LEGISLATIVE COMMITTEE MEETING

AGENDA

Hilton Oakland Airport Hotel
1 Hegenberger Road
Oakland, California 94621

August 7, 2013

Wednesday, August 7, 2013: 3:00 p.m. to 4:00 p.m.

8.0 Review and Approve Minutes
   • January 9, 2013
   • March 6, 2013
   • May 8, 2012

8.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2013-2014 Legislative Session

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<td>AB 1057</td>
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</table>
8.2 Public Comment for Items Not on the Agenda

NOTICE:
All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board’s Web Site at http://www.rn.ca.gov. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov, or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation.

Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.
DATE: January 9, 2013

TIME: 2:00 p.m. - 3:00 p.m.

LOCATION: Ayres Hotel
325 Bristol Street
Costa Mesa, California 92626

MEMBERS PRESENT: Erin Niemela, Chair
Cindy Klein
Trande Phillips

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The Chair called the meeting to order at 2:05 p.m.

7.0 Review and Approve Minutes
The minutes of October 30, 2012, were approved.

7.1 2013-2014 Goals and Objectives for the two-year Legislative Session
The 2013-2014 Goals and Objectives were approved.

7.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2013-2014 Legislative Session
No bills were presented.

7.3 Public Comment for Items Not on the Agenda
There were no comments from the public.

The meeting adjourned at 2:10 p.m.

Submitted by: ______________________________
Kay Weinkam, Nursing Education Consultant

Approved by: _______________________________________
Erin Niemela, Chair
The meeting was called to order at 3:00 p.m. by Ms. Phillips who chaired this meeting.

7.0 Review and Approve Minutes
Approval of the January 9, 2013, minutes will be deferred to the next meeting.

7.1 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2013-2014 Legislative Session:

AB 154 Atkins: Hea lting arts: reproductive health care
Bill status: Introduced
Board adopted a Watch position 2/6/13.
No Committee action.

AB 186 Maienschein: Professions and vocations: military spouses: temporary licenses
Bill status: Assembly Committee on Business, Professions and Consumer Protection
No Committee action. One public comment.

AB 213 Logue: Healing arts: licensure and certification requirements: military experience
Bill status: Assembly Committee on Business, Professions and Consumer Protection
No Committee action. Two public comments.
AB 291 Nestande: California Sunset Review Committee  
Bill status: Introduced  
No Committee action. Two public comments.

AB 361 Mitchell: Medi-Cal: health homes for Medi-Cal enrollees  
Bill status: Assembly Committee on Health  
No Committee action.

SB 271 Hernandez, E: Associate Degree Nursing Scholarship Program  
Bill status: Senate Committee on Health  
No Committee action. One public comment.

7.3 Public Comment for Items Not on the Agenda  
No comments.

The meeting adjourned at 3:25 p.m.

Submitted by: _____________________________________________  
Kay Weinkam, Nursing Education Consultant

Approved by: ______________________________________________  
Trande Phillips, Acting Chair
DATE: May 8, 2013

TIME: 3:00 p.m. - 4:00 p.m.

LOCATION: Hilton Los Angeles Airport Hotel
5711 West Century Boulevard
Los Angeles, California 90045

MEMBERS PRESENT: Jeanette Dong
Trande Phillips, RN

NOT PRESENT: Erin Niemela
Cynthia Klein, RN

STAFF PRESENT: Louise Bailey, Executive Officer

The meeting was called to order at 3:00 p.m. by Ms. Phillips who chaired this meeting.

8.0 Review and Approve Minutes
Approval of the January 9 and March 6, 2013, minutes will be deferred to the next meeting.

8.1 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2013-2014 Legislative Session:

AB 154 Atkins: Healing arts: reproductive health care
Board adopted a Support position 4/10/13.
Committee action: Support. No public comment.

AB 186 Maienschein: Professions and vocations: military spouses: temporary licenses
Board adopted an Oppose position 4/10/13.
Committee action: Oppose. Two public comments.

AB 213 Logue: Healing arts: licensure and certification requirements: military experience
Board adopted an Oppose position 4/10/13.
Committee action: Oppose. No public comment.

AB 259 Logue: Nursing: CPR in emergency situations
Board adopted a Watch position 4/10/13.
Committee action: Watch. One public comment.

**AB 633**  
**Salas:** Emergency medical services: civil liability  
No previous Board position.  
Committee action: Watch. One public comment.

**AB 705**  
**Blumenfield** Combat to Care Act  
Board adopted an Oppose unless Amended position 4/10/13.  
Committee action: Oppose. Two public comments.

**AB 1057**  
**Medina:** Professions and vocations: licenses: military service  
Board adopted a Support if Amended position 4/10/13.  
Committee action: Support if Amended. No public comment.

**SB 352**  
**Pavley:** Medical assistants: supervision  
Board adopted an Oppose position 4/10/13.  
Committee action: Oppose. Four public comments.

**SB 430**  
**Wright:** Pupil health: vision appraisal: binocular function  
Board adopted a Watch position 4/10/13.  
Committee action: Watch. One public comment.

**SB 440**  
**Padilla:** Public postsecondary education: Student Transfer Achievement Reform Act  
Board adopted a Watch position 4/10/13.  
Committee action: Support. No public comment.

**SB 491**  
**Hernandez:** Nurse practitioners  
No previous Board position.  
Committee action: Watch. Three public comments.

**SB 718**  
**Yee:** Hospitals: workplace violence prevention plans  
Board adopted a Support position 4/10/13.  
Committee action: Support. One public comment.

**SB 723**  
**Correa:** Veterans  
Board adopted a Watch position 4/10/13.  
Committee action: Watch. No public comment.

**8.2 Public Comment for Items Not on the Agenda**  
No comments.

The meeting adjourned at p.m.

Submitted by: _____________________________________________  
Louise Bailey, Executive Officer

Approved by: ______________________________________________  
Trande Phillips, Acting Chair
AGENDA ITEM:  8.1
DATE:  August 7, 2013

ACTION REQUESTED:  Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2013-2014 Legislative Session.

REQUESTED BY:  Kay Weinkam, M.S., RN, CNS
Nursing Education Consultant

BACKGROUND:

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NEXT STEP:  Place on Board agenda

FINANCIAL IMPACT, IF ANY:  None

PERSON TO CONTACT:  Kay Weinkam, NEC
(916) 574-7600
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<td>SUBJECT:</td>
<td>Abortion</td>
<td>DATE LAST AMENDED:</td>
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**SUMMARY:**
Existing law makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a surgical abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing a surgical abortion without a valid license or certificate obtained in accordance with some other law that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion.

Existing law also makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a nonsurgical abortion if the person does not have a valid license to practice as a physician and surgeon or does not have a valid license or certificate obtained in accordance with some other law authorizing him or her to perform or assist in performing the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

Existing law authorizes the Office of Statewide Health Planning and Development to designate experimental health workforce projects as approved projects that, among other things, teach new skills to existing categories of health care personnel. The office has designated a pilot project, known as the Access through Primary Care Project, relating to the provision of health care services involving pregnancy.
ANALYSIS:
This bill would state that it is the intent of the Legislature to enact legislation that would expand access to reproductive health care in California by allowing qualified health care professionals to perform early abortions.

Amended analysis as of 3/19/13:
The subject of the bill has been changed from Healing arts: reproductive health care to Abortion.

This bill would instead make it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform an abortion if the person does not have a valid license to practice as a physician and surgeon, except that it would not be a public offense for a person to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy if he or she holds a license or certificate authorizing him or her to perform the functions necessary for an abortion by medication or aspiration techniques.

The bill would also require a nurse practitioner, certified nurse-midwife, or physician assistant to complete training, as specified, in order to perform an abortion by aspiration techniques, and would indefinitely authorize a nurse practitioner, certified nurse-midwife, or physician assistant who completed a specified training program and achieved clinical competency to continue to perform abortions by aspiration techniques.

The bill would delete the references to a nonsurgical abortion and would delete the restrictions on assisting with abortion procedures. The bill would also make technical, nonsubstantive changes.

Amended analysis as of 4/30:
This bill amendment would require a nurse practitioner or certified nurse-midwife to adhere to standardized procedures developed in compliance with subdivision (c) of Business and Professions Code 2725 that specifies the following:

- Extent of supervision by a physician and surgeon with relevant training and expertise.
- Procedures for transferring patients to the care of the physician and surgeon or a hospital.
- Procedures for obtaining assistance and consultation from a physician and surgeon.
- Procedures for providing emergency care until physician assistance and consultation are available.
- Method of periodic review of the provisions of the standardized procedures.

It would also be considered unprofessional conduct for any nurse practitioner or certified nurse-midwife to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.

Amended analysis as of 6/24:
Changes to clarify code sections to which the bill applies; non-substantive language changes.

BOARD POSITION:  Support (6/12/13)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:  Support (5/8/13)

SUPPORT:
ACCESS Women's Health Justice
Bay Area Communities for Health Education
California Church IMPACT
California Family Health Council
California Latinas for Reproductive Justice
California Nurse-Midwives Association
California Women's Law Center
Capital Resource Family Impact
Cardea Institute
Center on Reproductive Rights and Justice at Berkeley
    Law
Choice USA
Forward Together
Fresno Barrios Unidos
Khmer Girls in Action
League of Women Voters of California
NARAL Pro-Choice California
National Abortion Federation
National Asian Pacific American Women's Forum
National Association of Social Workers, California
    Chapter
National Center for Lesbian rights
National Council of Jewish Women- California
National Health Law Program
National Latina Institute for Reproductive Health
National Network of Abortion Funds
Nevada County Citizens for Choice
Nursing Students for Choice-UCSF
Physicians for Reproductive Health
Planned Parenthood Affiliates of California
Planned Parenthood of the Pacific Southwest
Reproductive Justice Coalition of Los Angeles
Six Rivers Planned Parenthood
Women's Community Clinic
Women's Health Specialists of California
59 Individuals

OPPOSE:
California Catholic Conference
California Federation of Republican Women
California Right to Life Committee, Inc.
Capital Resource Family Impact
Coalition for Women and Children
Concerned Women for America
Traditional Values Coalition
8 individuals
Introducing Assembly Member Atkins
(Principal coauthor: Senator Jackson)
(Coauthors: Assembly Members Mitchell and Skinner)

January 22, 2013

An act to amend Section 2253 of, and to add Sections 2725.4 and 3502.4 to, the Business and Professions Code, and to amend Section 123468 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST

AB 154, as amended, Atkins. Abortion.
Existing law makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a surgical abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing a surgical abortion without a valid license or certificate obtained in accordance with some other law that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion. Existing law also makes it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform or assist in performing a nonsurgical abortion if the person does not have a valid license to practice as a physician and surgeon or does not have a valid license or certificate obtained in accordance with some other law authorizing him or her to perform or assist in performing
the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing. Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Board within the jurisdiction of the Medical Board of California.

