



**LEGISLATIVE  
COMMITTEE MEETING**

**AGENDA**

Four Points by Sheraton  
Los Angeles International Airport  
9750 Airport Boulevard  
Los Angeles, California 90045  
(310) 645-4600

**August 11, 2016**

---

**THIS MEETING WILL IMMEDIATELY FOLLOW THE CONCLUSION OF THE  
NURSING PRACTICE COMMITTEE MEETING**

---

**Thursday, August 11, 2016:**

**8.0 Call to Order, Roll Call, and Establishment of Quorum**

- 8.01 Review and Vote on Whether to Approve Previous Meeting Minutes:
- May 12, 2016

**8.1 Discuss the following Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills**

**Assembly Bills**

**Senate Bills**

AB 12	AB 1306	AB 2209	SB 319	SB 800
AB 26	AB 1351	AB 2272	SB 323	SB 960
AB 85	AB 1352	AB 2399	SB 390	SB 1039
AB 172	AB 1386	AB 2507	SB 408	SB 1076
AB 611	AB 1748	AB 2606	SB 464	SB 1139
AB 637	AB 1939	AB 2701	SB 466	SB 1155
AB 840	AB 1992	AB 2744	SB 467	SB 1195
AB 1060	AB 2079	AB 2859	SB 482	SB 1217
	AB 2105		SB 531	SB 1334
				SB 1348

**8.2 Public Comment for Items Not on the Agenda**

**8.3 Adjournment**

**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](mailto: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.



**BOARD OF REGISTERED NURSING**

**LEGISLATIVE COMMITTEE  
 MEETING MINUTES**

**DATE:** May 12, 2016

**TIME:** 1:10 p.m. - 2:12 p.m.

**LOCATION:** Embassy Suites  
 San Francisco Airport  
 250 Gateway Boulevard  
 South San Francisco, California 94080

**MEMBERS PRESENT:** Donna Gerber, Chair  
 Imelda Ceja-Butkiewicz  
 Cynthia Klein, RN  
 Trande Phillips, RN

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Stacie Berumen, Assistant Executive Officer  
 Kay Weinkam, Nursing Education Consultant

Donna Gerber called the meeting to order following the adjournment of the Nursing Practice Committee.

**8.1 Review and Approve Minutes**

- March 10, 2016

<b>Motion:</b> Approve, by Cynthia Klein			
<b>Second:</b> Trande Phillips			
<b>DG:</b> Yes	<b>IC-B:</b> Yes	<b>CK:</b> Yes	<b>TP:</b> Yes

**8.2 Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills.**

**8.2.1** The Committee took action on the following bills:

**AB 1748**      **Mayes: Pupils: pupil health: opioid antagonist**

No public comment.

<b>Motion:</b> Watch, by IC-B
-------------------------------

<b>Second:</b> DG			
<b>DG:</b> Yes	<b>IC-B:</b> Yes	<b>CK:</b> Yes	<b>TP:</b> Yes

**SB 482                      Lara: Controlled substances: CURES database**

No public comment.

<b>Motion:</b> Continue Support, by IC-B			
<b>Second:</b> TP			
<b>DG:</b> Yes	<b>IC-B:</b> Yes	<b>CK:</b> Yes	<b>TP:</b> Yes

**SB 1039                      Hill: Professions and Vocations**

Comments from two members of the public.

<b>Motion:</b> Continue Support/Watch, by TP			
<b>Second:</b> CK			
<b>DG:</b> Yes	<b>IC-B:</b> Yes	<b>CK:</b> Yes	<b>TP:</b> Yes

**SB 1195                      Hill: Professions and vocations: board actions: competitive impact**

Comments from five members of the public.

<b>Motion:</b> Continue Oppose, by TP			
<b>Second:</b> DG			
<b>DG:</b> Yes	<b>IC-B:</b> Yes	<b>CK:</b> absent	<b>TP:</b> Yes

**8.2.2**    The Committee continues support of the Board's previous position for these bills:

- AB 1939                      Patterson: Licensing requirements (Watch)**
- AB 2079                      Calderon: Skilled nursing facilities: staffing (Watch)**
- AB 2209                      Bonilla: Health care coverage: clinical care pathways (Watch)**
- AB 2507                      Gordon: Telehealth: access (Watch)**
- AB 2606                      Grove: Crimes against children, elders, dependent adults, and persons with disabilities (Watch)**
- AB 2744                      Gordon: Healing arts: referrals (Watch)**
  
- SB 960                      Hernandez: Medi-Cal: telehealth: reproductive health care (Watch)**
- SB 1139                      Lara: Health professions: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments (Watch)**

- SB 1217 Stone: Healing arts: reporting requirements: professional liability resulting in death or personal injury (Watch)**  
**SB 1334 Stone: Crime reporting: health practitioners: reports (Watch)**

**8.2.3 SB 1076 Hernandez: General acute care hospitals: observation services** was presented as an information item.

**8.3 Public Comment for Items Not on the Agenda**

There were no public comments.

The meeting adjourned at 2:12 p.m.

Submitted by: \_\_\_\_\_  
Kay Weinkam, Nursing Education Consultant

Approved by: \_\_\_\_\_  
Donna Gerber, Chair

DRAFT

**BOARD OF REGISTERED NURSING**  
**Legislative Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM:** 8.1  
**DATE:** August 11, 2016

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

**REQUESTED BY:** Donna Gerber, Public Member, Chairperson

**BACKGROUND:**

**Assembly Bills**

**Senate Bills**

AB 12	AB 1306	AB 2105	SB 319	SB 800
AB 26	AB 1351	AB 2209	SB 323	SB 960
AB 85	AB 1352	AB 2272	SB 390	SB 1039
AB 172	AB 1386	AB 2399	SB 408	SB 1076
AB 611	AB 1748	AB 2507	SB 464	SB 1139
AB 637	AB 1939	AB 2606	SB 466	SB 1155
AB 840	AB 1992	AB 2701	SB 467	SB 1195
AB 1060	AB 2079	AB 2744	SB 482	SB 1217
		AB 2859	SB 531	SB 1334
				SB 1348

**NEXT STEP:** Place on Board agenda

**FINANCIAL  
IMPLICATIONS,  
IF ANY:**

As reflected by proposed legislation

**PERSON TO  
CONTACT:**

Kay Weinkam  
Nursing Education Consultant and  
Legislative Liaison  
Phone: (916) 574-7600

**BOARD OF REGISTERED NURSING  
ASSEMBLY BILLS 2015-2016  
August 11, 2016**

<b>BILL #</b>	<b>AUTHOR</b>	<b>SUBJECT</b>	<b>COMM POSITION (date)</b>	<b>BOARD POSITION (date)</b>	<b>BILL STATUS</b>
AB 12	Cooley	State government: administrative regulations: review	Watch (5/17/15)	Watch (6/4/15)	Senate APPR
<b>AB 26</b>	<b>Jones-Sawyer</b>	<b>Medical cannabis</b>		<b>Watch (2/11/16)</b>	<b>Senate APPR</b>
AB 85	Wilk	Open meetings	Watch (5/17/15)	Oppose (6/4/15)	Vetoed 9/28/15
AB 172	Rodriguez	Emergency departments: assaults and batteries		Support (6/4/15)	Vetoed 10/10/15
AB 611	Dahle	Controlled substances: prescriptions: reporting	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
AB 637	Campos	Physician Orders for Life Sustaining Treatment forms		Watch (4/2/15)	Chapter 217, Statutes of 2015
AB 840	Ridley-Thomas	Nurses and certified nurse assistants: overtime		Support (4/2/15)	Senate APPR
AB 1060	Bonilla	Professions and vocations: licensure	Support if Amended (5/7/15)	Support if Amended (6/4/15)	No longer applicable to the Board
<b>AB 1306</b>	<b>Burke</b>	<b>Healing arts: certified nurse-midwives: scope of practice</b>		<b>Support (6/4/15)</b>	<b>Senate 3<sup>rd</sup> Reading</b>
AB 1351	Eggman	Deferred entry of judgment: pretrial diversion	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Vetoed 10/8/15
AB 1352	Eggman	Deferred entry of judgment: withdrawal of plea	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Chapter 646, Statutes of 2015
<b>AB 1386</b>	<b>Low</b>	<b>Emergency medical care: epinephrine auto-injectors</b>		<b>Watch (2/11/16)</b>	<b>Senate APPR</b>
<b>AB 1748</b>	<b>Mayes</b>	<b>Pupils: pupil health: opioid antagonist</b>	<b>Watch (5/12/16)</b>	<b>Watch (4/14/16)</b>	<b>Senate APPR</b>
AB 1939	Patterson	Licensing requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 1992	Jones	Pupil health: physical examinations		Watch (4/14/16)	Assembly B&P
<b>AB 2079</b>	<b>Calderon</b>	<b>Skilled nursing facilities: staffing</b>	<b>Watch (3/10/16)</b>	<b>Watch (4/14/16)</b>	<b>Senate APPR</b>
<b>AB 2105</b>	<b>Rodriguez</b>	<b>Workforce development: allied health professions</b>		<b>Watch (4/14/16)</b>	<b>Senate APPR</b>

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

**BOARD OF REGISTERED NURSING  
ASSEMBLY BILLS 2015-2016  
August 11, 2016**

<b>BILL #</b>	<b>AUTHOR</b>	<b>SUBJECT</b>	<b>COMM POSITION (date)</b>	<b>BOARD POSITION (date)</b>	<b>BILL STATUS</b>
AB 2209	Bonilla	Health care coverage: clinical pathways	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
<b>AB 2272</b>	<b>Thurmond</b>	<b>Occupational safety and health standards</b>			<b>Senate APPR</b>
AB 2399	Nazarian	Pregnancy: prenatal blood testing	Watch (3/10/16)	Watch (4/14/16)	Senate Health
AB 2507	Gordon	Telehealth: access	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2606	Grove	Crimes against children, elders, dependent adults, and persons with disabilities	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2701	Jones	Department of Consumer Affairs: boards: training requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly B&P
<b>AB 2744</b>	<b>Gordon</b>	<b>Healing arts: referrals</b>	<b>Watch (3/10/16)</b>	<b>Watch (4/14/16)</b>	<b>Senate 3<sup>rd</sup> Reading</b>
<b>AB 2859</b>	<b>Low</b>	<b>Professions and vocations: retired category: licenses</b>	<b>Watch (3/10/16)</b>	<b>Watch (4/14/16)</b>	<b>Senate 3<sup>rd</sup> Reading</b>

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

**BOARD OF REGISTERED NURSING  
SENATE BILLS 2015-2016  
August 11, 2016**

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

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

**BOARD OF REGISTERED NURSING  
SENATE BILLS 2015-2016  
August 11, 2016**

<b>BILL #</b>	<b>AUTHOR</b>	<b>SUBJECT</b>	<b>COMM POSITION (date)</b>	<b>BOARD POSITION (date)</b>	<b>BILL STATUS</b>
SB 1334	Stone	Crime reporting: health practitioners: reports	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
<b>SB 1348</b>	<b>Cannella</b>	<b>Licensure applications: military experience</b>	<b>Watch (3/10/16)</b>	<b>Watch (4/14/16)</b>	<b>Assembly Consent Calendar</b>

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

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Jones-Sawyer	<b>BILL NUMBER:</b>	AB 26
<b>SPONSOR:</b>	United Food and Commercial Workers Union, Western States Council (UFCW)	<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Medical Cannabis	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act, requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.

