~regulatory rationale.~~

20 ~~SEC. 21:~~

21 ~~SEC. 19.~~ No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
June 16, 2016**

BILL ANALYSIS

AUTHOR:	Cannella	BILL NUMBER:	SB 1348
SPONSOR:	Cannella	BILL STATUS:	Assembly Desk
SUBJECT:	Licensure applications: military experience	DATE LAST AMENDED:	May 31, 2016

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.

Amended analysis as of 5/31:

This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to post information on the board's Internet Web site about the ability of veteran applicants to apply their military experience and training towards licensure requirements.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT: California Board of Accountancy

OPPOSE: None on file

AMENDED IN SENATE MAY 31, 2016

SENATE BILL

No. 1348

Introduced by Senator Cannella

February 19, 2016

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 amended, 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~~ *post information on the board's Internet Web site about their the ability of veteran applicants to apply that their military* experience and training towards licensure requirements.

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

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

- 1 SECTION 1. Section 114.5 of the Business and Professions
- 2 Code is amended to read:

1 114.5. (a) Each board shall inquire in every application for
2 licensure if the individual applying for licensure is serving in, or
3 has previously served in, the military.

4 (b) If a board's governing law authorizes veterans to apply
5 military experience and training towards licensure requirements,
6 that board shall ~~modify their application for licensure to advise~~
7 ~~veteran applicants~~ *post information on the board's Internet Web*
8 *site about their the ability of veteran applicants to apply military*
9 *experience and training towards licensure requirements.*