This bill would instead make it a public offense, punishable by a fine not exceeding $10,000 or imprisonment, or both, for a person to perform an abortion if the person does not have a valid license to practice as a physician and surgeon, except that it would not be a public offense for a person to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy if he or she holds a license or certificate authorizing him or her to perform the functions necessary for an abortion by medication or aspiration techniques. The bill would also require a nurse practitioner, certified nurse-midwife, or physician assistant to complete training, as specified, and to comply with standardized procedures or protocols, as specified, in order to perform an abortion by aspiration techniques, and would indefinitely authorize a nurse practitioner, certified nurse-midwife, or physician assistant who completed a specified training program and achieved clinical competency to continue to perform abortions by aspiration techniques. The bill would delete the references to a nonsurgical abortion and would delete the restrictions on assisting with abortion procedures. The bill would also make technical, nonsubstantive changes.

Because the bill would change the definition of crimes, the bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 2253 of the Business and Professions Code is amended to read:

2253. (a) Failure to comply with the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) constitutes unprofessional conduct.

(b) (1) Except as provided in paragraph (2), a person is subject to Section 2052 if he or she performs an abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon.

(2) A person shall not be subject to Section 2052 if he or she performs an abortion by medication or aspiration techniques in the first trimester of pregnancy, and at the time of so doing, has a valid, unrevoked, and unsuspended license or certificate obtained in accordance with the Nursing Practice Act (Chapter 6 (commencing with Section 2700)) or the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500)), that authorizes him or her to perform the functions necessary for an abortion by medication or aspiration techniques.

(c) In order to perform an abortion by aspiration techniques pursuant to paragraph (2) of subdivision (b), a person shall comply with Section 2725.4 or 3502.4.

SEC. 2. Section 2725.4 is added to the Business and Professions Code, to read:

2725.4. (a) Notwithstanding any other provision of this chapter, the following shall apply:

(a) In order to perform an abortion by aspiration techniques pursuant to Section 2253, a person with a license or certificate to practice as a nurse practitioner or a certified nurse-midwife shall complete training recognized by the Board of Registered Nursing. Beginning January 1, 2014, and until January 1, 2016, the competency-based training protocols established by Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be used.

(b) In order to perform an abortion by aspiration techniques pursuant to Section 2253, a person with a license or certificate to practice as a nurse practitioner or a certified nurse-midwife shall
adhere to standardized procedures developed in compliance with subdivision (c) of Section 2725 that specify all of the following:

1. The extent of supervision by a physician and surgeon with relevant training and expertise.
2. Procedures for transferring patients to the care of the physician and surgeon or a hospital.
3. Procedures for obtaining assistance and consultation from a physician and surgeon.
4. Procedures for providing emergency care until physician assistance and consultation is available.
5. The method of periodic review of the provisions of the standardized procedures.

(c) A nurse practitioner or certified nurse-midwife who has completed training and achieved clinical competency through HWPP No. 171 shall be authorized to perform abortions by aspiration techniques pursuant to Section 2253, in adherence to standardized procedures described in subdivision (b).

(d) It is unprofessional conduct for any nurse practitioner or certified nurse-midwife to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.

SEC. 3. Section 3502.4 is added to the Business and Professions Code, to read:

3502.4. (a) In order to receive authority from his or her supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall complete training either through training programs approved by the board pursuant to Section 3513 or by training to perform medical services which augment his or her current areas of competency pursuant to Section 1399.543 of Title 16 of the California Code of Regulations. Beginning January 1, 2014, and until January 1, 2016, the training and clinical competency protocols established by Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development shall be used as training and clinical competency guidelines to meet this requirement.

(b) In order to receive authority from his or her supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall
comply with protocols developed in compliance with Section 3502 that specify:

(1) The extent of supervision by a physician and surgeon with relevant training and expertise.

(2) Procedures for transferring patients to the care of the physician and surgeon or a hospital.

(3) Procedures for obtaining assistance and consultation from a physician and surgeon.

(4) Procedures for providing emergency care until physician assistance and consultation are available.

(5) The method of periodic review of the provisions of the protocols.

(c) The training protocols established by HWPP No. 171 shall be deemed to meet the standards of the board. A physician assistant who has completed training and achieved clinical competency through HWPP No. 171 shall be authorized to perform abortions by aspiration techniques pursuant to Section 2253, in adherence to protocols described in subdivision (b).

(d) It is unprofessional conduct for any physician assistant to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.

SEC. 4. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY:
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

ANALYSIS:
This bill would authorize a board within the department to issue a provisional license to an applicant who qualifies for an expedited license pursuant to the above-described provision. The bill would require the provisional license to expire after 18 months.

Amended analysis as of 4/1:
The bill would prohibit a provisional license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed, or has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. The bill would require the board to approve a provisional license based on an application that includes an affidavit that the information submitted in the application is accurate and that verification documentation from the other jurisdiction has been requested. The bill would require the provisional license to expire after 18 months or at the issuance of the expedited license.
Amended analysis as of 4/22:
This bill would require a board within the department to issue a temporary license to an applicant who qualifies for, and requests, expedited licensure pursuant to the above-described provision if he or she meets specified requirements. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license, and would authorize a criminal background check as part of that investigation. The bill would require an applicant seeking a temporary license to submit an application to the board that includes a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, as specified. The bill would also require the application to include written verification from the applicant’s original licensing jurisdiction stating that the applicant’s license is in good standing. This bill would prohibit a provisional temporary license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed, or committed. The bill would provide that a violation of the above-described provision may be grounds for the denial or revocation of a temporary license. The bill would further prohibit a temporary license from being provided to any applicant who has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. The bill would require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting a criminal background check.

Amended analysis as of 5/24:
This bill was amended to read:
(d) This section shall not apply to a board that has established a temporary licensing process before January 1, 2014.

Amended analysis as of 6/24:
The bill as amended 5/24 that applies to the BRN because it has an existing process for issuing a temporary license is still in effect. This bill adds additional provisions for those boards to whom the bill still applies.

BOARD POSITION: Watch (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (5/8)

SUPPORT:
American Legion- Department of California
AMVETS-Department of California
Brigadier General Vincent A. Coglianese
California Architects Board
California Association for Health Services at Home
California State Commanders Veterans Council
Commander, Navy Region Southwest
National Military Family Association
San Diego Military Advisory Council
United States Department of Defense  
VFW- Department of California  
Vietnam Veterans of America- California State Council

**SUPPORT IF AMENDED:**  
Board of Behavioral Sciences  
California Board of Accountancy  
Medical Board of California

**OPPOSE UNLESS AMENDED:**  
American Association for Marriage and Family Therapy- California Division  
Board for Professional Engineers, Land Surveyors and Geologist  
California Architects Board

**OPPOSE:**  
Board of Chiropractic Examiners  
Contractors State License Board
ASSEMBLY BILL

No. 186

Introduced by Assembly Member Maienschein
(Principal coauthor: Assembly Member Hagman)
(Coauthors: Assembly Members Chávez, Dahle, Donnelly, Beth Gaines, García, Grove, Harkey, Olsen, and Patterson, and V. Manuel Pérez)
(Coauthors: Senators Fuller and Huff)

January 28, 2013

An act to amend add Section 115.5 of 115.6 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

AB 186, as amended, Maienschein. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires that the licensing fees imposed by certain boards within the department be deposited in funds that are continuously
appropriated. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would, in addition to the expedited licensure provisions described above, establish a temporary licensure process for an applicant who holds a current license in another jurisdiction, as specified, and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first.

This bill would require a board within the department to issue a temporary license to an applicant who qualifies for, and requests, expedited licensure pursuant to the above-described provision if he or she meets specified requirements, except as provided. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license, and would authorize a criminal background check as part of that investigation. The bill would require an applicant seeking a temporary license to submit an application to the board that includes a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, as specified. The bill would also require the application to include written verification from the applicant’s original licensing jurisdiction stating that the applicant’s license is in good standing. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license and would authorize a criminal background check as part of that investigation. The bill would require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting the criminal background check.
This bill would prohibit a temporary license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed. The bill would provide that a violation of the above-described provision may be grounds for the denial or revocation of a temporary license. The bill would further prohibit a temporary license from being provided to any applicant who has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. The bill would require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting a criminal background check.

This bill would authorize the immediate termination of any temporary license to practice medicine upon a finding that the temporary licenseholder failed to meet any of the requirements described above or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. The bill would, upon termination of the license, require the board to issue a notice of termination requiring the temporary licenseholder to immediately cease the practice of medicine upon receipt.

This bill would exclude from these provisions a board that has established a temporary licensing process before January 1, 2014.

Because the bill would authorize the expenditure of continuously appropriated funds for a new purpose, the bill would make an appropriation.


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

SECTION 1. Section 115.6 is added to the Business and Professions Code, to read:

115.6. (a) A board within the department shall, after appropriate investigation, issue a temporary license to an applicant if he or she meets the requirements set forth in subdivision (c). The temporary license shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, whichever occurs first.
(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

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

1. The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

2. The applicant shall hold a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a temporary license from the board.

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

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

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

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

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

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

(f) This section shall not apply to a board that has established
a temporary licensing process before January 1, 2014.

SECTION 1. Section 115.5 of the Business and Professions
Code is amended to read:

115.5. (a) Except as provided in subdivision (d), a board within
the department shall expedite the licensure process for an applicant
who meets both of the following requirements:

1. Supplies evidence satisfactory to the board that the applicant
is married to, or in a domestic partnership or other legal union
with, an active duty member of the Armed Forces of the United
States who is assigned to a duty station in this state under official
active duty military orders.

2. Holds a current license in another state, district, or territory
of the United States in the profession or vocation for which he or
she seeks a license from the board.

(b) (1) A board shall, after appropriate investigation, issue a
temporary license to an applicant who is eligible for, and requests,
expedited licensure pursuant to subdivision (a) if the applicant
meets the requirements described in paragraph (3). The temporary
license shall expire 12 months after issuance, upon issuance of the
expedited license, or upon denial of the application for expedited
licensure by the board, whichever occurs first.

2. The board may conduct an investigation of an applicant for
purposes of denying or revoking a temporary license issued
pursuant to this subdivision. This investigation may include a
criminal background check.