Existing law makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication.

**ANALYSIS:**

This bill would enact the Medical Cannabis Regulation and Control Act and would create the Division of Medical Cannabis Regulation and Enforcement within the Department of Alcoholic Beverage Control, to be administered by a person exempt from civil service who is appointed by the Director of Alcoholic Beverage Control.

The bill would require the department, on or before January 1, 2017, to issue regulations as necessary for the implementation and enforcement of mandatory commercial medical cannabis registration, as specified, including requirements analogous to statutory environmental, agricultural, consumer protection, and food and product safety requirements. The bill would require the department to administer and enforce these requirements. The bill would provide that certain patient and caregiver information is excluded from disclosure to the public.

The bill would specify that prescribing, dispensing, or furnishing dangerous drugs, or recommending marijuana to a patient for a medical purpose, without an appropriate prior examination and a medical indication, including an in-person examination when recommending marijuana, or recommending marijuana for a nonmedical purpose, constitutes unprofessional conduct.

The bill would specify that no licensee shall be found to have committed unprofessional conduct if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

- (1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.
- (2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:
  - (A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.
  - (B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

**Amended analysis as of 1/4/16:**

This bill would require a state licensee to institute and maintain a training program for the licensee's agents and employees regarding compliance with MMRSA, as specified, and would require that an application for state licensure include a detailed description of the applicant's program, thereby modifying the crime of perjury and imposing a state mandated local program. The bill would make the bureau the sole state agency responsible for approving and regulating the programs and would prohibit the bureau from approving a program provided by or through certain apprenticeship programs. The bill would require a state licensing authority to deny the application of an applicant that does not have, or revoke the license of a state licensee that fails to institute or maintain, a program approved by the bureau.

This bill would delete the previously proposed amendments to the Medical Practice Act.

**Amended analysis as of 1/13:**

This bill would require a state licensee to institute and maintain a training program for the licensee's agents and employees regarding compliance with MMRSA, as specified, and would require that an application for state licensure include a detailed description of the applicant's program, thereby modifying the crime of perjury and imposing a state-mandated local program.

The bill would make the bureau the sole state agency responsible for approving and regulating the programs and would prohibit the bureau from approving a program provided by or through certain apprenticeship programs. The bill would require a state licensing authority to deny the application of an applicant that does not have, or revoke the license of a state licensee that fails to institute or maintain, a program approved by the bureau.

**Amended analysis as of 1/25:**

This bill would require a state licensee to institute and maintain a training program for the licensee's agents and employees regarding compliance with MMRSA, as specified, and would require that an application for state licensure include a detailed description of the applicant's program, thereby modifying the crime of perjury and imposing a state-mandated local program.

The bill would make the licensing authority responsible for approving and regulating the programs and would prohibit the licensing authority from approving a program provided by or through certain apprenticeship programs. The bill would require a state licensing authority to deny the

application of an applicant that does not have, or revoke the license of a state licensee that fails to institute or maintain, a program approved by the licensing authority.

This bill would require each state licensing authority to charge each training program a fee, as specified, to cover the costs for approving the training program.. This bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. This bill would authorize each licensing authority to adjust fees as needed once a year to cover the costs of training program approval.

**Amended analysis as of 6/20:**

*Existing law provides for the state licensure and regulation of certain commercial medical marijuana activities by the Department of Consumer Affairs, the Department of Food and Agriculture, or the State Department of Public Health.*

This bill would require a state licensee to implement, as specified, a training program for the licensee's agents and employees regarding compliance with MMRSA, as specified. The bill would require an applicant with 20 or more employees to include in an application for state licensure a detailed description of the training program the applicant has implemented or will implement, thereby modifying the crime of perjury and imposing a state-mandated local program.

The bill would make the licensing authority responsible for approving and regulating the programs instituted and maintained by licensees *and third-party providers* of the programs. The bill would prohibit the licensing authority from approving a program provided by or through certain apprenticeship programs. *The bill would authorize the licensing authority to approve a workplace training organization, as defined, as a third-party provider.* The bill would require a state licensing authority to deny the application of an applicant that does not implement, or revoke the license of a state licensee that fails to implement within one year of obtaining a license, a program approved by the licensing authority or provided by an approved third-party provider.

The bill would require each state licensing authority to charge each training program instituted and maintained by a licensee a fee, as specified, to cover the costs for approving the training program. The bill would require each state licensing authority to charge each third-party provider of training programs a fee, as specified, to cover the costs for approving the third-party provider. The bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. The bill would authorize each licensing authority to adjust fees as needed once a year to cover the costs of training program and third-party provider approval.

**Amended analysis as of 6/23:**

The bill would require an applicant with 20 or more employees to attest on the application for state licensure that the applicant will implement an employee training program approved by the licensing authority within one year of licensure, as specified, thereby modifying the crime of perjury and imposing a state-mandated local program. The bill would require the licensing authority to deny an application of an applicant with 20 or more employees unless the applicant makes the above-mentioned attestation on the application.

The bill would require each licensing authority to adopt standards for the approval of employee training programs.

This bill removes the requirement that a state licensing authority deny the application of an applicant or revoke the license of a state licensee that fails to implement within one year of obtaining a license, a program approved by the licensing authority or provided by an approved third-party provider.

The bill would require each licensing authority to charge a fee to cover the costs for approving the employee training program, as specified.

The bill would make these provisions operative on July 1, 2018.

**Amended summary and analysis as of 8/1:**

This bill provides that on and after July 1, 2018, an applicant with 20 or more employees shall attest on the application that the applicant will implement an employee training program approved by the licensing authority within one year of licensure, pursuant to Section 19326.5.

This bill also provides that on and after July 1, 2018, the licensing authority shall deny an application of an applicant with 20 or more employees unless the applicant attests on the application that the applicant will implement an employee training program approved by the licensing authority within one year of licensure, pursuant to Section 19326.5.

Existing law provides that each licensing authority shall adopt standards for the approval of employee training programs.

This bill would provide that those standards shall prohibit approval of an employee training program provided by or through an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards.

Existing law provides that a licensing authority may approve a workplace training organization as a third-party provider of an employee training program. For purposes of this paragraph, a “workplace training organization” is a labor union organization representing wage earners or salaried employees for mutual aid and protection and for dealing collectively with cannabis employers.

This bill would provide that a licensing authority shall not be limited to approving workplace training organizations as third-party providers of employee training programs.

**BOARD POSITION:** Watch (2/11/16)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Not previously considered

**SUPPORT:**

United Food and Commercial Workers Union

(1/25/2016 version):

California Labor Federation

Central Coast Forest Association

City of Santa Monica

League of California Cities

**OPPOSE:** None as of 6/22/16

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 23, 2016

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY JANUARY 25, 2016

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

---

---

**ASSEMBLY BILL**

**No. 26**

**Introduced by Assembly Member Jones-Sawyer  
(Coauthor: Assembly Member Bonilla)**

December 1, 2014

---

---

An act to amend Sections 19322 and 19323 of, and to add Section 19326.5 to, the Business and Professions Code, relating to medical cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as amended, Jones-Sawyer. Medical cannabis.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law, the Medical Marijuana Regulation and Safety Act (MMRSA), enacted by the Legislature, establishes within the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, and provides for the state licensure and regulation of certain commercial medical marijuana activities by the Department of Consumer Affairs, the Department of Food and Agriculture, or the State

Department of Public Health, as specified. MMRSA requires an applicant for state licensure to provide specified information and a statement, signed by the applicant under penalty of perjury, that the information is complete, true, and accurate. MMRSA authorizes a state licensing authority to deny an application if specified conditions are met, and requires a state licensee, among other things, to obtain applicable local licenses prior to commencing commercial cannabis activity and to keep accurate records of commercial cannabis activity.

This bill would require a licensee to implement, as specified, an employee training program for the licensee's employees regarding compliance with MMRSA, as specified. The bill would require an applicant with 20 or more employees to attest on the application that the applicant will implement an employee training program approved by the licensing authority within one year of licensure, as specified, thereby modifying the crime of perjury and imposing a state-mandated local program. The bill would require the licensing authority to deny an application of an applicant with 20 or more employees unless the applicant makes the above-mentioned attestation on the application. The bill would require each licensing authority to adopt standards for the approval of employee training programs. The bill would prohibit the licensing authority from approving a program provided by or through certain apprenticeship programs. The bill would authorize the licensing authority to approve a workplace training organization, as defined, as a 3rd-party provider. The bill would require each licensing authority to charge a fee for approving an employee training program, as specified. The bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. The bill would authorize each licensing authority to adjust fees as needed once a year to cover the costs of employee training program approval. The bill would make these provisions operative on July 1, 2018.

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

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

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

State-mandated local program: yes.

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

1     **SECTION 1.** *Section 19322 of the Business and Professions*  
2 *Code is amended to read:*

3     19322. (a) A person shall not submit an application for a state  
4 license issued by a licensing authority pursuant to this chapter  
5 unless that person has received a license, permit, or authorization  
6 from the local jurisdiction. An applicant for any type of state  
7 license issued pursuant to this chapter shall do all of the following:

8     (1) Electronically submit to the Department of Justice fingerprint  
9 images and related information required by the Department of  
10 Justice for the purpose of obtaining information as to the existence  
11 and content of a record of state or federal convictions and arrests,  
12 and information as to the existence and content of a record of state  
13 or federal convictions and arrests for which the Department of  
14 Justice establishes that the person is free on bail or on his or her  
15 own recognizance, pending trial or appeal.

16     (A) The Department of Justice shall provide a response to the  
17 licensing authority pursuant to paragraph (1) of subdivision (p) of  
18 Section 11105 of the Penal Code.

19     (B) The licensing authority shall request from the Department  
20 of Justice subsequent notification service, as provided pursuant to  
21 Section 11105.2 of the Penal Code, for applicants.