3. (A) An applicant seeking a temporary license issued
pursuant to this subdivision shall submit an application to the board
which shall include a signed affidavit attesting to the fact that he
or she meets all of the requirements for the temporary license and
that the information submitted in the application is accurate, to the
best of his or her knowledge. The application shall also include
written verification from the applicant’s original licensing
jurisdiction stating that the applicant’s license is in good standing in that jurisdiction.

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

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

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

(e) A board may adopt regulations necessary to administer this section.

(d) This section shall not apply to a board that has established a temporary licensing process before January 1, 2014.
SUMMARY:
Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health home services, as defined, to eligible individuals with chronic conditions.

ANALYSIS:
This bill would authorize the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed, as authorized under federal law. This bill would provide that those provisions shall not be implemented unless federal financial participation is available and additional General Fund moneys are not used to fund the administration and service costs, except as specified. This bill would require the department to ensure that an evaluation of the program is completed, if created by the department, and would require that the department submit a report to the appropriate policy and fiscal committees of the Legislature within 2 years after implementation of the program.

Amended analysis as of 4/4:
Changes do not affect the Board.

Amended analysis as of 5/24:
The amendment refers to the source of funding:
Except as provided in Section 14127.6, the nonfederal share shall be provided by funds from local governments, private foundations, or any other source line permitted under federal law.

Amended analysis as of 6/19:
This bill changes “partners” to “team members” and adds other healthcare/medical professionals and entities to the list of health home team members.

BOARD POSITION: Support (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:
SUPPORT:
Western Center on Law and Poverty
Corporation for Supportive Housing
AARP
Alameda County Board of Supervisors
American Federation of State, County and Municipal
   Employees, AFL-CIO
A Community of Friends
California Association of Addiction Recovery Resources
California Association of Alcoholism and Drug Abuse
   Counselors
California Black Health Network
California Communities United Institute
California Council of Community Mental Health Agencies
California Coverage and Health Initiatives
California Immigrant Policy Center
California Mental Health Directors Association
California Opioid Maintenance Providers
California Pan-Ethnic Health Network
California Primary Care Association
California State Association of Counties
Century Housing
Children Now
Children's Defense Fund - California
Children's Partnership
Community Clinic Association of Los Angeles County
Community Resource Center
Department of Human Services for the City of Oakland
Disability Rights California
Downtown Women's Center
First Place for Youth
Health Access California
Hitzke Development Corporation
Housing California
LeadingAge California
Los Angeles Business Leaders Task Force
Los Angeles Homeless Services Authority
Los Angeles Regional Reentry Partnership
National Association of Social Workers, California
   Chapter
Non-Profit Housing Association of Northern California
Pacific Clinics
PICO California
San Diego Housing Commission
Santa Clara County Board of Supervisors
Senior Community Centers
St. Anthony Foundation
United Homeless Healthcare Partners
United Ways of California
100% Campaign

OPPOSE:
California Right to Life Committee, Inc.
An act to add Article 3.9 (commencing with Section 14127) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL’S DIGEST

AB 361, as amended, Mitchell. Medi-Cal: Health Homes for Medi-Cal Enrollees and Section 1115 Waiver Demonstration Populations with Chronic and Complex Conditions.

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 federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health home services, as defined, to eligible individuals with chronic conditions.

This bill would authorize the department, subject to federal approval, to create a health home program for enrollees with chronic conditions,
as prescribed, as authorized under federal law. This bill would provide that those provisions shall not be implemented unless federal financial participation is available and additional General Fund moneys are not used to fund the administration and service costs, except as specified. This bill would require the department to ensure that an evaluation of the program is completed, if created by the department, and would require that the department submit a report to the appropriate policy and fiscal committees of the Legislature within 2 years after implementation of the program.


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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Health Homes for Enrollees with Chronic Conditions option (Health Homes option) under Section 2703 of the federal Patient Protection and Affordable Care Act (Affordable Care Act) (42 U.S.C. Sec. 1396w-4) offers an opportunity for California to address chronic and complex health conditions, including social determinants that lead to poor health outcomes and high costs among Medi-Cal beneficiaries.

(b) For example, people who frequently use hospitals for reasons that could have been avoided with more appropriate care incur high Medi-Cal costs and suffer high rates of early mortality due to the complexity of their conditions and, often, their negative social determinants of health. Frequent users have difficulties accessing regular or preventive care and complying with treatment protocols, and the significant number who are homeless have no place to store medications, cannot adhere to a healthy diet or maintain appropriate hygiene, face frequent victimization, and lack rest when recovering from illness.

(c) Increasingly, health providers are partnering with community behavioral health and social services providers to offer a person-centered interdisciplinary system of care that effectively addresses the needs of enrollees with multiple chronic or complex conditions, including frequent hospital users and people experiencing chronic homelessness. These health homes help
people with chronic and complex conditions to access better care and better health, while decreasing costs.

(d) Federal guidelines allow the state to access enhanced federal matching rates for health home services under the Health Homes option for multiple target populations to achieve more than one policy goal.

SEC. 2. Article 3.9 (commencing with Section 14127) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.9. Health Homes for Medi-Cal Enrollees and Section 1115 Waiver Demonstration Populations with Chronic and Complex Conditions

For the purposes of this article, the following definitions shall apply:

(a) “Department” means the State Department of Health Care Services.

(b) “Federal guidelines” means all federal statutes, and all regulatory and policy guidelines issued by the federal Centers for Medicare and Medicaid Services regarding the Health Homes for Enrollees with Chronic Conditions option under Section 2703 of the federal Patient Protection and Affordable Care Act (Affordable Care Act) (42 U.S.C. Sec. 1396w-4), including the State Medicaid Director Letter issued on November 16, 2010.

(c) (1) “Health home” means a provider or team of providers designated by the department that satisfies all of the following:

(A) Meets the criteria described in federal guidelines.

(B) Offers a whole person approach, including, but not limited to, coordinating other available services that address needs affecting a participating individual’s health.

(C) Offers services in a range of settings, as appropriate, to meet the needs of an individual eligible for health home services.

(2) Health home partners may include, but are not limited to, team members may include a health plan, community clinic, a mental health plan, a hospital, physicians, a clinical practice or clinical group practice, rural health clinic, community health center, community mental health center, substance use disorder treatment professionals, school-based health centers, community health workers, community-based service organizations, promotores.
home health agency, nurse practitioners, physician’s assistants, social workers, and other paraprofessionals. Health home teams shall also partner with and provide linkages to housing navigators, and housing providers.

(3) For purposes of serving targeted beneficiaries the population identified in subdivision (c) of Section 14127.3, the department shall require a lead provider to be a physician, a community clinic, a mental health plan, a community-based nonprofit organization, a county health system, a substance use disorder treatment professional or facility, or a hospital.

(4) The department may determine the model of health home it intends to create, including any entity, provider, or group of providers operating as a health team, as a team of health care professionals, or as a designated provider, as those terms are defined in Sections 3502(c)(2) and 1945(h)(5) and (h)(6) of the Affordable Care Act, 256a-1 and 1396w-4(h)(5) and (h)(6) of Title 42 of the United States Code, respectively.

(d) “Homeless” has the same meaning as that term is defined in Section 91.5 of Title 24 of the Code of Federal Regulations. A “chronically homeless individual” means an individual whose conditions limit his or her activities of daily living and who has experienced homelessness for longer than a year or for four or more episodes over three years. An unaccompanied homeless individual with a condition limiting his or her activities of daily living who has been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years. For purposes of this article, an individual who is currently residing in transitional housing or who has been residing in permanent supportive housing for less than two years shall be considered a chronically homeless individual if the individual was chronically homeless prior to his or her residence.

(e) “Targeted beneficiary” means an individual who meets the criteria specified in subdivision (c) of Section 14127.3. 14127.1. Subject to federal approval, the department may do all of the following to create a California Health Home Program (Health Home Program), as authorized under Section 2703 of the Affordable Care Act:

(a) Design, with opportunity for public comment, a program to provide health home services to Medi-Cal beneficiaries and Section 1115 waiver demonstration populations with chronic conditions.
In designing the Health Home Program, the department shall give consideration to ensuring continuity of care and avoiding disruption of care among a beneficiary’s existing providers.

(b) Contract with new providers, new managed care plans, existing Medi-Cal providers, existing managed care plans, or counties, or one or more of these entities, to provide health home services, as provided in Section 14128.

(c) Submit any necessary applications to the federal Centers for Medicare and Medicaid Services for one or more state plan amendments to provide health home services to Medi-Cal beneficiaries, to newly eligible Medi-Cal beneficiaries upon Medicaid expansion under the Affordable Care Act, and, if applicable, to Low Income Health Program (LIHP) enrollees in counties with LIHPS willing to match federal funds.

(d) Define the populations of eligible individuals.

(e) Develop a payment methodology, including, but not limited to, fee-for-service or per member, per month payment structures that may include tiered payment rates that take into account the intensity of services necessary to outreach to, engage, and serve the populations the department identifies.

(f) Identify health home services, consistent with federal guidelines.

(f) Identify the specific health home services needed for each population targeted in the Health Home Program, consistent with subdivision (b) of Section 14127.2.

(g) The department may submit applications and operate, to the extent permitted by federal law and to the extent federal approval is obtained, more than one health home program state plan amendment and any necessary Section 1115 waiver amendments for distinct populations, different providers or contractors, or specific geographic areas.

(h) Limit the availability of health home services geographically.

14127.2. (a) The department may design one or more state plan amendments and any necessary Section 1115 waiver amendments to provide health home services to children and or adults, or both, pursuant to Section 14127.1, and, in based on consultation with stakeholders, shall develop the geographic criteria, beneficiary eligibility criteria, and provider eligibility criteria for each state plan amendment.
(b) (1) Subject to federal approval for receipt of the enhanced federal match, services provided under the program Health Home Program established pursuant to this article shall include all of the following:

(A) Comprehensive and individualized care management.

(B) Care coordination and health promotion, including connection to medical, mental health, and substance use disorder care.

(C) Comprehensive transitional care from inpatient to other settings, including appropriate followup.

(D) Individual and family support, including authorized representatives.

(E) Referral to relevant community and social services supports, including, but not limited to, connection to housing for participants who are homeless or unstably housed, transportation to appointments needed to manage health needs, healthy lifestyle supports, quality child care when appropriate, and peer recovery support.

(F) Health information technology to identify eligible individuals and link services, if feasible and appropriate.

(2) According to beneficiary needs, the health home provider may provide less intensive services or graduate the beneficiary completely from the program upon stabilization.

14127.3. (a) If the department creates a health home program Health Home Program pursuant to this article, the department shall determine whether a health home state plan amendment that targets adults is operationally viable.

(b) (1) In determining whether a health home state plan amendment that targets adults is operationally viable, the department shall consider whether a state plan amendment and any necessary Section 1115 waiver amendments could be designed in a manner that minimizes the impact on the General Fund, whether the department has the capacity to administer the program home health state plan amendment through the state, a contracting entity, a county, or regional approach, and whether a sufficient provider network exists for providing health home services to targeted beneficiaries populations the department intends to target, including the populations described in subdivision (c).

(2) If the department determines that a health home program state plan amendment that targets adults is operationally viable
pursuant to paragraph (1), then the department shall design a state plan amendment and any necessary Section 1115 waiver amendments to target and provide health home services to beneficiaries who meet the criteria specified in subdivision (c).

(3) (A) If the department determines a health home program state plan amendment that targets adults is not operationally viable, then the department shall report to the appropriate policy and fiscal committees of the Legislature the basis for this determination, as well as a plan to address the health needs of the service delivery changes needed to improve care among chronically homeless beneficiaries and frequent hospital users to the appropriate policy and fiscal committees of the Legislature.

(B) The requirement for submitting the report and plan under subparagraph (A) is inoperative four years after the date the report is due, pursuant to Section 10231.5 of the Government Code.

(c) A state plan amendment and any necessary Section 1115 waiver amendments submitted pursuant to this section shall target adult beneficiaries who meet both of the following criteria:

(1) Have current diagnoses of chronic, co-occurring physical health, mental health, or substance use disorders prevalent among frequent hospital users.

(2) Have a level of severity in conditions established by the department, based on one or more of the following factors:

(A) Frequent inpatient hospital admissions, including hospitalization for medical, psychiatric, or substance use related conditions.

(B) Excessive use of crisis or emergency services.

(C) Chronic homelessness.

(d) (1) For the purposes of providing health home services to targeted beneficiaries who meet the criteria the population identified in subdivision (c), the department shall select designated health home providers, managed care organizations subcontracting with providers, or counties acting as or subcontracting with providers operating as a health home team that have or providers who plan to subcontract with health home team members with all of the following:

(A) Demonstrated experience working with frequent hospital or emergency department users.

(B) Demonstrated experience working with people who are chronically homeless.
(C) The capacity and administrative infrastructure to participate in the Health Home Program, including the ability to meet requirements of federal guidelines.

(D) A viable plan, with roles identified among providers of the health home, to do all of the following:

(i) Reach out to and engage frequent hospital or emergency department users and chronically homeless eligible individuals.

(ii) Link eligible individuals who are homeless or experiencing housing instability to permanent housing, such as supportive housing.

(iii) Ensure coordination and linkages to services needed to access and maintain health stability, including medical, mental health, and substance use care, and as well as social services and supports to address social determinants of health.

(2) The department may design additional provider criteria to those identified in paragraph (1) after consultation with stakeholder groups who have expertise in engagement and services for targeted beneficiaries described in this section the population identified in subdivision (c).

(3) The department may authorize health home providers eligible under this subdivision to serve Medi-Cal enrollees through a fee-for-service or managed care delivery system, and may allow for both county-operated and other public and private providers to participate in the California Health Home program.

(4) If the department designs a state plan amendment designed to serve the population identified in subdivision (c), the department shall design strategies to outreach to, engage, and provide health home services to the targeted beneficiaries the population identified in subdivision (c), based on consultation with stakeholders who have expertise in engaging and providing services to these targeted beneficiaries, and designing programs addressing the needs of the population.

(5) The department shall design other health home elements, including provider rates specific to targeted beneficiaries described in subdivision (c), after consultation with stakeholder groups who have expertise in engaging and providing services to these targeted beneficiaries.

(6)
(5) If the department creates a health home program that targets adults described in subdivision (c), the department may also submit state plan amendments and any necessary waiver amendments targeting other adult populations.

14127.4. (a) The department shall administer this article in a manner that attempts to maximize federal financial participation, consistent with federal law.

(b) Except as provided in Section 14127.6, the nonfederal share shall be provided by funds from local governments, private foundations, or any other source permitted under federal law. The department, or counties contracting with the department, may also enter into risk-sharing and social impact bond program agreements to fund services under this article.

(c) In accordance with federal guidelines, the state may limit availability of health home or enhanced health home services geographically.

14127.5. (a) If the department creates a health home program Health Home Program, the department shall ensure that an evaluation of the program is completed and shall, within two years after implementation, submit a report to the appropriate policy and fiscal committees of the Legislature.

(b) The requirement for submitting the report under subdivision (a) is inoperative four years after the date the report is due, pursuant to Section 10231.5 of the Government Code.

14127.6. (a) This article shall be implemented The department shall fund health home services only if and to the extent federal financial participation is available and the federal Centers for Medicare and Medicaid Services approves any state plan amendments sought pursuant to this article.

(b) Except as provided in subdivisions (c) and (d) subdivision (c), this article shall be implemented only if no additional General Fund moneys are used to fund the administration and costs of services.

(c) Notwithstanding subdivision (b), prior to and during the first eight quarters of implementation, if the department projects, based on analysis of current and projected expenditures for health home services; prior to, during, or after the first eight quarters of implementation, that this article can be implemented in a manner that does not or will not result in a net increase in ongoing General
Fund costs for the Medi-Cal program, the department may use state funds to fund any program Health Home Program costs.

(d) Notwithstanding subdivision (b), if the department projects, after the first eight quarters of implementation, that implementation of this article has not resulted in a net increase in ongoing General Fund costs for the Medi-Cal program, the department may use state funds to fund any program costs.

(e) The department may use new funding in the form of enhanced federal financial participation for health home services that are currently funded to fund any additional costs for new health home program Health Home Program services.

(f) The department shall seek to fund the creation, implementation, and administration of the program with funding other than state general funds.

(g) The department may revise or terminate the health home program Health Home Program any time after the first eight quarters of implementation if the department finds that the program fails to result in improved health outcomes reduced inpatient stays, hospital admission rates, and emergency department visits, or results in substantial General Fund expense without commensurate decreases in Medi-Cal costs among program participants.

14128. (a) In the event of a judicial challenge of the provisions of this article, this article shall not be construed to create an obligation on the part of the state to fund any payment from state funds due to the absence or shortfall of federal funding.

(b) For the purposes of implementing this article, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, and may amend existing managed care contracts to provide or arrange for services under this article. Contracts may be statewide or on a more limited geographic basis. Contracts entered into or amended under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code, and shall be exempt from the review or approval of any division of the Department of General Services.
(c) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific the process set forth in this article by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until such time as regulations are adopted. It is the intent of the Legislature that the department be provided temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) The department shall adopt emergency regulations no later than two years after implementation of this article. The department may readopt, up to two times, any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section.

(3) The initial adoption of emergency regulations implementing this article and the readoptions of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and readoptions authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and readoptions authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.
AUTHOR: Salas BILL NUMBER: AB 633

SPONSOR: Salas BILL STATUS: Senate 3rd reading

SUBJECT: Emergency medical services: civil liability DATE LAST AMENDED: 7/8/13

SUMMARY:
Under existing law, a person who, in good faith and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency is not liable for civil damages resulting from any act or omission, except as specified.

Existing law further provides that a person who has completed a basic cardiopulmonary resuscitation course that complies with specified standards and who in good faith renders emergency cardiopulmonary resuscitation at the scene of an emergency is not liable for any civil damages as a result of any act or omission, except as specified.

ANALYSIS:
This bill would prohibit a provider from adopting or enforcing a policy prohibiting an employee from voluntarily providing emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency. This prohibition would not apply to a long-term health care facility, a community care facility, adult day health care centers, or residential care facility for the elderly if there is a "do not resuscitate" or "Physician Orders for Life Sustaining Treatment" forms or an advance health care directive that prohibits resuscitation in effect for the person upon whom the resuscitation would otherwise be performed.

Amended analysis as of 5/13:
An employer shall not adopt or enforce a policy or practice of prohibiting an employee from voluntarily providing emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency.

This bill adds A health facility, as defined in section 1250, that is licensed by the State Department of Public Health to the list of facilities to which this section would not apply if there is a “do not resuscitate” or Physician Orders for Life Sustaining Treatment form, or an advance health care directive that prohibits resuscitation in effect for the individual.

Amended analysis as of 6/10:
This bill would provide that an employer is not liable for any civil damages or criminal and administrative discipline or penalties resulting from an act or omission of an employee who voluntarily provides emergency medical services, or resulting from an employee’s violation of certain employer policies regarding emergency medical resuscitation.
**Amended analysis as of 6/20:**
This bill as amended provides that in the event of an emergency, any available employee may voluntarily provide emergency medical services if a trained and authorized employee is not immediately available or is otherwise unable or unwilling to provide emergency medical assistance.

**Amended analysis as of 7/8:**
This bill removes the amendments of 6/10 related to employer liability.

**BOARD POSITION:** Watch (6/12)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Watch (5/8)

**SUPPORT:**
American College of Emergency Physicians
California Advocates for Nursing Home Reform
California Assisted Living Association
California Fire Chiefs Association
California Medical Association
California Professional Firefighters
California Rescue Paramedic Association
Civil Justice Association of California
Clinica Sierra Vista
Hall Ambulance Service Incorporated

**OPPOSE:**
Consumer Attorneys of California
An act to add Section 1799.103 to the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL’S DIGEST

AB 633, as amended, Salas. Emergency medical services: civil liability.
Under existing law, a person who, in good faith and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency is not liable for civil damages resulting from any act or omission, except as specified. Existing law further provides that a person who has completed a basic cardiopulmonary resuscitation course that complies with specified standards, and who in good faith renders emergency cardiopulmonary resuscitation at the scene of an emergency is not liable for any civil damages as a result of any act or omission, except as specified. Existing
law provides that a health care provider, including any licensed clinic, health dispensary, or health facility, is not liable for professional negligence or malpractice for any occurrence or result solely on the basis that the occurrence or result was caused by the natural course of a disease or condition, or was the natural or expected result of reasonable treatment rendered for the disease or condition.

This bill would prohibit an employer from having a policy of prohibiting an employee from providing voluntary emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency, except as specified. The bill would provide that an employee is not liable for any civil damages resulting from an act or omission when he or she, in good faith and not for compensation, voluntarily renders emergency care at the scene of an emergency, as specified. The bill would provide that an employer is not liable for any civil damages or criminal and administrative discipline or penalties resulting from an act or omission of an employee who voluntarily provides emergency medical services, or resulting from an employee’s violation of certain employer policies regarding emergency medical resuscitation.