22     (C) The Department of Justice shall charge the applicant a fee  
23 sufficient to cover the reasonable cost of processing the requests  
24 described in this paragraph.

25     (2) Provide documentation issued by the local jurisdiction in  
26 which the proposed business is operating certifying that the  
27 applicant is or will be in compliance with all local ordinances and  
28 regulations.

29     (3) Provide evidence of the legal right to occupy and use the  
30 proposed location. For an applicant seeking a cultivator, distributor,  
31 manufacturing, testing, transporter, or dispensary license, provide  
32 a statement from the owner of real property or their agent where  
33 the cultivation, distribution, manufacturing, testing, transport, or  
34 dispensing of commercial medical cannabis activities will occur,  
35 as proof to demonstrate the landowner has acknowledged and  
36 consented to permit cultivation, distribution, manufacturing, testing,  
37 transport, or dispensary activities to be conducted on the property  
38 by the tenant applicant.

- 1 (4) If the application is for a cultivator or a dispensary, provide  
2 evidence that the proposed location is located beyond at least a  
3 600-foot radius from a school, as required by Section 11362.768  
4 of the Health and Safety Code.
- 5 (5) Provide a statement, signed by the applicant under penalty  
6 of perjury, that the information provided is complete, true, and  
7 accurate.
- 8 (6) (A) For an applicant with 20 or more employees, provide  
9 a statement that the applicant will enter into, or demonstrate that  
10 it has already entered into, and abide by the terms of a labor peace  
11 agreement.
- 12 (B) For the purposes of this paragraph, “employee” does not  
13 include a supervisor.
- 14 (C) For purposes of this paragraph, “supervisor” means an  
15 individual having authority, in the interest of the licensee, to hire,  
16 transfer, suspend, lay off, recall, promote, discharge, assign,  
17 reward, or discipline other employees, or responsibility to direct  
18 them or to adjust their grievances, or effectively to recommend  
19 such action, if, in connection with the foregoing, the exercise of  
20 that authority is not of a merely routine or clerical nature, but  
21 requires the use of independent judgment.
- 22 (7) Provide the applicant’s valid seller’s permit number issued  
23 pursuant to Part 1 (commencing with Section 6001) of Division 2  
24 of the Revenue and Taxation Code or indicate that the applicant  
25 is currently applying for a seller’s permit.
- 26 (8) Provide any other information required by the licensing  
27 authority.
- 28 (9) For an applicant seeking a cultivation license, provide a  
29 statement declaring the applicant is an “agricultural employer,” as  
30 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural  
31 Labor Relations Act of 1975 (Part 3.5 (commencing with Section  
32 1140) of Division 2 of the Labor Code), to the extent not prohibited  
33 by law.
- 34 (10) Pay all applicable fees required for licensure by the  
35 licensing authority.
- 36 (11) Provide proof of a bond to cover the costs of destruction  
37 of medical cannabis or medical cannabis products if necessitated  
38 by a violation of licensing requirements.
- 39 (b) For applicants seeking licensure to cultivate, distribute,  
40 manufacture, test, or dispense medical cannabis or medical

1 cannabis products, the application shall also include a detailed  
2 description of the applicant's operating procedures for all of the  
3 following, as required by the licensing authority:

- 4 (1) Cultivation.
- 5 (2) Extraction and infusion methods.
- 6 (3) The transportation process.
- 7 (4) Inventory procedures.
- 8 (5) Quality control procedures.
- 9 (6) Security protocols.

10 (c) *On and after July 1, 2018, an applicant with 20 or more*  
11 *employees shall attest on the application that the applicant will*  
12 *implement an employee training program approved by the licensing*  
13 *authority within one year of licensure, pursuant to Section 19326.5.*

14 *SEC. 2. Section 19323 of the Business and Professions Code*  
15 *is amended to read:*

16 19323. (a) A licensing authority shall deny an application if  
17 the applicant or the premises for which a state license is applied  
18 does not qualify for licensure under this chapter or the rules and  
19 regulations for the state license.

20 (b) A licensing authority may deny an application for licensure  
21 or renewal of a state license, or issue a conditional license, if any  
22 of the following conditions apply:

23 (1) Failure to comply with the provisions of this chapter or any  
24 rule or regulation adopted pursuant to this chapter, ~~including~~  
25 *including*, but not limited to, any requirement imposed to protect  
26 natural resources, instream flow, and water quality pursuant to  
27 subdivision (a) of Section 19332.

28 (2) Conduct that constitutes grounds for denial of licensure  
29 pursuant to Chapter 2 (commencing with Section 480) of Division  
30 1.5.

31 (3) The applicant has failed to provide information required by  
32 the licensing authority.

33 (4) The applicant or licensee has been convicted of an offense  
34 that is substantially related to the qualifications, functions, or duties  
35 of the business or profession for which the application is made,  
36 except that if the licensing authority determines that the applicant  
37 or licensee is otherwise suitable to be issued a license and granting  
38 the license would not compromise public safety, the licensing  
39 authority shall conduct a thorough review of the nature of the  
40 crime, conviction, circumstances, and evidence of rehabilitation

1 of the applicant, and shall evaluate the suitability of the applicant  
2 or licensee to be issued a license based on the evidence found  
3 through the review. In determining which offenses are substantially  
4 related to the qualifications, functions, or duties of the business or  
5 profession for which the application is made, the licensing authority  
6 shall include, but not be limited to, the following:

7 (A) A felony conviction for the illegal possession for sale, sale,  
8 manufacture, transportation, or cultivation of a controlled  
9 substance.

10 (B) A violent felony conviction, as specified in subdivision (c)  
11 of Section 667.5 of the Penal Code.

12 (C) A serious felony conviction, as specified in subdivision (c)  
13 of Section 1192.7 of the Penal Code.

14 (D) A felony conviction involving fraud, deceit, or  
15 embezzlement.

16 (5) The applicant, or any of its officers, directors, or owners, is  
17 a licensed physician making patient recommendations for medical  
18 cannabis pursuant to Section 11362.7 of the Health and Safety  
19 Code.

20 (6) The applicant or any of its officers, directors, or owners has  
21 been subject to fines or penalties for cultivation or production of  
22 a controlled substance on public or private lands pursuant to  
23 Section 12025 or 12025.1 of the Fish and Game Code.

24 (7) The applicant, or any of its officers, directors, or owners,  
25 has been sanctioned by a licensing authority or a city, county, or  
26 city and county for unlicensed commercial cannabis activities or  
27 has had a license revoked under this chapter in the three years  
28 immediately preceding the date the application is filed with the  
29 licensing authority.

30 (8) Failure to obtain and maintain a valid seller's permit required  
31 pursuant to Part 1 (commencing with Section 6001) of Division 2  
32 of the Revenue and Taxation Code.

33 (9) The applicant or any of its officers, directors, owners,  
34 employees, or authorized agents have failed to comply with any  
35 operating procedure required pursuant to subdivision (b) of Section  
36 19322.

37 (10) Conduct that constitutes grounds for disciplinary action  
38 pursuant to this chapter.

39 (c) *On and after July 1, 2018, the licensing authority shall deny*  
40 *an application of an applicant with 20 or more employees unless*

1 *the applicant attests on the application that the applicant will*  
2 *implement an employee training program approved by the licensing*  
3 *authority within one year of licensure, pursuant to Section 19326.5.*

4 SECTION 1. ~~Section 19322 of the Business and Professions~~  
5 ~~Code is amended to read:~~

6 ~~19322. (a) A person or entity shall not submit an application~~  
7 ~~for a state license issued by the department pursuant to this chapter~~  
8 ~~unless that person or entity has received a license, permit, or~~  
9 ~~authorization by a local jurisdiction. An applicant for any type of~~  
10 ~~state license issued pursuant to this chapter shall do all of the~~  
11 ~~following:~~

12 ~~(1) Electronically submit to the Department of Justice fingerprint~~  
13 ~~images and related information required by the Department of~~  
14 ~~Justice for the purpose of obtaining information as to the existence~~  
15 ~~and content of a record of state or federal convictions and arrests,~~  
16 ~~and information as to the existence and content of a record of state~~  
17 ~~or federal convictions and arrests for which the Department of~~  
18 ~~Justice establishes that the person is free on bail or on his or her~~  
19 ~~own recognizance, pending trial or appeal.~~

20 ~~(A) The Department of Justice shall provide a response to the~~  
21 ~~licensing authority pursuant to paragraph (1) of subdivision (p) of~~  
22 ~~Section 11105 of the Penal Code.~~

23 ~~(B) The licensing authority shall request from the Department~~  
24 ~~of Justice subsequent notification service, as provided pursuant to~~  
25 ~~Section 11105.2 of the Penal Code, for applicants.~~

26 ~~(C) The Department of Justice shall charge the applicant a fee~~  
27 ~~sufficient to cover the reasonable cost of processing the requests~~  
28 ~~described in this paragraph.~~

29 ~~(2) Provide documentation issued by the local jurisdiction in~~  
30 ~~which the proposed business is operating certifying that the~~  
31 ~~applicant is or will be in compliance with all local ordinances and~~  
32 ~~regulations.~~

33 ~~(3) Provide evidence of the legal right to occupy and use the~~  
34 ~~proposed location. For an applicant seeking a cultivator, distributor,~~  
35 ~~manufacturing, or dispensary license, provide a statement from~~  
36 ~~the owner of real property or their agent where the cultivation,~~  
37 ~~distribution, manufacturing, or dispensing commercial medical~~  
38 ~~cannabis activities will occur, as proof to demonstrate the~~  
39 ~~landowner has acknowledged and consented to permit cultivation,~~

1 distribution, manufacturing, or dispensary activities to be conducted  
2 on the property by the tenant applicant.

3 (4) If the application is for a cultivator or a dispensary, provide  
4 evidence that the proposed location is located beyond at least a  
5 600-foot radius from a school, as required by Section 11362.768  
6 of the Health and Safety Code.

7 (5) Provide a statement, signed by the applicant under penalty  
8 of perjury, that the information provided is complete, true, and  
9 accurate.

10 (6) (A) For an applicant with 20 or more employees, provide  
11 a statement that the applicant will enter into, or demonstrate that  
12 it has already entered into, and abide by the terms of a labor peace  
13 agreement.

14 (B) For the purposes of this paragraph, “employee” does not  
15 include a supervisor.

16 (C) For purposes of this paragraph, “supervisor” means an  
17 individual having authority, in the interest of the licensee, to hire,  
18 transfer, suspend, lay off, recall, promote, discharge, assign,  
19 reward, or discipline other employees, or responsibility to direct  
20 them or to adjust their grievances, or effectively to recommend  
21 such action, if, in connection with the foregoing, the exercise of  
22 that authority is not of a merely routine or clerical nature, but  
23 requires the use of independent judgment.