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

SECTION 1. Section 1799.103 is added to the Health and Safety Code, to read:

1799.103. (a) An employer shall not adopt or enforce a policy prohibiting an employee from voluntarily providing emergency medical services, including, but not limited to, cardiopulmonary resuscitation, in response to a medical emergency, except as provided in paragraphs (1) and (2) subdivisions (b) and (c).

(b) Notwithstanding this subdivision (a), an employer may adopt and enforce a policy authorizing employees trained in emergency services to provide those services, and prohibiting employees not specifically trained in emergency medical services from providing those services if a trained employee is immediately available at the time of the medical emergency. However, in the event of an emergency, any available employee may voluntarily provide emergency medical services if a trained and authorized employee
is not immediately available or is otherwise unable or unwilling
to provide emergency medical services.

(2)

(c) Notwithstanding this subdivision (a), an employer may adopt
and enforce a policy prohibiting an employee from performing
emergency medical services, including, but not limited to,
cardiopulmonary resuscitation, on a person who has expressed the
desire to forgo resuscitation or other medical interventions through
any legally recognized means, including, but not limited to, a
do-not-resuscitate order, a Physician Orders for Life Sustaining
Treatment form, an advance health care directive, or a legally
recognized health care decisionmaker.

(b) Section 1799.102 applies to an employee who voluntarily
provides emergency medical services, including, but not limited
to, cardiopulmonary resuscitation pursuant to subdivision (a)
despite providing those services during the performance of
activities for which he or she is compensated.

(c) An employer is not liable for any civil damages or criminal
or administrative discipline or penalties resulting from an act or
omission of an employee who voluntarily provides emergency
medical services, including, but not limited to, cardiopulmonary
resuscitation.

(d) An employer is not liable for any civil damages or criminal
or administrative discipline or penalties resulting from an
employee’s violation of an employer’s policy adopted pursuant to
paragraph (1) of subdivision (a):
The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

Existing law further requires the mandated reporter to make an initial report by telephone to the agency immediately or as soon as is practicably possible, and to prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.

Existing law additionally provides that, when 2 or more mandated reporters have joint knowledge of suspected child abuse or neglect, they may select a member of the team by mutual agreement to make and sign a single report. Any member who has knowledge that the member designated to report has failed to do so is required to thereafter make the report.

**ANALYSIS:**
This bill would delete these latter provisions, thus requiring every mandated reporter who has knowledge of suspected child abuse or neglect to make a report, as specified.

**Amended analysis as of 6/3:**
This bill would limit these latter provisions to mandated reporters who are health care providers, thereby requiring every mandated reporter who is not a health care provider and who has knowledge of suspected child abuse or neglect to make an individual report.

The bill would require the person who files a single report on behalf of multiple health care providers who are mandated reporters to include the names of other mandated reporters, if known, who have knowledge of known or suspected instances of child abuse or neglect, as specified. The bill would provide that a person making the report would not be subject to criminal penalties or other sanctions for failing to include one or more names of those persons if his or her failure to include those names is accidental or inadvertent.
Amended analysis as of 6/4:
This bill changes the reporting requirement for the person who files a single report on behalf of multiple health care providers from providing the names of other mandated reporters to providing the names of the other members of the reporting team.

BOARD POSITION: Support (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
California Police Chiefs Association

OPPOSE:
California Association of Marriage and Family Therapists
An act to amend Section 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL’S DIGEST


The Child Abuse and Neglect Reporting Act requires a mandated reporter, as defined, to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law further requires the mandated reporter to make an initial report by telephone to the agency immediately or as soon as is practicably possible, and to prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.

Existing law additionally provides that, when 2 or more mandated reporters have joint knowledge of suspected child abuse or neglect, they may select a member of the team by mutual agreement to make and sign a single report. Any member who has knowledge that the member designated to report has failed to do so is required to thereafter make the report.
This bill would limit these latter provisions to mandated reporters who are health care providers, thereby requiring every mandated reporter who is not a health care provider and who has knowledge of suspected child abuse or neglect to make an individual report. The bill would require the person who files a single report on behalf of multiple health care providers who are mandated reporters to include the names of other mandated reporters, if known, who have knowledge of known or suspected instances of child abuse or neglect the other members of the reporting team, as specified. The bill would provide that a person making the report would not be subject to criminal penalties or other sanctions for failing to include one or more names of those persons if his or her failure to include those names is accidental or inadvertent.

Because this bill would expand the definition of a crime, it would impose a state-mandated program.

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

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


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

SECTION 1. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.
For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the State Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, “penitential communication” means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member’s duty to report known or suspected child abuse or neglect when the clergy member is acting in some other
capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity
or employment, any representation of information, data, or an
image, including, but not limited, to any computer hardware,
computer software, computer file, computer floppy disk, data
storage medium, CD-ROM, computer-generated equipment, or
computer-generated image that is retrievable in perceivable form
and that is intentionally saved, transmitted, or organized on an
electronic medium, depicting a child under 16 years of age engaged
in an act of sexual conduct, shall immediately, or as soon as
practicably possible, telephonically report the instance of suspected
abuse to the law enforcement agency located in the county in which
the images or material are seen. As soon as practicably possible
after receiving the information concerning the incident, the reporter
shall prepare and send, fax, or electronically transmit a written
followup report of the incident with a brief description of the
images or materials.
(3) For purposes of this article, “commercial computer
technician” includes an employee designated by an employer to
receive reports pursuant to an established reporting process
authorized by subparagraph (B) of paragraph (41) of subdivision
(a) of Section 11165.7.
(4) As used in this subdivision, “electronic medium” includes,
but is not limited to, a recording, CD-ROM, magnetic disk memory,
magnetic tape memory, CD, DVD, thumbdrive, or any other
computer hardware or media.
(5) As used in this subdivision, “sexual conduct” means any of
the following:
(A) Sexual intercourse, including genital-genital, oral-genital,
anal-genital, or oral-anal, whether between persons of the same or
opposite sex or between humans and animals.
(B) Penetration of the vagina or rectum by any object.
(C) Masturbation for the purpose of sexual stimulation of the
viewer.
(D) Sadomasochistic abuse for the purpose of sexual stimulation
of the viewer.
(E) Exhibition of the genitals, pubic, or rectal areas of any
person for the purpose of sexual stimulation of the viewer.
(f) Any mandated reporter who knows or reasonably suspects
that the home or institution in which a child resides is unsuitable
for the child because of abuse or neglect of the child shall bring
the condition to the attention of the agency to which, and at the
same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) (1) When two or more health care providers, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. The person who makes the report pursuant to this subdivision shall provide the names of all other mandated reporters, if known, who have knowledge of known or suspected instances of child abuse or neglect the other members of the reporting team, but he or she shall not be subject to criminal penalties or other sanctions for failing to include one or more names of those persons if his or her failure to do so is accidental or inadvertent.

(2) For purposes of this subdivision, a “health care provider” means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.
(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent’s substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney’s office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child’s welfare, or as the result of the failure of a person responsible for the child’s welfare to adequately protect the minor from abuse when the person responsible for the child’s welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of
receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
BILL ANALYSIS

AUTHOR: Medina BILL NUMBER: AB 1057

SPONSOR: Medina BILL STATUS: Senate

SUBJECT: Professions and vocations: licenses: military service

DATE LAST AMENDED: 6/3/13

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 a licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to, upon application, reinstate his or her license without penalty and without examination, if certain requirements are satisfied, unless the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, as specified.

ANALYSIS:
This bill would require each board to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

Amended analysis as of 4/9:
This bill would require each board, commencing January 1, 2015, to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

Amended analysis as of 6/3:
This bill changes the wording from “applicant” to “individual applying for licensure.”

BOARD POSITION: Support if amended (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support if amended (5/8)

SUPPORT:
Board of Behavioral Sciences

OPPOSE: None on file
ASSEMBLY BILL

No. 1057

Introduced by Assembly Member Medina

February 22, 2013

An act to add Section 114.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 1057, as amended, Medina. 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 a licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to, upon application, reinstate his or her license without penalty and without examination, if certain requirements are satisfied, unless the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, as specified.

This bill would require each board, commencing January 1, 2015, to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military.

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

SECTION 1. Section 114.5 is added to the Business and Professions Code, to read:

114.5. Commencing January 1, 2015, each board shall inquire in every application for licensure if the applicant individual applying for licensure is serving in, or has previously served in, the military.
BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 7, 2013

BILL ANALYSIS

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<th>AUTHOR:</th>
<th>Pavley</th>
<th>BILL NUMBER:</th>
<th>SB 352</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPONSOR:</td>
<td>California Academy of Physician Assistants; California Association of Physician Groups</td>
<td>BILL STATUS:</td>
<td>Assembly 3rd Reading</td>
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<tr>
<td>SUBJECT:</td>
<td>Medical assistants: supervision</td>
<td>DATE LAST AMENDED:</td>
<td>6/19/13</td>
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SUMMARY:
Existing law authorizes a medical assistant to perform specified services relating to the administration of medication and performance of skin tests and simple routine medical tasks and procedures upon specific authorization from and under the supervision of a licensed physician and surgeon or podiatrist, or in a specified clinic upon specific authorization of a physician assistant, nurse practitioner, or nurse-midwife.

ANALYSIS:
This bill would delete the requirement that the services performed by the medical assistant be in a specified clinic when under the specific authorization of a physician assistant, nurse practitioner, or nurse-midwife. The bill would also delete several obsolete references and make other technical, nonsubstantive changes.

Amended analysis as of 4/10:
This bill would delete the requirement that the services performed by the medical assistant be in a specified clinic when under the specific authorization of a physician assistant, nurse practitioner, or certified nurse-midwife. The bill would also delete several obsolete references and make other conforming, technical, and nonsubstantive changes.

Amended analysis as of 6/19:
The bill would prohibit a nurse practitioner, certified nurse-midwife, or physician assistant from authorizing a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized, as specified, a violation of which would constitute unprofessional conduct.

BOARD POSITION:  Oppose (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:  Oppose (5/8)

SUPPORT:
California Academy of Physician Assistants (co-source)
California Association of Physician Groups (co-source)
Bay Area Council
California Academy of Family Physicians
California Association for Nurse Practitioners
California Optometric Association
Kaiser Permanente
Medical Board of California
United Nurses Associations of California/Union of Health Care Professionals
U.S. HealthWorks Medical Group
1 individual

OPPOSE:
California Nurses Association
An act to amend Section 2069 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST

SB 352, as amended, Pavley. Medical assistants: supervision.

Existing law authorizes a medical assistant to perform specified services relating to the administration of medication and performance of skin tests and simple routine medical tasks and procedures upon specific authorization from and under the supervision of a licensed physician and surgeon or podiatrist, or in a specified clinic upon specific authorization of a physician assistant, nurse practitioner, or nurse-midwife. Existing law requires the Board of Registered Nursing to issue a certificate to practice nurse-midwifery to a qualifying applicant who is licensed pursuant to the Nursing Practice Act.

This bill would delete the requirement that the services performed by the medical assistant be in a specified clinic when under the specific authorization of a physician assistant, nurse practitioner, or certified nurse-midwife. The bill would prohibit a nurse practitioner, certified nurse-midwife, or physician assistant from authorizing a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized, as specified, a violation of which would constitute unprofessional conduct. The bill would also
delete several obsolete references and make other *clarifying*, conforming, technical, and nonsubstantive changes.


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

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

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

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

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

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502, *including instructions for specific authorizations*, and is approved to do so by the supervising physician and surgeon.
(b) As used in this section and Sections 2070 and 2071, the following definitions apply:

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

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

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

   A. A licensed physician and surgeon.

   B. A licensed podiatrist.

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

4. “Technical supportive services” means simple routine medical tasks and procedures that may be safely performed by a
medical assistant who has limited training and who functions under
the supervision of a licensed physician and surgeon or a licensed
podiatrist, or a physician assistant, a nurse practitioner, or a
certified nurse-midwife as provided in subdivision (a).
(c) Nothing in this section shall be construed as authorizing any
of the following:
(1) The licensure of medical assistants.
(2) The administration of local anesthetic agents by a medical
assistant.
(3) The board to adopt any regulations that violate the
prohibitions on diagnosis or treatment in Section 2052.
(4) A medical assistant to perform any clinical laboratory test
or examination for which he or she is not authorized by Chapter
3 (commencing with Section 1200).
(5) A nurse practitioner, certified nurse-midwife, or physician
assistant to be a laboratory director of a clinical laboratory, as those
terms are defined in paragraph (8) of subdivision (a) of Section
1206 and subdivision (a) of Section 1209.
(d) A nurse practitioner, certified nurse-midwife, or physician
assistant shall not authorize a medical assistant to perform any
clinical laboratory test or examination for which the medical
assistant is not authorized by Chapter 3 (commencing with Section
1200). A violation of this subdivision constitutes unprofessional
conduct.
(e) Notwithstanding any other law, a medical assistant shall not
be employed for inpatient care in a licensed general acute care
hospital, as defined in subdivision (a) of Section 1250 of the Health
and Safety Code.
SUMMARY:
Existing law requires, upon first enrollment in a California school district of a child at a California elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child’s vision to be appraised by the school nurse or other authorized person, as specified. Existing law requires this appraisal to include tests for visual acuity and color vision.

ANALYSIS:
This bill would require the appraisal to also include a test for binocular function. The bill would provide that the binocular function appraisal need not begin until the pupil has reached the 3rd grade and would authorize the binocular function appraisal to include a validated symptom survey, as specified.

Amended analysis as of 4/18:
Reflects nonsubstantive changes.

Amended analysis of 6/18:
This bill would delete that the appraisal be conducted by a school nurse or other authorized person. It would require that the examination be performed upon the pupil’s first enrollment and at least every third year thereafter until the pupil has completed the eighth grade by an optometrist or ophthalmologist, except as specified, and require the examination to also include a test for binocular function (student has reached the third grade) and refraction and eye health evaluations.

Amended analysis of 6/27:
This bill would apply to pupils in public elementary schools including charter schools and private elementary schools. It would prohibit a school from denying admission to a child or taking any other adverse action against a child because of a parent’s or a guardian’s failure to obtain a vision examination for the child.

BOARD POSITION: Watch (6/12)
LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (5/8)

SUPPORT:
California State Board of Optometry
California Teachers Association

OPPOSE:
American Academy of Pediatrics, California
California Immunization Coalition
SENATE BILL No. 430

Introduced by Senator Wright
(Coauthor: Senator Hancock)
(Coauthors: Assembly Members Mitchell and John A. Pérez)

February 21, 2013

An act to amend, repeal, and add Sections 48216 and Section 49455 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL’S DIGEST

SB 430, as amended, Wright. Pupil health: vision examination: binocular function.

Existing law requires, upon first enrollment in a California school district of a child at a California elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child’s vision to be appraised by the school nurse or other authorized person, as specified. Existing law requires this appraisal to include tests for visual acuity and color vision.

Existing law requires the county office of education or the governing board of the school district of attendance to exclude any pupil who has not been properly immunized, unless the pupil is exempted from the immunization requirement, as specified.

This bill would instead, before first enrollment in a California school district of a pupil at a California private or public elementary school, including a charter school, and at least every 3rd year thereafter until the pupil has completed the 8th grade, require the pupil’s vision to be examined by an optometrist or ophthalmologist, except as specified,
and require the examination to also include a test for binocular function and refraction and eye health evaluations. The bill would provide that the binocular function examination need not begin until the pupil has reached the 3rd grade and would require the parent or guardian of the pupil to provide results of the examination to the school district. The bill would require the county office of education or the governing board of the school district of attendance to exclude a pupil who has not been examined by an optometrist or ophthalmologist, as described above, and would require the governing board of the school district to notify the parent or guardian of the pupil that the parent or guardian has 2 weeks to supply evidence that the pupil has been examined by an optometrist or ophthalmologist, or is exempted from the examination requirement. The bill would prohibit a school from denying admission to a child or taking any other adverse action against a child because of a parent’s or guardian’s failure to obtain a vision examination for the child. The bill would make these provisions operative on September 1, 2014. By requiring a school district to collect information and send notices related to the examination of a pupil by an optometrist or ophthalmologist, the bill would impose a state-mandated local program.

This bill would also make nonsubstantive changes. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.


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

SECTION 1. Section 48216 of the Education Code is amended to read:

(a) The county office of education or the governing board of the school district of attendance shall exclude a pupil who has not been immunized properly pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code.
(b) The governing board of the school district shall notify the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 120365 or 120370 of the Health and Safety Code.

(c) The governing board of the school district, in the notice, shall refer the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refer the parent or guardian to the county health department, or notify the parent or guardian that the immunizations will be administered at a school of the school district.

(d) This section shall become inoperative on September 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 48216 is added to the Education Code, to read:

48216. (a) The county office of education or the governing board of the school district of attendance shall exclude a pupil who has not been immunized properly pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code or who has not been examined pursuant to Section 49455.

(b) The governing board of the school district shall notify the parent or guardian of the pupil that they have two weeks to supply evidence of both of the following:

(1) That the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 120365 or 120370 of the Health and Safety Code.

(2) That the pupil has been examined, or that the pupil is exempted from the examination requirement pursuant to Section 49455.

(e) The governing board of the school district, in the notice, shall refer the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refer the parent or guardian to the county health department, or notify the parent or guardian that the
immunizations will be administered at a school of the school district.

(d) This section shall become operative on September 1, 2014.

SEC. 3.

SECTION 1. Section 49455 of the Education Code is amended to read:

49455. (a) Upon first enrollment in a California school district of a pupil at a California elementary school, and at least every third year thereafter until the pupil has completed the eighth grade, the pupil’s vision shall be appraised by the school nurse or other authorized person under Section 49452. This appraisal shall include tests for visual acuity and color vision; however, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade. Gross external observation of the pupil’s eyes, visual performance, and perception shall be done by the school nurse and the classroom teacher. The appraisal may be waived, if the pupil’s parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of a determination of the pupil’s vision, including visual acuity and color vision.

(b) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(c) This section shall become inoperative on September 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.

SEC. 2. Section 49455 is added to the Education Code, to read:

49455. (a) Before first enrollment in a California school district of a pupil at a California private or public elementary school, including a charter school, and at least every third year thereafter
until the child has completed the eighth grade, the pupil’s vision shall be examined by an optometrist or ophthalmologist. This examination shall include tests for visual acuity, binocular function, and color vision, and refraction and eye health evaluations; however, color vision shall be examined once and only on male pupils, and the parent or guardian of the pupil shall provide results of the examination to the school district. The color vision examination shall be conducted before need not begin until the male pupil has reached the first grade. The binocular function examination need not begin until the pupil has reached the third grade.

(b) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(c) (1) If a pupil is ineligible for Medicaid, Children’s Health Insurance Program coverage, or exchange subsidies under the federal Patient Protection and Affordable Care Act (Public Law 111-148), or any other health care service, the county office of education or the governing board of the school district of attendance private or public school shall refer the pupil to the county health department or other appropriate community resources able to perform a vision examination pursuant to subdivision (a).

(2) A school shall not deny admission to a child or take any other adverse action against a child because of a parent’s or guardian’s failure to obtain the examination pursuant to subdivision (a).

(d) For purposes of this section, “binocular function examination” means, at a minimum, the evaluation of accommodative ability, sensory and motor fusion, and ocular motility.

(e) This section shall become operative on September 1, 2014.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement
to local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.
SUMMARY:
Existing law regulates the operation of health facilities, including hospitals. Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violation of these provisions a crime.

ANALYSIS:
This bill would require a hospital, as specified, as a part of its injury prevention program and in conjunction with affected employees, to adopt a workplace violence prevention plan designed to protect health care workers, other facility personnel, patients, and visitors from aggressive or violent behavior. As part of that plan, the bill would require a hospital to adopt safety and security policies, including, among others, a system for the reporting to the Division of Occupational Safety and Health of any incident of assault, as defined, or battery, as defined, against a hospital employee or patient, as specified. The bill would further require all medical staff and health care workers who provide direct care to patients to receive, at least annually, workplace violence prevention education and training, as specified. The bill would prohibit a hospital from preventing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement for a violent incident. The bill would also require a hospital to provide evaluation and treatment, as specified, for an employee who is injured or is otherwise a victim of a violent incident. The bill would require a hospital to report to the division any incident of assault, as defined, or battery, as defined, against a hospital employee or patient, as specified, and would authorize the division to assess a civil penalty against a hospital for failure to report an incident, as specified. The bill would further require the division to report to the relevant fiscal and policy committees of the Legislature information regarding incidents of violence at hospitals, as specified.

Amended analysis as of 4/4:
The bill would require a hospital to document and keep for 5 years a written record of all violent incidents against a hospital employee, as defined, and to report to the division any violent incident, as specified. The bill would also authorize the division to assess a civil penalty against a hospital for failure to report a violent incident, as specified. The bill would further require the division to report to the relevant fiscal and policy committees of the Legislature information regarding violent
incidents at hospitals, as specified, and to develop regulations implementing these provisions by January 1, 2015.