24 (7) Provide the applicant’s seller’s permit number issued  
25 pursuant to Part 1 (commencing with Section 6001) of Division 2  
26 of the Revenue and Taxation Code or indicate that the applicant  
27 is currently applying for a seller’s permit.

28 (8) Provide any other information required by the licensing  
29 authority.

30 (9) For an applicant seeking a cultivation license, provide a  
31 statement declaring the applicant is an “agricultural employer,” as  
32 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural  
33 Labor Relations Act of 1975 (Part 3.5 (commencing with Section  
34 1140) of Division 2 of the Labor Code), to the extent not prohibited  
35 by law.

36 (10) For an applicant seeking licensure as a testing laboratory,  
37 register with the State Department of Public Health and provide  
38 any information required by the State Department of Public Health.

39 (11) Pay all applicable fees required for licensure by the  
40 licensing authority.

1 ~~(b) For applicants seeking licensure to cultivate, distribute, or~~  
2 ~~manufacture medical cannabis, the application shall also include~~  
3 ~~a detailed description of the applicant's operating procedures for~~  
4 ~~all of the following, as required by the licensing authority:~~

- 5 ~~(1) Cultivation.~~
- 6 ~~(2) Extraction and infusion methods.~~
- 7 ~~(3) The transportation process.~~
- 8 ~~(4) Inventory procedures.~~
- 9 ~~(5) Quality control procedures.~~

10 ~~(c) On and after July 1, 2018, an applicant with 20 or more~~  
11 ~~employees shall attest on the application that the applicant will~~  
12 ~~implement an employee training program approved by the licensing~~  
13 ~~authority within one year of licensure, pursuant to Section 19326.5.~~

14 ~~SEC. 2. Section 19323 of the Business and Professions Code~~  
15 ~~is amended to read:~~

16 ~~19323. (a) The licensing authority shall deny an application~~  
17 ~~if either the applicant or the premises for which a state license is~~  
18 ~~applied does not qualify for licensure under this chapter.~~

19 ~~(b) The licensing authority may deny the application for~~  
20 ~~licensure or renewal of a state license if any of the following~~  
21 ~~conditions apply:~~

22 ~~(1) Failure to comply with the provisions of this chapter or any~~  
23 ~~rule or regulation adopted pursuant to this chapter, including, but~~  
24 ~~not limited to, any requirement imposed to protect natural~~  
25 ~~resources, instream flow, and water quality pursuant to subdivision~~  
26 ~~(a) of Section 19332.~~

27 ~~(2) Conduct that constitutes grounds for denial of licensure~~  
28 ~~pursuant to Chapter 2 (commencing with Section 480) of Division~~  
29 ~~1.5.~~

30 ~~(3) A local agency has notified the licensing authority that a~~  
31 ~~licensee or applicant within its jurisdiction is in violation of state~~  
32 ~~rules and regulation relating to commercial cannabis activities,~~  
33 ~~and the licensing authority, through an investigation, has~~  
34 ~~determined that the violation is grounds for termination or~~  
35 ~~revocation of the license. The licensing authority shall have the~~  
36 ~~authority to collect reasonable costs, as determined by the licensing~~  
37 ~~authority, for investigation from the licensee or applicant.~~

38 ~~(4) The applicant has failed to provide information required by~~  
39 ~~the licensing authority.~~

1     ~~(5) The applicant or licensee has been convicted of an offense~~  
2     ~~that is substantially related to the qualifications, functions, or duties~~  
3     ~~of the business or profession for which the application is made,~~  
4     ~~except that if the licensing authority determines that the applicant~~  
5     ~~or licensee is otherwise suitable to be issued a license and granting~~  
6     ~~the license would not compromise public safety, the licensing~~  
7     ~~authority shall conduct a thorough review of the nature of the~~  
8     ~~crime, conviction, circumstances, and evidence of rehabilitation~~  
9     ~~of the applicant, and shall evaluate the suitability of the applicant~~  
10    ~~or licensee to be issued a license based on the evidence found~~  
11    ~~through the review. In determining which offenses are substantially~~  
12    ~~related to the qualifications, functions, or duties of the business or~~  
13    ~~profession for which the application is made, the licensing authority~~  
14    ~~shall include, but not be limited to, the following:~~

15    ~~(A) A felony conviction for the illegal possession for sale, sale,~~  
16    ~~manufacture, transportation, or cultivation of a controlled~~  
17    ~~substance.~~

18    ~~(B) A violent felony conviction, as specified in subdivision (c)~~  
19    ~~of Section 667.5 of the Penal Code.~~

20    ~~(C) A serious felony conviction, as specified in subdivision (e)~~  
21    ~~of Section 1192.7 of the Penal Code.~~

22    ~~(D) A felony conviction involving fraud, deceit, or~~  
23    ~~embezzlement.~~

24    ~~(6) The applicant, or any of its officers, directors, or owners, is~~  
25    ~~a licensed physician making patient recommendations for medical~~  
26    ~~cannabis pursuant to Section 11362.7 of the Health and Safety~~  
27    ~~Code.~~

28    ~~(7) The applicant or any of its officers, directors, or owners has~~  
29    ~~been subject to fines or penalties for cultivation or production of~~  
30    ~~a controlled substance on public or private lands pursuant to~~  
31    ~~Section 12025 or 12025.1 of the Fish and Game Code.~~

32    ~~(8) The applicant, or any of its officers, directors, or owners,~~  
33    ~~has been sanctioned by a licensing authority or a city, county, or~~  
34    ~~city and county for unlicensed commercial medical cannabis~~  
35    ~~activities or has had a license revoked under this chapter in the~~  
36    ~~three years immediately preceding the date the application is filed~~  
37    ~~with the licensing authority.~~

38    ~~(9) Failure to obtain and maintain a valid seller's permit required~~  
39    ~~pursuant to Part 1 (commencing with Section 6001) of Division 2~~  
40    ~~of the Revenue and Taxation Code.~~

1 ~~(e) On and after July 1, 2018, the licensing authority shall deny~~  
2 ~~an application of an applicant with 20 or more employees unless~~  
3 ~~the applicant attests on the application that the applicant will~~  
4 ~~implement an employee training program approved by the licensing~~  
5 ~~authority within one year of licensure, pursuant to Section 19326.5.~~

6 SEC. 3. Section 19326.5 is added to the Business and  
7 Professions Code, to read:

8 19326.5. (a) A licensee shall implement an employee training  
9 program to educate, inform, and train the licensee’s employees on  
10 compliance with this chapter. A licensee may employ or contract  
11 with a third-party provider to provide the employee training  
12 program. An employee training program shall include, but is not  
13 limited to, training on applicable statutory requirements, industry  
14 best practices, occupational health and safety standards, and  
15 workplace protections.

16 (b) (1) Each licensing authority shall adopt standards for the  
17 approval of employee training programs. Those standards shall  
18 prohibit approval of an employee training program provided by a  
19 ~~third-party provider that operates or through~~ an apprenticeship  
20 program approved by the Chief of the Division of Apprenticeship  
21 Standards.

22 (2) A licensing authority may approve a workplace training  
23 organization as a third-party provider of an employee training  
24 program. For purposes of this paragraph, a “workplace training  
25 organization” is a labor union organization representing wage  
26 earners or salaried employees for mutual aid and protection and  
27 for dealing collectively with cannabis employers. *A licensing*  
28 *authority shall not be limited to approving workplace training*  
29 *organizations as third-party providers of employee training*  
30 *programs.*

31 (c) A licensing authority shall revoke the license of any licensee  
32 with 20 or more employees that fails to implement an employee  
33 training program as required by this section within one year of  
34 ~~licensure~~ *licensure*.

35 (d) Each licensing authority shall charge a fee for approving an  
36 employee training program. Revenues collected pursuant to this  
37 subdivision shall be deposited in the appropriate fee account within  
38 the Medical Marijuana Regulation and Safety Act Fund established  
39 pursuant to Section 19350. Total fees assessed shall not exceed  
40 the reasonable regulatory costs. Each licensing authority may adjust

1 fees as needed, but no more than once per year, to generate  
2 sufficient revenue to cover the costs of employee training program  
3 approval.

4 (e) This section shall become operative on July 1, 2018.

5 SEC. 4. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

---

<b>AUTHORS:</b>	Burke Stone	<b>BILL NUMBER:</b>	AB 1306
<b>SPONSOR:</b>	California Nurse Midwives Association	<b>BILL STATUS:</b>	Senate Third reading
<b>SUBJECT:</b>	Healing arts: certified nurse- midwives: scope of practice	<b>DATE LAST AMENDED:</b>	June 30, 2016

**SUMMARY:**

1. Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The act makes the violation of any of its provisions a misdemeanor punishable upon conviction by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than \$20 nor more than \$1,000, or by both that fine and imprisonment.

2. The act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

3. The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified.

4. The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and second-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon.

**ANALYSIS:**

1. This bill would additionally require an applicant for a certificate to practice nurse-midwifery to provide evidence of current advanced level national certification by a certifying body that meets

standards established and approved by the board. This bill would also require the board to create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital and nonhospital practice settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the council to make recommendations to the board on all matters related to nurse-midwifery practice, education, and other matters specified by the board, and would require the council to meet regularly, but at least twice a year

2. This bill would delete those provisions and would instead authorize a certified nurse-midwife to manage a full range of primary health care services for women from adolescence beyond menopause, including, but not limited to, gynecologic and family planning services. The bill would authorize a certified nurse-midwife to practice in all settings, including, but not limited to, a home. This bill would declare that the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the client and the resources of the medical personnel available in the setting of care, and would provide that the practice of nurse-midwifery emphasizes informed consent, preventive care and early detection and referral of complications to a physician and surgeon. This bill would authorize a certified nurse-midwife to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated birth.

3. This bill would delete the requirement that drugs or devices are furnished or ordered in accordance with standardized procedures and protocols. The bill would authorize a certified nurse-midwife to furnish and order drugs or devices in connection with care rendered in a home, and would authorize a certified nurse-midwife to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and that are consistent with nurse-midwifery education preparation.

4. This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and second-degree lacerations of the perineum in a patient's home, and would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife to provide emergency care to a patient during times when a physician and surgeon is unavailable.

This bill would provide that a consultative relationship between a certified nurse-midwife and a physician and surgeon by itself is not a basis for finding the physician and surgeon liable for any acts or omissions on the part of the certified nurse-midwife. The bill would also update cross-references as needed.