**Amended analysis as of 5/15:**
This bill would exclude the State Department of State Hospitals, the State Department of Developmental Services, and the Department of Corrections and Rehabilitation from the hospitals to which the bill applies.

**Amended analysis as of 6/20:**
This bill would require the Department of Occupational Safety and Health to post on its Internet Web site a report regarding violent incidents at hospitals and to adopt regulations implementing these provisions by January 1, 2015.

**BOARD POSITION:** Support (6/18)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Support (5/8)

**SUPPORT:**
California Nurses Association
California Labor Federation
Consumer Attorneys of California
Laborers’ Locals 777 and 792
National Association of Social Workers - California Chapter
United Nurses Association of California/Union of Health Care Professionals

**OPPOSE:**
California Association of Joint Powers Authorities
California Hospital Association
SENATE BILL  No. 718

Introduced by Senator Yee

February 22, 2013

An act to add Section 6401.8 to the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL’S DIGEST

SB 718, as amended, Yee. Hospitals: workplace violence prevention plan.
Existing law regulates the operation of health facilities, including hospitals.
Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violation of these provisions a crime.
This bill would require a hospital, as specified, as a part of its injury prevention program and in conjunction with affected employees, to adopt a workplace violence prevention plan designed to protect health care workers, other facility personnel, patients, and visitors from aggressive or violent behavior. As part of that plan, the bill would require a hospital to adopt safety and security policies, including, among others, a system for the reporting to the Division of Occupational Safety and Health of any violent incident, as defined, against a hospital employee, as specified. The bill would further require all medical staff
and health care workers who provide direct care to patients to receive, at least annually, workplace violence prevention education and training, as specified. The bill would prohibit a hospital from preventing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement for a violent incident. The bill would also require a hospital to provide evaluation and treatment, as specified, for an employee who is injured or is otherwise a victim of a violent incident.

The bill would require a hospital to document and keep for 5 years a written record of all violent incidents against a hospital employee, as defined, and to report to the division any violent incident, as specified. The bill would also authorize the division to assess a civil penalty against a hospital for failure to report a violent incident, as specified. The bill would further require the division to post on its Internet Web site a report to the relevant fiscal and policy committees of the Legislature regarding violent incidents at hospitals, as specified, and to develop regulations implementing these provisions by January 1, 2015.

Because this bill would expand the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. Section 6401.8 is added to the Labor Code, to read:

6401.8. (a) Except as provided in subdivision (n), as a part of its injury prevention program required pursuant to Section 6401.7, a hospital described in subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code shall adopt a workplace violence prevention plan designed to protect health care workers, other facility personnel, patients, and visitors from aggressive or violent behavior. The plan shall include, but not be limited to, security considerations relating to all of the following:
(1) Physical layout.

(2) Staffing, including staffing patterns and patient classification systems that contribute to the risk of violence or are insufficient to address the risk of violence.

(3) The adequacy of facility security systems, protocols, and policies, including, but not limited to, security personnel availability and employee alarm systems.

(4) Potential security risks associated with specific units or areas within the facility where there is a greater likelihood that a patient or other person may exhibit violent behavior.

(5) Uncontrolled public access to any part of the facility.

(6) Potential security risks related to working late night or early morning hours.

(7) Employee security in areas surrounding the facility, including, but not limited to, employee parking areas.

(8) The use of a trained response team that can assist employees in violent situations.

(9) Policy and training related to appropriate responses to violent acts.

(10) Efforts to cooperate with local law enforcement regarding violent acts in the facility.

(b) As part of its workplace violence prevention plan, a hospital shall adopt safety and security policies, including, but not limited to, all of the following:

(1) Personnel training policies designed to protect personnel, patients, and visitors from aggressive or violent behavior, including education on how to recognize the potential for violence, how and when to seek assistance to prevent or respond to violence, and how to report violent incidents to the appropriate law enforcement officials.

(2) A system for responding to violent incidents and situations involving violence or the risk of violence, including, but not limited to, procedures for rapid response by which an employee is provided with immediate assistance if the threat of violence against that employee appears to be imminent, or if a violent act has occurred or is occurring.

(3) A system for investigating violent incidents and situations involving violence or the risk of violence. When investigating these incidents, the hospital shall interview any employee involved in the incident or situation.
(4) A system for reporting, monitoring, and recordkeeping of
violent incidents and situations involving the risk of violence.
(5) A system for reporting violent incidents to the division
pursuant to subdivision (h).
(6) Modifications to job design, staffing, security, equipment,
or facilities as determined necessary to prevent or address violence
against hospital employees.
(c) The plan shall be developed in conjunction with affected
employees, including their recognized collective bargaining agents,
if any. Individuals or members of a hospital committee responsible
for developing the security plan shall be familiar with hospital
safety and security issues, as well as the identification of aggressive
and violent predicting factors. In developing the workplace
violence prevention plan, the hospital shall consider guidelines or
standards on violence in health care facilities issued by the division,
the federal Occupational Safety and Health Administration, and,
if available, the State Department of Public Health.
(d) All medical staff and health care workers who provide direct
care to patients shall, at least annually, receive workplace violence
prevention education and training that is designed in such a way
as to provide an opportunity for interactive questions and answers
with a person knowledgeable about the workplace violence
prevention plan, and that includes, but is not limited to, the
following topics:
(1) General safety measures.
(2) Personal safety measures.
(3) The assault cycle.
(4) Aggression and violence predicting factors.
(5) Obtaining patient history from a patient with violent
behavior.
(6) Characteristics of aggressive and violent patients and victims.
(7) Verbal and physical maneuvers to diffuse and avoid violent
behavior.
(8) Strategies to avoid physical harm.
(9) Restraining techniques.
(10) Appropriate use of medications as chemical restraints.
(11) Any resources available to employees for coping with
violent incidents, including, by way of example, critical incident
stress debriefing or employee assistance programs.
(e) All temporary personnel shall be oriented to the workplace violence prevention plan.

(f) A hospital shall provide evaluation and treatment for an employee who is injured or is otherwise a victim of a violent incident and shall, upon the request of the employee, provide access to followup counseling to address trauma or distress experienced by the employee, including, but not limited to, individual crisis counseling, support group counseling, peer assistance, and professional referrals.

(g) A hospital shall not prohibit an employee from, or take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

(h) (1) In addition to the reports required by Section 6409.1, a hospital shall document and keep for a period of five years a written record of any violent incident against a hospital employee immediately after the incident is reported by that employee or any other employee to a manager, supervisor, or other hospital administrator. The hospital shall document and keep a written record of all violent incidents, regardless of whether the employee sustains an injury. This record shall include, but not be limited to, the date and time of the incident, the unit in which the incident occurred, a description of the circumstances surrounding the incident, and the hospital’s response to the incident.

(2) A hospital shall report to the division within 72 hours the information recorded pursuant to paragraph (1) regarding a violent incident. If the incident results in physical injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel, the hospital shall report the incident to the division within 24 hours.

(3) If a hospital fails to report a violent incident pursuant to paragraph (2), the division may assess a civil penalty against the hospital in an amount not to exceed one hundred dollars ($100) per day for each day that the incident is not reported following the initial 72-hour or 24-hour period, as applicable pursuant to paragraph (2).

(i) The division may, at its discretion, conduct an inspection for any violent incident reported pursuant to subdivision (h).
(j) Nothing in this section requiring recordkeeping and reporting by an employer relieves the employer of the requirements of Section 6410.

(k) (1) By January 1, 2015, and annually thereafter, the division shall report to the relevant fiscal and policy committees of the Legislature, in a manner that protects patient and employee confidentiality, post a report on its Internet Web site containing information regarding violent incidents at hospitals, that includes, but is not limited to, the total number of reports and which specific hospitals filed reports pursuant to subdivision (h), the outcome of any related inspection or investigation, citations levied against a hospital based on a violent incident, and recommendations on how to prevent violent incidents at hospitals.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.

(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(l) By January 1, 2015, the division shall adopt regulations to implement the provisions of this section.

(m) For purposes of this section, “violent incident” shall include, but not be limited to, the following:

(1) The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in or has a high likelihood of resulting in injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

(2) An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

(n) This section shall not apply to a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY:
The following paragraphs reflect the provisions most relevant to the Board of Registered Nursing:

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, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care.

Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

ANALYSIS:
This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.
This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to increase the licensure, certification, and renewal fees charged to practitioners under their supervision who are authorized to prescribe or dispense controlled substances, by up to 1.16%, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified.

This bill would require licensed health care practitioners, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances.

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

**Amended analysis as of 5/1:**
This bill amendment references the Board of Equalization.

**Amended analysis as of 5/14:**
This bill amendment adds an effective date of January 1, 2015, to the imposition of the tax on manufacturers of controlled substances. It allows health care service plans to voluntarily contribute to the CURES Fund.

**Amended analysis as of 5/24:**
This bill adds the Naturopathic Medical Committee of the Osteopathic Medical Board of California to the list of boards whose practitioners would be covered by this legislation.

This bill would require the named boards to:
*In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, charge practitioners under their supervision who are authorized to prescribe, order, administer, furnish, or dispense controlled substances, by up to 1.16%, a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified.*

This bill would also require the California State Board of Pharmacy to increase the licensure, certification, and renewal fees charged to charge wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision by up to 1.16%, a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food-animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified.

This bill would additionally require the board [Medical Board of California] to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient’s risk of abusing or diverting controlled substances and information relating to CURES.
Amended analysis as of 5/28:
This bill deletes the imposition of a tax upon manufacturers of controlled substances, as defined, that would have been initiated January 1, 2015. Allows pharmaceutical manufacturers to voluntarily contribute to the CURES Fund.

Amended analysis as of 6/26:
This bill changes revises some wording, but there are no substantive changes.

BOARD POSITION:  Watch (6/12)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
California Attorney General Kamala Harris (Sponsor)
American Cancer Society Cancer Action Network
American College of Emergency Physicians, California Chapter
American Medical Association
California Association for Nurse Practitioners
California Association of Oral and Maxillofacial Surgeons
California Department of Insurance
California Medical Association
California Labor Federation
California Narcotic Officers Association
California Pharmacists Association
California Primary Care Association
California Police Chiefs Association
California Society of Health-System Pharmacists
California State Board of Pharmacy
California State Sheriff's Association
Center for Public Interest Law
City and County of San Francisco
County Alcohol and Drug Program Administrators Association of California
Deputy Sheriffs' Association of San Diego County
Healthcare Distribution Management Association
Health Officers Association of California
Kaiser Permanente
Medical Board of California
National Coalition Against Prescription Drug Abuse
South Orange County Coalition
Troy and Alana Pack Foundation
Western Occupational and Environmental Medical Association
University of California
One private individual

OPPOSE:  None
An act to add Sections 805.8 and 2196.8 to the Business and Professions Code, and to amend Sections 11164.1, 11165, and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 809, as amended, DeSaulnier. Controlled substances: reporting. (1) 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, on a weekly basis, specified information for each prescription of Schedule
II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to charge practitioners under their supervision who are authorized to prescribe, order, administer, furnish, or dispense controlled substances a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. This bill would also require the California State Board of Pharmacy to charge wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food-animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. The bill would require each of these fees to be due and payable at the time the license is renewed and require the fee to be submitted with the renewal fee. The bill would also permit specified insurers, health care service plans, and qualified manufacturers, to voluntarily contribute to the CURES Fund, as described.

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient’s risk of abusing or diverting controlled substances and information relating to CURES.
(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

This bill would require licensed health care practitioners, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to be strongly encouraged to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances. The bill would make other related and conforming changes.

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


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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Controlled Substance Utilization Review and Evaluation System (CURES) is a valuable preventive, investigative, and educational tool for health care providers, regulatory boards, educational researchers, and law enforcement. Recent budget cuts to the Attorney General’s Division of Law Enforcement have resulted in insufficient funding to support the CURES Prescription Drug Monitoring Program (PDMP). The PDMP is necessary to ensure health care professionals have the necessary data to make informed treatment decisions and to allow law enforcement to investigate diversion of prescription drugs. Without a dedicated funding source, the CURES PDMP is not sustainable.

(b) Each year CURES responds to more than 800,000 requests from practitioners and pharmacists regarding all of the following:
(1) Helping identify and deter drug abuse and diversion of prescription drugs through accurate and rapid tracking of Schedule II, Schedule III, and Schedule IV controlled substances.

(2) Helping practitioners make better prescribing decisions.

(3) Helping reduce misuse, abuse, and trafficking of those drugs.

(c) Schedule II, Schedule III, and Schedule IV controlled substances have had deleterious effects on private and public interests, including the misuse, abuse, and trafficking in dangerous prescription medications resulting in injury and death. It is the intent of the Legislature to work with stakeholders to fully fund the operation of CURES which seeks to mitigate those deleterious effects and serve as a tool for ensuring safe patient care, and which has proven to be a cost-effective tool to help reduce the misuse, abuse, and trafficking of those drugs.

(d) The following goals are critical to increase the effectiveness and functionality of CURES:

(1) Upgrading the PDMP so that it is capable of accepting real-time updates and is accessible in real-time, 24 hours a day, seven days a week.

(2) Upgrading all prescription drug monitoring programs in California so that they are capable of operating in conjunction with all national prescription drug monitoring programs.

(3) Providing subscribers to prescription drug monitoring programs access to information relating to controlled substances dispensed in California, including those dispensed through the federal United States Department of Veterans Affairs, the Indian Health Service, the Department of Defense, and any other entity with authority to dispense controlled substances in California.

(4) Upgrading the PDMP so that it is capable of accepting electronic prescriptions, thereby enabling more reliable, complete, and timely prescription monitoring.

SEC. 2. Section 805.8 is added to the Business and Professions Code, to read:

805.8. (a) (1) In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic
Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine shall charge each licensee authorized pursuant to Section 11150 of the Health and Safety Code to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances a fee of up to 1.16 percent of the renewal fee that the licensee was subject to as of July 1, 2013, to be assessed annually. This fee shall be due and payable at the time the licensee renews his or her license and shall be submitted with the licensee’s renewal fee. In no case shall this fee exceed the reasonable costs associated with operating and maintaining CURES for the purpose of regulating prescribers and dispensers of controlled substances licensed or certificated by these boards.

(2) In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, the California State Board of Pharmacy shall charge wholesalers and nonresident wholesalers of dangerous drugs, licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9, a fee of up to 1.16 percent of the renewal fee that the wholesaler or nonresident wholesaler was subject to as of July 1, 2013, to be assessed annually. This fee shall be due and payable at the time the wholesaler or nonresident wholesaler renews its license and shall be submitted with the wholesaler’s or nonresident wholesaler’s renewal fee. In no case shall this fee exceed the reasonable costs associated with operating and maintaining CURES for the purpose of regulating wholesalers and nonresident wholesalers of dangerous drugs licensed or certificated by that board.

(3) In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, the California State Board of Pharmacy shall charge veterinary food-animal drug retailers, licensed pursuant to Article 15 (commencing with Section 4196) of Chapter 9, a fee of up to 1.16 percent of the renewal fee that the drug retailer was subject to as of July 1, 2013, to be assessed annually. This fee shall be due and payable at the time the drug retailer renews its license and shall be submitted with the drug retailers’ renewal fee. In no case shall this fee exceed the reasonable costs associated with operating and maintaining CURES for the purpose of regulating veterinary food-animal drug retailers licensed or certificated by that board.
(b) The funds collected pursuant to subdivision (a) shall be deposited in the CURES accounts, which are hereby created, within the Contingent Fund of the Medical Board of California, the State Dentistry Fund, the Pharmacy Board Contingent Fund, the Veterinary Medical Board Contingent Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor’s Fund, the Osteopathic Medical Board of California Contingent Fund, the Optometry Fund, and the Board of Podiatric Medicine Fund. Moneys in the CURES accounts of each of those funds shall, upon appropriation by the Legislature, be available to the Department of Justice solely for operating and maintaining CURES for the purposes of regulating prescribers and dispensers of controlled substances. All moneys received by the Department of Justice pursuant to this section shall be deposited in the CURES Fund described in Section 11165 of the Health and Safety Code.

SEC. 3. Section 2196.8 is added to the Business and Professions Code, to read:

2196.8. The board shall periodically develop and disseminate information and educational material regarding assessing a patient’s risk of abusing or diverting controlled substances and information relating to the Controlled Substance Utilization Review and Evaluation System (CURES), described in Section 11165 of the Health and Safety Code, to each licensed physician and surgeon and to each general acute care hospital in this state. The board shall consult with the State Department of Health Care Services and the Department of Justice in developing the materials to be distributed pursuant to this section.

SEC. 4. Section 11164.1 of the Health and Safety Code is amended to read:

11164.1. (a) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy, if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.

(2) All prescriptions for Schedule II and Schedule III controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (e) of Section 11165.
(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.
(c) This section shall become operative on January 1, 2005.

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

11165. (a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES accounts within the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor’s Fund, the Osteopathic Medical Board of California Contingent Fund, the Veterinary Medical Board Contingent Fund, the Optometry Fund, the Board of Podiatric Medicine Fund, and the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.
(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds for the Department of Justice for the purpose of funding CURES.
(c) The Department of Justice may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES. Grant funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State
Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor’s Fund, the Osteopathic Medical Board of California Contingent Fund, the Veterinary Medical Board Contingent Fund, the Optometry Fund, or the Board of Podiatric Medicine Fund, for the purpose of funding CURES.

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

(2) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party. The Department of Justice may establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, and security of the information within CURES. CURES, consistent with this subdivision.

(e) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, unless monthly reporting is permitted pursuant to subdivision (f) of Section 11190, and in a format specified by the Department of Justice:

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

(2) The prescriber’s category of licensure and license number, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

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

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

(5) Quantity of the controlled substance dispensed.

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

(7) Number of refills ordered.

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

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(f) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber invitees shall be licensed by one of the boards or committees identified in subdivision (a) of Section 805.8 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(g) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (a) of Section 805.8 of the Business and Professions Code, one or more of the regulatory boards or committees identified in subdivision (a) of Section 805.8 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program.

(h) The Department of Justice may establish a process to educate authorized subscribers of CURES on how to access and use CURES.

(i) The CURES Fund is hereby established within the State Treasury. The CURES Fund shall consist of all funds made
available to the Department of Justice for the purpose of funding CURES. Money in the CURES Fund shall, upon appropriation by the Legislature, be available for allocation to the Department of Justice for the purpose of funding CURES.

SEC. 6. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) A licensed health care practitioner eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances or a pharmacist shall submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner or pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

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

(i) Materially falsifying an application for a subscriber.

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

(iii) Suspended or revoked federal Drug Enforcement Administration (DEA) registration.

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

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

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

(2) To allow sufficient time for licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and a pharmacist to apply and receive access to PDMP, a written request may be made, until July 1, 2012, and the Department of Justice may release to that practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.
(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

c (1) Until the Department of Justice has issued the notification described in paragraph (3), in order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(2) Upon the Department of Justice issuing the notification described in paragraph (3), licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and pharmacists shall be strongly encouraged to access and consult the electronic history of controlled substances dispensed to an individual under his or her care prior to prescribing or dispensing a Schedule II, Schedule III, or Schedule IV controlled substance.

(3) The Department of Justice shall notify licensed health care practitioners and pharmacists who have submitted the application required pursuant to subdivision (a) when the department determines that CURES is capable of accommodating all users, but not before June 1, 2015. The department shall provide a copy of the notification to the Secretary of State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel, and shall post the notification on the department’s Internet Web site.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient’s controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.
SEC. 7. Section 11165.4 is added to the Health and Safety Code, to read:

11165.4. (a) The Department of Justice may seek private funds from insurers, health care service plans, and qualified manufacturers for the purpose of supporting CURES. Insurers, health care service plans, and qualified manufacturers may contribute by submitting their payment to the Controller for deposit into the CURES Fund established pursuant to subdivision (e) of Section 11165. The department shall make information about the amount and the source of all private funds it receives for support of CURES available to the public. Contributions to the CURES Fund pursuant to this subdivision shall be nondeductible for state tax purposes.

(b) For purposes of this section, the following definitions apply:

1. “Controlled substance” means a drug, substance, or immediate precursor listed in any schedule in Section 11055, 11056, or 11057 of the Health and Safety Code.

2. “Health care service plan” means an entity licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

3. “Insurer” means an admitted insurer writing health insurance, as defined in Section 106 of the Insurance Code, and an admitted insurer writing workers’ compensation insurance, as defined in Section 109 of the Insurance Code.

4. “Qualified manufacturer” means a manufacturer of a controlled substance, but does not mean a wholesaler or nonresident wholesaler of dangerous drugs, regulated pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code, a veterinary food-animal drug retailer, regulated pursuant to Article 15 (commencing with Section 4196) of Chapter 9 of Division 2 of the Business and Professions Code, or an individual regulated by the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, or the California Board of Podiatric Medicine.
SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from the continuing threat of prescription drug abuse at the earliest possible time, it is necessary that this act take effect immediately.