**Amended summary and analysis as of 5/28/15:**

6. Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing law, the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed

unprofessional conduct. Existing law provides that, among other exceptions, this prohibition does not apply to a licensee who refers a person to a health facility if specified conditions are met.

This bill would include a certified nurse-midwife under the definition of a licensee for purposes of making referrals to various medically related services, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would also require the Board of Registered Nursing to review the facts and circumstances of any conviction of a certified nurse-midwife for violating that prohibition, and would require the board to take appropriate disciplinary action if the certified nurse-midwife has committed unprofessional conduct.

This bill would also prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified.

**Amended analysis as of 7/1/15:**

1. This bill would also require the board to create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital and nonhospital practice settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the council to consist of a majority of certified nurse-midwives and would require the council to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the council to meet regularly, but at least twice a year.

The bill would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.

2. This bill would authorize a certified nurse-midwife to manage a full range of gynecological and obstetric care services for women from adolescence beyond menopause, as provided. The bill would authorize a certified nurse-midwife to practice in specified settings, including, but not limited to, a home setting.

This bill would delete the provision that would authorize a certified nurse-midwife to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated birth.

6. The bill would additionally authorize a licensee to refer a person to a licensed alternative birth center, as defined, or a nationally accredited alternative birth center.

**Amended analysis as of 6/20/16:**

1. The bill would also require the board to create and appoint a Nurse-Midwifery Advisory Committee consisting of certified nurse-midwives in good standing with experience in hospital settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, 2 qualified physicians, and a consumer of midwifery care. This bill would require the committee to consist of a majority of certified nurse-midwives and would require the committee to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the committee to meet regularly, but at least twice a year.

2. The bill would authorize a certified nurse-midwife to practice in certain settings, including, but not limited to, a home setting, as specified.

**Amended summary and analysis as of 6/30:**

1. This bill would now delete the provisions that prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified and that would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.

2. The bill would authorize a certified nurse-midwife to practice under that gynecological and obstetric care services authorization without supervision of a physician and surgeon in certain settings, including, but not limited to, a home setting, as specified. The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a certified nurse-midwife, as specified.

This bill renumbers 6. as 7., and adds as a new 6.:

Existing law provides prescribed protection against retaliation for health care practitioners who advocate for appropriate health care for their patients. Existing law defines “health care practitioner” for those purposes to mean a person who engages in acts that are the subject of licensure or regulation under specific law or initiative act and who is either a licentiate, as defined, a party to a contract with a payer whose decision, policy, or practice is subject to such advocacy, or an individual designated in a contract with a payer whose decision, policy, or practice is subject to such advocacy, where the individual is granted the right to appeal denials of payment or authorization for treatment under the contract.

This bill would expand that protection against retaliation to certified nurse-midwives.

**BOARD POSITION:** Support if amended (11/5/15)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:**

**SUPPORT:**

California Nurse Midwives Association (sponsor)

AARP

Access Women’s Health Justice

For the 7/1/15 version:

American Association of Birth Centers

American Nurses Association/California

Association of California Healthcare Districts

Beachside Birth Center

Beach Cities Midwifery & Women’s Health Care

Black Women for Wellness

California Association of Midwives

California Association of Nurse Anesthetists

Center on Reproductive Rights and Justice at the

University of California, Berkeley, School of Law

County of Santa Cruz Board of Supervisors  
Inland Midwife Service  
Maternal and Child Health Access  
South Coast Midwifery & Women's Healthcare, Inc.  
United Nurses Associations of California/Union of Health Care  
Professionals  
Numerous individuals

**OPPOSE:**

Adventist Health  
California Association for Nurse Practitioners  
California Hospital Association  
Sutter Health

For the 7/1/15 version:

California Association of Clinical Nurse Specialists  
California Hospital Association  
Cedars-Sinai  
Coalinga Regional Medical Center  
Community Hospital of the Monterey Peninsula  
Corona Regional Medical Center  
El Camino Hospital  
Henry Mayo Newhall Hospital  
Lodi Health  
Loma Linda University Health  
Lompoc Valley Medical Center  
Mammoth Hospital  
Medical Board of California  
Natividad Medical Center  
Ridgecrest Regional Hospital  
San Antonio Regional Hospital  
San Benito Health Care District  
San Geronio Memorial Hospital  
Sharp Healthcare  
St. Helena Hospital Napa Valley  
Watsonville Community Hospital

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN SENATE JULY 1, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1306**

---

---

**Introduced by Assembly Member Burke  
(Coauthor: Assembly Member Mark Stone)**

February 27, 2015

---

---

An act to amend Sections 510, 650.01, 650.02, 2725.1, 2746.2, 2746.5, 2746.51, 2746.52, 4061, 4076, and 4170 of, and to add Section 2746.6 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as amended, Burke. Healing arts: certified nurse-midwives: scope of practice.

(1) Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The act makes the violation of any of its provisions a misdemeanor punishable upon conviction by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than \$20 nor more than \$1,000, or by both that fine and imprisonment.

This bill would additionally require an applicant for a certificate to practice nurse-midwifery to provide evidence of current advanced level

national certification by a certifying body that meets standards established and approved by the board. The bill would also require the board to create and appoint a Nurse-Midwifery Advisory Committee consisting of certified nurse-midwives in good standing with experience in hospital settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, 2 qualified physicians, and a consumer of midwifery care. ~~This~~ *The* bill would require the committee to consist of a majority of certified nurse-midwives and would require the committee to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the committee to meet regularly, but at least twice a year. ~~This bill would prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified. The bill would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.~~

(2) The act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

This bill would delete those provisions and would instead authorize a certified nurse-midwife to manage a full range of gynecological and obstetric care services for women from adolescence beyond menopause, as provided. The bill would authorize a certified nurse-midwife to practice *under that gynecological and obstetric care services authorization without supervision of a physician and surgeon* in certain settings, including, but not limited to, a home setting, as specified. ~~This~~ *The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a certified nurse-midwife, as specified.* The bill would declare that the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the client and the resources of the medical personnel available in the setting of care, and would provide that the practice of

nurse-midwifery emphasizes informed consent, preventive care, and early detection and referral of complications to a physician and surgeon.

(3) The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified.

This bill would delete the requirement that drugs or devices are furnished or ordered in accordance with standardized procedures and protocols. The bill would authorize a certified nurse-midwife to furnish and order drugs or devices in connection with care rendered in a home, and would authorize a certified nurse-midwife to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and that are consistent with nurse-midwifery education preparation.

(4) The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon.

This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a home, and would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife to provide emergency care to a patient during times when a physician and surgeon is unavailable.

This bill would provide that a consultative relationship between a certified nurse-midwife and a physician and surgeon by ~~it self~~ *itself* is not a basis for finding the physician and surgeon liable for any acts or omissions on the part of the certified nurse-midwife. The bill would also update cross-references as needed.

(5) Because the act makes a violation of any of its provisions a misdemeanor, this bill would expand the scope of an existing crime and therefore this bill would impose a state-mandated local program.

*(6) Existing law provides prescribed protection against retaliation for health care practitioners who advocate for appropriate health care for their patients. Existing law defines “health care practitioner” for those purposes to mean a person who engages in acts that are the subject of licensure or regulation under specific law or initiative act and who is either a licentiate, as defined, a party to a contract with a payer whose decision, policy, or practice is subject to such advocacy, or an individual designated in a contract with a payer whose decision, policy, or practice is subject to such advocacy, where the individual is granted the right to appeal denials of payment or authorization for treatment under the contract.*

*This bill would expand that protection against retaliation to certified nurse-midwives.*

~~(6)~~

(7) Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing law, the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed unprofessional conduct. Existing law provides that, among other exceptions, this prohibition does not apply to a licensee who refers a person to a health facility if specified conditions are met.

This bill would include a certified nurse-midwife under the definition of a licensee, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would require the Board of Registered Nursing to review the facts and circumstances of any conviction of a certified nurse-midwife for violating that prohibition, and would require the board to take appropriate disciplinary action if the certified nurse-midwife has committed unprofessional conduct. The bill would additionally authorize a licensee to refer a person to a licensed alternative birth center, as defined, or a nationally accredited alternative birth center.

~~(7)~~

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

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

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

State-mandated local program: yes.

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

1     SECTION 1. Section 510 of the Business and Professions Code  
2 is amended to read:

3     510. (a) The purpose of this section is to provide protection  
4 against retaliation for health care practitioners who advocate for  
5 appropriate health care for their patients pursuant to Wickline v.  
6 State of California 192 Cal. App. 3d 1630.

7     (b) It is the public policy of the State of California that a health  
8 care practitioner be encouraged to advocate for appropriate health  
9 care for his or her patients. For purposes of this section, “to  
10 advocate for appropriate health care” means to appeal a payer’s  
11 decision to deny payment for a service pursuant to the reasonable  
12 grievance or appeal procedure established by a medical group,  
13 independent practice association, preferred provider organization,  
14 foundation, hospital medical staff and governing body, or payer,  
15 or to protest a decision, policy, or practice that the health care  
16 practitioner, consistent with that degree of learning and skill  
17 ordinarily possessed by reputable health care practitioners with  
18 the same license or certification and practicing according to the  
19 applicable legal standard of care, reasonably believes impairs the  
20 health care practitioner’s ability to provide appropriate health care  
21 to his or her patients.

22     (c) The application and rendering by any individual, partnership,  
23 corporation, or other organization of a decision to terminate an  
24 employment or other contractual relationship with or otherwise  
25 penalize a health care practitioner principally for advocating for  
26 appropriate health care consistent with that degree of learning and  
27 skill ordinarily possessed by reputable health care practitioners  
28 with the same license or certification and practicing according to  
29 the applicable legal standard of care violates the public policy of  
30 this state.

1 (d) This section shall not be construed to prohibit a payer from  
2 making a determination not to pay for a particular medical  
3 treatment or service, or the services of a type of health care  
4 practitioner, or to prohibit a medical group, independent practice  
5 association, preferred provider organization, foundation, hospital  
6 medical staff, hospital governing body acting pursuant to Section  
7 809.05, or payer from enforcing reasonable peer review or  
8 utilization review protocols or determining whether a health care  
9 practitioner has complied with those protocols.

10 (e) (1) Except as provided in paragraph (2), appropriate health  
11 care in a hospital licensed pursuant to Section 1250 of the Health  
12 and Safety Code shall be defined by the appropriate hospital  
13 committee and approved by the hospital medical staff and the  
14 governing body, consistent with that degree of learning and skill  
15 ordinarily possessed by reputable health care practitioners with  
16 the same license or certification and practicing according to the  
17 applicable legal standard of care.

18 (2) To the extent the issue is under the jurisdiction of the medical  
19 staff and its committees, appropriate health care in a hospital  
20 licensed pursuant to Section 1250 of the Health and Safety Code  
21 shall be defined by the hospital medical staff and approved by the  
22 governing body, consistent with that degree of learning and skill  
23 ordinarily possessed by reputable health care practitioners with  
24 the same license or certification and practicing according to the  
25 applicable legal standard of care.

26 (f) Nothing in this section shall be construed to prohibit the  
27 governing body of a hospital from taking disciplinary actions  
28 against a health care practitioner as authorized by Sections 809.05,  
29 809.4, and 809.5.

30 (g) Nothing in this section shall be construed to prohibit the  
31 appropriate licensing authority from taking disciplinary actions  
32 against a health care practitioner.

33 (h) For purposes of this section, “health care practitioner” means  
34 *either* a person who is described in subdivision (f) of Section 900  
35 and who is either (1) a licentiate as defined in Section 805, or (2)  
36 a party to a contract with a payer whose decision, policy, or practice  
37 is subject to the advocacy described in subdivision (b), or (3) an  
38 individual designated in a contract with a payer whose decision,  
39 policy, or practice is subject to the advocacy described in  
40 subdivision (b), where the individual is granted the right to appeal

1 denials of payment or authorization for treatment under the  
2 ~~contract.~~ *contract, or a person who is described in Section 2746.2.*

3 (i) Nothing in this section shall be construed to revise or expand  
4 the scope of practice of any health care practitioner, or to revise  
5 or expand the types of health care practitioners who are authorized  
6 to obtain medical staff privileges or to submit claims for  
7 reimbursement to payers.

8 (j) The protections afforded health care practitioners by this  
9 section shall be in addition to the protections available under any  
10 other law of this state.

11 **SECTION 1.**

12 *SEC. 2.* Section 650.01 of the Business and Professions Code  
13 is amended to read:

14 650.01. (a) Notwithstanding Section 650, or any other law, it  
15 is unlawful for a licensee to refer a person for laboratory, diagnostic  
16 nuclear medicine, radiation oncology, physical therapy, physical  
17 rehabilitation, psychometric testing, home infusion therapy, or  
18 diagnostic imaging goods or services if the licensee or his or her  
19 immediate family has a financial interest with the person or in the  
20 entity that receives the referral.

21 (b) For purposes of this section and Section 650.02, the  
22 following shall apply:

23 (1) “Diagnostic imaging” includes, but is not limited to, all  
24 X-ray, computed axial tomography, magnetic resonance imaging  
25 nuclear medicine, positron emission tomography, mammography,  
26 and ultrasound goods and services.

27 (2) A “financial interest” includes, but is not limited to, any  
28 type of ownership interest, debt, loan, lease, compensation,  
29 remuneration, discount, rebate, refund, dividend, distribution,  
30 subsidy, or other form of direct or indirect payment, whether in  
31 money or otherwise, between a licensee and a person or entity to  
32 whom the licensee refers a person for a good or service specified  
33 in subdivision (a). A financial interest also exists if there is an  
34 indirect financial relationship between a licensee and the referral  
35 recipient including, but not limited to, an arrangement whereby a  
36 licensee has an ownership interest in an entity that leases property  
37 to the referral recipient. Any financial interest transferred by a  
38 licensee to any person or entity or otherwise established in any  
39 person or entity for the purpose of avoiding the prohibition of this  
40 section shall be deemed a financial interest of the licensee. For

1 purposes of this paragraph, “direct or indirect payment” shall not  
2 include a royalty or consulting fee received by a physician and  
3 surgeon who has completed a recognized residency training  
4 program in orthopedics from a manufacturer or distributor as a  
5 result of his or her research and development of medical devices  
6 and techniques for that manufacturer or distributor. For purposes  
7 of this paragraph, “consulting fees” means those fees paid by the  
8 manufacturer or distributor to a physician and surgeon who has  
9 completed a recognized residency training program in orthopedics  
10 only for his or her ongoing services in making refinements to his  
11 or her medical devices or techniques marketed or distributed by  
12 the manufacturer or distributor, if the manufacturer or distributor  
13 does not own or control the facility to which the physician is  
14 referring the patient. A “financial interest” shall not include the  
15 receipt of capitation payments or other fixed amounts that are  
16 prepaid in exchange for a promise of a licensee to provide specified  
17 health care services to specified beneficiaries. A “financial interest”  
18 shall not include the receipt of remuneration by a medical director  
19 of a hospice, as defined in Section 1746 of the Health and Safety  
20 Code, for specified services if the arrangement is set out in writing,  
21 and specifies all services to be provided by the medical director,  
22 the term of the arrangement is for at least one year, and the  
23 compensation to be paid over the term of the arrangement is set  
24 in advance, does not exceed fair market value, and is not  
25 determined in a manner that takes into account the volume or value  
26 of any referrals or other business generated between parties.

27 (3) For the purposes of this section, “immediate family” includes  
28 the spouse and children of the licensee, the parents of the licensee,  
29 and the spouses of the children of the licensee.

30 (4) “Licensee” means a physician as defined in Section 3209.3  
31 of the Labor Code, and a certified nurse-midwife as defined in  
32 Article 2.5 (commencing with Section 2746) of Chapter 6 of  
33 Division 2 of the Business and Professions Code.

34 (5) “Licensee’s office” means either of the following:

35 (A) An office of a licensee in solo practice.

36 (B) An office in which services or goods are personally provided  
37 by the licensee or by employees in that office, or personally by  
38 independent contractors in that office, in accordance with other  
39 provisions of law. Employees and independent contractors shall

1 be licensed or certified when licensure or certification is required  
2 by law.

3 (6) “Office of a group practice” means an office or offices in  
4 which two or more licensees are legally organized as a partnership,  
5 professional corporation, or not-for-profit corporation, licensed  
6 pursuant to subdivision (a) of Section 1204 of the Health and Safety  
7 Code, for which all of the following apply:

8 (A) Each licensee who is a member of the group provides  
9 substantially the full range of services that the licensee routinely  
10 provides, including medical care, consultation, diagnosis, or  
11 treatment through the joint use of shared office space, facilities,  
12 equipment, and personnel.

13 (B) Substantially all of the services of the licensees who are  
14 members of the group are provided through the group and are  
15 billed in the name of the group and amounts so received are treated  
16 as receipts of the group, except in the case of a multispecialty  
17 clinic, as defined in subdivision (l) of Section 1206 of the Health  
18 and Safety Code, physician services are billed in the name of the  
19 multispecialty clinic and amounts so received are treated as receipts  
20 of the multispecialty clinic.

21 (C) The overhead expenses of, and the income from, the practice  
22 are distributed in accordance with methods previously determined  
23 by members of the group.

24 (c) It is unlawful for a licensee to enter into an arrangement or  
25 scheme, such as a cross-referral arrangement, that the licensee  
26 knows, or should know, has a principal purpose of ensuring  
27 referrals by the licensee to a particular entity that, if the licensee  
28 directly made referrals to that entity, would be in violation of this  
29 section.

30 (d) No claim for payment shall be presented by an entity to any  
31 individual, third party payer, or other entity for a good or service  
32 furnished pursuant to a referral prohibited under this section.

33 (e) No insurer, self-insurer, or other payer shall pay a charge or  
34 lien for any good or service resulting from a referral in violation  
35 of this section.

36 (f) A licensee who refers a person to, or seeks consultation from,  
37 an organization in which the licensee has a financial interest, other  
38 than as prohibited by subdivision (a), shall disclose the financial  
39 interest to the patient, or the parent or legal guardian of the patient,  
40 in writing, at the time of the referral or request for consultation.

1 (1) If a referral, billing, or other solicitation is between one or  
2 more licensees who contract with a multispecialty clinic pursuant  
3 to subdivision (l) of Section 1206 of the Health and Safety Code  
4 or who conduct their practice as members of the same professional  
5 corporation or partnership, and the services are rendered on the  
6 same physical premises, or under the same professional corporation  
7 or partnership name, the requirements of this subdivision may be  
8 met by posting a conspicuous disclosure statement at the  
9 registration area or by providing a patient with a written disclosure  
10 statement.

11 (2) If a licensee is under contract with the Department of  
12 Corrections or the California Youth Authority, and the patient is  
13 an inmate or parolee of either respective department, the  
14 requirements of this subdivision shall be satisfied by disclosing  
15 financial interests to either the Department of Corrections or the  
16 California Youth Authority.

17 (g) A violation of subdivision (a) shall be a misdemeanor. In  
18 the case of a licensee who is a physician, the Medical Board of  
19 California shall review the facts and circumstances of any  
20 conviction pursuant to subdivision (a) and take appropriate  
21 disciplinary action if the licensee has committed unprofessional  
22 conduct. In the case of a licensee who is a certified nurse-midwife,  
23 the Board of Registered Nursing shall review the facts and  
24 circumstances of any conviction pursuant to subdivision (a) and  
25 take appropriate disciplinary action if the licensee has committed  
26 unprofessional conduct. Violations of this section may also be  
27 subject to civil penalties of up to five thousand dollars (\$5,000)  
28 for each offense, which may be enforced by the Insurance  
29 Commissioner, Attorney General, or a district attorney. A violation  
30 of subdivision (c), (d), or (e) is a public offense and is punishable  
31 upon conviction by a fine not exceeding fifteen thousand dollars  
32 (\$15,000) for each violation and appropriate disciplinary action,  
33 including revocation of professional licensure, by the Medical  
34 Board of California, the Board of Registered Nursing, or other  
35 appropriate governmental agency.

36 (h) This section shall not apply to referrals for services that are  
37 described in and covered by Sections 139.3 and 139.31 of the  
38 Labor Code.

39 (i) This section shall become operative on January 1, 1995.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 650.02 of the Business and Professions Code  
3 is amended to read:

4 650.02. The prohibition of Section 650.01 shall not apply to  
5 or restrict any of the following:

6 (a) A licensee may refer a patient for a good or service otherwise  
7 prohibited by subdivision (a) of Section 650.01 if the licensee's  
8 regular practice is located where there is no alternative provider  
9 of the service within either 25 miles or 40 minutes traveling time,  
10 via the shortest route on a paved road. If an alternative provider  
11 commences furnishing the good or service for which a patient was  
12 referred pursuant to this subdivision, the licensee shall cease  
13 referrals under this subdivision within six months of the time at  
14 which the licensee knew or should have known that the alternative  
15 provider is furnishing the good or service. A licensee who refers  
16 to or seeks consultation from an organization in which the licensee  
17 has a financial interest under this subdivision shall disclose this  
18 interest to the patient or the patient's parents or legal guardian in  
19 writing at the time of referral.

20 (b) A licensee, when the licensee or his or her immediate family  
21 has one or more of the following arrangements with another  
22 licensee, a person, or an entity, is not prohibited from referring a  
23 patient to the licensee, person, or entity because of the arrangement:

24 (1) A loan between a licensee and the recipient of the referral,  
25 if the loan has commercially reasonable terms, bears interest at  
26 the prime rate or a higher rate that does not constitute usury, is  
27 adequately secured, and the loan terms are not affected by either  
28 party's referral of any person or the volume of services provided  
29 by either party.

30 (2) A lease of space or equipment between a licensee and the  
31 recipient of the referral, if the lease is written, has commercially  
32 reasonable terms, has a fixed periodic rent payment, has a term of  
33 one year or more, and the lease payments are not affected by either  
34 party's referral of any person or the volume of services provided  
35 by either party.

36 (3) Ownership of corporate investment securities, including  
37 shares, bonds, or other debt instruments that may be purchased on  
38 terms generally available to the public and that are traded on a  
39 licensed securities exchange or NASDAQ, do not base profit  
40 distributions or other transfers of value on the licensee's referral

1 of persons to the corporation, do not have a separate class or  
2 accounting for any persons or for any licensees who may refer  
3 persons to the corporation, and are in a corporation that had, at the  
4 end of the corporation’s most recent fiscal year, or on average  
5 during the previous three fiscal years, stockholder equity exceeding  
6 seventy-five million dollars (\$75,000,000).

7 (4) Ownership of shares in a regulated investment company as  
8 defined in Section 851(a) of the federal Internal Revenue Code, if  
9 the company had, at the end of the company’s most recent fiscal  
10 year, or on average during the previous three fiscal years, total  
11 assets exceeding seventy-five million dollars (\$75,000,000).

12 (5) A one-time sale or transfer of a practice or property or other  
13 financial interest between a licensee and the recipient of the referral  
14 if the sale or transfer is for commercially reasonable terms and the  
15 consideration is not affected by either party’s referral of any person  
16 or the volume of services provided by either party.

17 (6) A personal services arrangement between a licensee or an  
18 immediate family member of the licensee and the recipient of the  
19 referral if the arrangement meets all of the following requirements:

20 (A) It is set out in writing and is signed by the parties.

21 (B) It specifies all of the services to be provided by the licensee  
22 or an immediate family member of the licensee.

23 (C) The aggregate services contracted for do not exceed those  
24 that are reasonable and necessary for the legitimate business  
25 purposes of the arrangement.

26 (D) A person who is referred by a licensee or an immediate  
27 family member of the licensee is informed in writing of the  
28 personal services arrangement that includes information on where  
29 a person may go to file a complaint against the licensee or the  
30 immediate family member of the licensee.

31 (E) The term of the arrangement is for at least one year.

32 (F) The compensation to be paid over the term of the  
33 arrangement is set in advance, does not exceed fair market value,  
34 and is not determined in a manner that takes into account the  
35 volume or value of any referrals or other business generated  
36 between the parties.

37 (G) The services to be performed under the arrangement do not  
38 involve the counseling or promotion of a business arrangement or  
39 other activity that violates any state or federal law.

1 (c) (1) A licensee may refer a person to a health facility, as  
2 defined in Section 1250 of the Health and Safety Code, a licensed  
3 alternative birth center, as defined in paragraph (4) of subdivision  
4 (b) of Section 1204 of the Health and Safety Code, or to any  
5 facility, or nationally accredited alternative birth center, owned or  
6 leased by a health facility, if the recipient of the referral does not  
7 compensate the licensee for the patient referral, and any equipment  
8 lease arrangement between the licensee and the referral recipient  
9 complies with the requirements of paragraph (2) of subdivision  
10 (b).

11 (2) Nothing shall preclude this subdivision from applying to a  
12 licensee solely because the licensee has an ownership or leasehold  
13 interest in an entire health facility or an entity that owns or leases  
14 an entire health facility.

15 (3) A licensee may refer a person to a health facility for any  
16 service classified as an emergency under subdivision (a) or (b) of  
17 Section 1317.1 of the Health and Safety Code.

18 (4) A licensee may refer a person to any organization that owns  
19 or leases a health facility licensed pursuant to subdivision (a), (b),  
20 or (f) of Section 1250 of the Health and Safety Code if the licensee  
21 is not compensated for the patient referral, the licensee does not  
22 receive any payment from the recipient of the referral that is based  
23 or determined on the number or value of any patient referrals, and  
24 any equipment lease arrangement between the licensee and the  
25 referral recipient complies with the requirements of paragraph (2)  
26 of subdivision (b). For purposes of this paragraph, the ownership  
27 may be through stock or membership, and may be represented by  
28 a parent holding company that solely owns or controls both the  
29 health facility organization and the affiliated organization.

30 (d) A licensee may refer a person to a nonprofit corporation that  
31 provides physician services pursuant to subdivision (l) of Section  
32 1206 of the Health and Safety Code if the nonprofit corporation  
33 is controlled through membership by one or more health facilities  
34 or health facility systems and the amount of compensation or other  
35 transfer of funds from the health facility or nonprofit corporation  
36 to the licensee is fixed annually, except for adjustments caused by  
37 physicians joining or leaving the groups during the year, and is  
38 not based on the number of persons utilizing goods or services  
39 specified in Section 650.01.

1 (e) A licensee compensated or employed by a university may  
2 refer a person for a physician service, to any facility owned or  
3 operated by the university, or to another licensee employed by the  
4 university, provided that the facility or university does not  
5 compensate the referring licensee for the patient referral. In the  
6 case of a facility that is totally or partially owned by an entity other  
7 than the university, but that is staffed by university physicians,  
8 those physicians may not refer patients to the facility if the facility  
9 compensates the referring physicians for those referrals.

10 (f) The prohibition of Section 650.01 shall not apply to any  
11 service for a specific patient that is performed within, or goods  
12 that are supplied by, a licensee's office, or the office of a group  
13 practice. Further, the provisions of Section 650.01 shall not alter,  
14 limit, or expand a licensee's ability to deliver, or to direct or  
15 supervise the delivery of, in-office goods or services according to  
16 the laws, rules, and regulations governing his or her scope of  
17 practice.

18 (g) The prohibition of Section 650.01 shall not apply to cardiac  
19 rehabilitation services provided by a licensee or by a suitably  
20 trained individual under the direct or general supervision of a  
21 licensee, if the services are provided to patients meeting the criteria  
22 for Medicare reimbursement for the services.

23 (h) The prohibition of Section 650.01 shall not apply if a licensee  
24 is in the office of a group practice and refers a person for services  
25 or goods specified in Section 650.01 to a multispecialty clinic, as  
26 defined in subdivision (l) of Section 1206 of the Health and Safety  
27 Code.

28 (i) The prohibition of Section 650.01 shall not apply to health  
29 care services provided to an enrollee of a health care service plan  
30 licensed pursuant to the Knox-Keene Health Care Service Plan  
31 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of  
32 Division 2 of the Health and Safety Code).

33 (j) The prohibition of Section 650.01 shall not apply to a request  
34 by a pathologist for clinical diagnostic laboratory tests and  
35 pathological examination services, a request by a radiologist for  
36 diagnostic radiology services, or a request by a radiation oncologist  
37 for radiation therapy if those services are furnished by, or under  
38 the supervision of, the pathologist, radiologist, or radiation  
39 oncologist pursuant to a consultation requested by another  
40 physician.

1 (k) This section shall not apply to referrals for services that are  
2 described in and covered by Sections 139.3 and 139.31 of the  
3 Labor Code.

4 (l) This section shall become operative on January 1, 1995.

5 ~~SEC. 3.~~

6 *SEC. 4.* Section 2725.1 of the Business and Professions Code  
7 is amended to read:

8 2725.1. (a) Notwithstanding any other law, a registered nurse  
9 may dispense drugs or devices upon an order by a licensed  
10 physician and surgeon or an order by a certified nurse-midwife,  
11 nurse practitioner, or physician assistant issued pursuant to Section  
12 2746.51, 2836.1, or 3502.1, respectively, if the registered nurse is  
13 functioning within a licensed primary care clinic as defined in  
14 subdivision (a) of Section 1204 of, or within a clinic as defined in  
15 subdivision (b), (c), (h), or (j) of Section 1206 of, the Health and  
16 Safety Code.

17 (b) No clinic shall employ a registered nurse to perform  
18 dispensing duties exclusively. No registered nurse shall dispense  
19 drugs in a pharmacy, keep a pharmacy, open shop, or drugstore  
20 for the retailing of drugs or poisons. No registered nurse shall  
21 compound drugs. Dispensing of drugs by a registered nurse, except  
22 a certified nurse-midwife who functions pursuant to Section  
23 2746.51 or a nurse practitioner who functions pursuant to a  
24 standardized procedure described in Section 2836.1, or protocol,  
25 shall not include substances included in the California Uniform  
26 Controlled Substances Act (Division 10 (commencing with Section  
27 11000) of the Health and Safety Code). Nothing in this section  
28 shall exempt a clinic from the provisions of Article 13  
29 (commencing with Section 4180) of Chapter 9.

30 (c) This section shall not be construed to limit any other  
31 authority granted to a certified nurse-midwife pursuant to Article  
32 2.5 (commencing with Section 2746), to a nurse practitioner  
33 pursuant to Article 8 (commencing with Section 2834), or to a  
34 physician assistant pursuant to Chapter 7.7 (commencing with  
35 Section 3500).

36 (d) This section shall not be construed to affect the sites or types  
37 of health care facilities at which drugs or devices are authorized  
38 to be dispensed pursuant to Chapter 9 (commencing with Section  
39 4000).

1     ~~SEC. 4.~~

2     ~~SEC. 5.~~ Section 2746.2 of the Business and Professions Code  
3 is amended to read:

4     2746.2. (a) Each applicant shall show by evidence satisfactory  
5 to the board that he or she has met the educational standards  
6 established by the board or has at least the equivalent thereof,  
7 including evidence of current advanced level national certification  
8 by a certifying body that meets standards established and approved  
9 by the board.

10    (b) The board shall create and appoint a Nurse-Midwifery  
11 Advisory Committee consisting of certified nurse-midwives in  
12 good standing with experience in hospital settings, alternative birth  
13 center settings, and home settings, a nurse-midwife educator who  
14 has demonstrated familiarity with educational standards in the  
15 delivery of maternal-child health care, a consumer of midwifery  
16 care, and at least two qualified physicians, including an obstetrician  
17 that has experience working with nurse-midwives. The committee  
18 membership shall consist of a majority of certified nurse-midwives  
19 and shall make recommendations to the board on all matters related  
20 to nurse-midwifery practice, education, and other matters as  
21 specified by the board. The committee shall meet regularly, but at  
22 least twice a year.

23    ~~(c) Corporations and other artificial legal entities shall have no~~  
24 ~~professional rights, privileges, or powers. However, the Board of~~  
25 ~~Registered Nursing may in its discretion, after such investigation~~  
26 ~~and review of such documentary evidence as it may require, and~~  
27 ~~under regulations adopted by it, grant approval of the employment~~  
28 ~~of licensees on a salary basis by licensed charitable institutions,~~  
29 ~~foundations, or clinics, if no charge for professional services~~  
30 ~~rendered patients is made by any such institution, foundation, or~~  
31 ~~clinic.~~

32    ~~(d) Notwithstanding subdivision (c), the following entities may~~  
33 ~~employ a certified nurse-midwife and charge for professional~~  
34 ~~services rendered by a certified nurse-midwife; however, the entity~~  
35 ~~shall not interfere with, control, or otherwise direct the professional~~  
36 ~~judgment of a certified nurse-midwife:~~

37    ~~(1) A clinic operated under subdivision (h) or (p) of Section~~  
38 ~~1206 of the Health and Safety Code.~~

1 ~~(2) A hospital owned and operated by a health care district~~  
2 ~~pursuant to Division 23 (commencing with Section 32000) of the~~  
3 ~~Health and Safety Code.~~

4 ~~(3) A clinic operated primarily for the purpose of medical~~  
5 ~~education or nursing education by a public or private nonprofit~~  
6 ~~university medical school, which is approved by the Medical Board~~  
7 ~~or the Osteopathic Medical Board of California, provided the~~  
8 ~~certified nurse-midwife holds an academic appointment on the~~  
9 ~~faculty of the university, including, but not limited to, the~~  
10 ~~University of California medical schools and hospitals.~~

11 ~~(4) A licensed alternative birth center, as defined in paragraph~~  
12 ~~(4) of subdivision (b) of Section 1204 of the Health and Safety~~  
13 ~~Code, or a nationally accredited alternative birth center owned or~~  
14 ~~operated by a nursing corporation, as defined in Section 2775 of~~  
15 ~~the Business and Professions Code.~~

16 ~~(5) A health facility described in Section 1250 of the Health~~  
17 ~~and Safety Code if the certified nurse-midwife is practicing under~~  
18 ~~the supervision of a physician and surgeon.~~

19 ~~(6) A clinic operated under subdivision (a) of Section 1204 of~~  
20 ~~the Health and Safety code.~~

21 ~~(e) As used in this section, supervision shall not be construed~~  
22 ~~to require the physical presence of a supervising physician and~~  
23 ~~surgeon. A facility described in paragraphs (1) to (4), inclusive,~~  
24 ~~of subdivision (d) that employs a certified nurse-midwife shall not~~  
25 ~~require supervision by a physician and surgeon of the~~  
26 ~~certified nurse-midwife.~~

27 ~~SEC. 5.~~

28 *SEC. 6.* Section 2746.5 of the Business and Professions Code  
29 is amended to read:

30 2746.5. (a) The certificate to practice nurse-midwifery  
31 authorizes the holder to manage a full range of primary  
32 gynecological and obstetric care services for women from  
33 adolescence to beyond menopause, consistent with the Core  
34 Competencies for Basic Midwifery practice promulgated by the  
35 American College of Nurse-Midwives, or its successor national  
36 professional organization, as approved by the board. These services  
37 include, but are not limited to, primary health care, gynecologic  
38 and family planning services, preconception care, care during  
39 pregnancy, childbirth, and the postpartum period, immediate care  
40 of the newborn, and treatment of male partners for sexually

1 transmitted infections, utilizing consultation, collaboration, or  
2 referral to appropriate levels of health care services, as indicated.

3 (b) A certified nurse-midwife may practice *under this section*  
4 *without supervision of a physician and surgeon* in the following  
5 settings:

6 (1) A licensed clinic as described in Chapter 1 (commencing  
7 with Section 1200) of Division 2 of the Health and Safety Code.

8 (2) A facility as described in Chapter 2 (commencing with  
9 Section 1250) of Division 2 of the Health and Safety Code.

10 (3) A facility as described in Chapter 2.5 (commencing with  
11 Section 1440) of Division 2 of the Health and Safety Code.

12 (4) A medical group practice, including a professional medical  
13 corporation, a medical partnership, a medical foundation exempt  
14 from licensure pursuant to Section 1206 of the Health and Safety  
15 Code, or another lawfully organized group of physicians that  
16 delivers, furnishes, or otherwise arranges for or provides health  
17 care services.

18 (5) A licensed alternative birth center, as described in Section  
19 1204 of the Health and Safety Code, or nationally accredited birth  
20 center.

21 (6) A nursing corporation, as defined in Section 2775 of the  
22 Business and Professions Code.

23 (7) A home setting.

24 (A) Except as provided in subparagraph (B), a certified  
25 nurse-midwife shall only attend during normal, low-risk pregnancy  
26 and childbirth in the home setting when all of the following  
27 conditions apply:

28 (i) There is the absence of all of the following:

29 (I) Any preexisting maternal disease or condition creating risks  
30 beyond that of a normal, low-risk pregnancy or birth, as defined  
31 in the American College of Nurse-Midwives' standard-setting  
32 documents and any future changes to those documents.

33 (II) Disease arising from or during the pregnancy creating risks  
34 beyond that of a normal, low-risk pregnancy or birth, as defined  
35 in the American College of Nurse-Midwives' standard-setting  
36 documents and any future changes to those documents.

37 (III) Prior caesarean delivery.

38 (ii) There is a singleton fetus.

39 (iii) There is cephalic presentation at the onset of labor.

1 (iv) The gestational age of the fetus is greater than 370/7 weeks  
2 and less than 420/7 completed weeks of pregnancy at the onset of  
3 labor.

4 (v) Labor is spontaneous or induced in an outpatient setting.

5 (B) If a potential certified nurse-midwife client meets the  
6 conditions specified in subclauses (I) and (II) of clause (i) and  
7 clauses (ii) to (v), inclusive, of subparagraph (A), but fails to meet  
8 the condition specified in subclause (III) of clause (i) of  
9 subparagraph (A), and the woman still desires to be a client of the  
10 certified nurse-midwife, the certified nurse-midwife shall provide  
11 the woman with a referral for an examination by a physician and  
12 surgeon trained in obstetrics and gynecology. A certified  
13 nurse-midwife may assist the woman in pregnancy and childbirth  
14 only if an examination by a physician and surgeon trained in  
15 obstetrics and gynecology is obtained and, based upon review of  
16 the client's medical file, the certified nurse-midwife determines  
17 that the risk factors presented by the woman's condition do not  
18 increase the woman's risk beyond that of a normal, low-risk  
19 pregnancy and birth. The certified nurse-midwife may continue  
20 care of the client during a reasonable interval between the referral  
21 and the initial appointment with the physician and surgeon.

22 (c) *An entity described in subdivision (b) shall not interfere*  
23 *with, control, or otherwise direct the professional judgment of a*  
24 *certified nurse-midwife functioning pursuant to this section in a*  
25 *manner prohibited by Section 510 or any other law.*

26 (e)

27 (d) As used in this chapter, the practice of nurse-midwifery  
28 within a health care system provides for consultation, collaboration,  
29 or referral as indicated by the health status of the patient and the  
30 resources and medical personnel available in the setting of care.  
31 The practice of nurse-midwifery care emphasizes informed consent,  
32 preventive care, and early detection and referral of complications  
33 to physicians and surgeons. While practicing in a hospital setting,  
34 the certified nurse-midwife shall collaboratively care for women  
35 with more complex health needs.

36 (d)

37 (e) A certified nurse-midwife practicing under subdivision (a)  
38 shall be subject to all credentialing and quality standards held by  
39 the facility in which he or she practices. The peer review body  
40 shall include nurse-midwives as part of the peer review body that

1 reviews nurse-midwives. The peer review body of that facility  
2 shall impose standards that ensure quality and patient safety in  
3 their facility. The standards shall be approved by the relevant  
4 governing body unless found by a court to be arbitrary and  
5 capricious.

6 ~~(e)~~

7 (f) The practice of nurse-midwifery does not include the assisting  
8 of childbirth by any forcible or mechanical means or the  
9 performance of a version.

10 ~~(f)~~

11 (g) A certified nurse-midwife is not authorized to practice  
12 medicine and surgery by the provisions of this chapter.

13 ~~(g)~~

14 (h) Any regulations promulgated by a state department that  
15 affect the scope of practice of a certified nurse-midwife shall be  
16 developed in consultation with the board and the Nurse-Midwifery  
17 Advisory Committee.

18 ~~SEC. 6.~~

19 SEC. 7. Section 2746.51 of the Business and Professions Code  
20 is amended to read:

21 2746.51. (a) Neither this chapter nor any other law shall be  
22 construed to prohibit a certified nurse-midwife from furnishing or  
23 ordering drugs or devices, including controlled substances  
24 classified in Schedule II, III, IV, or V under the California Uniform  
25 Controlled Substances Act (Division 10 (commencing with Section  
26 11000) of the Health and Safety Code), when the drugs or devices  
27 are furnished or ordered related to the provision of any of the  
28 following:

29 (1) Family planning services, as defined in Section 14503 of  
30 the Welfare and Institutions Code.

31 (2) Routine health care or perinatal care, as defined in  
32 subdivision (d) of Section 123485 of the Health and Safety Code.

33 (3) Care rendered, consistent with the certified nurse-midwife's  
34 educational preparation or for which clinical competency has been  
35 established and maintained, to persons within a facility specified  
36 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the  
37 Health and Safety Code, a clinic as specified in Section 1204 of  
38 the Health and Safety Code, a general acute care hospital as defined  
39 in subdivision (a) of Section 1250 of the Health and Safety Code,  
40 a licensed birth center as defined in Section 1204.3 of the Health

1 and Safety Code, or a special hospital specified as a maternity  
2 hospital in subdivision (f) of Section 1250 of the Health and Safety  
3 Code.

4 (4) Care rendered in a home pursuant to subdivision (a) of  
5 Section 2746.5.

6 (b) (1) The furnishing or ordering of drugs or devices by a  
7 certified nurse-midwife is conditional on the issuance by the board  
8 of a number to the applicant who has successfully completed the  
9 requirements of paragraph (2). The number shall be included on  
10 all transmittals of orders for drugs or devices by the certified  
11 nurse-midwife. The board shall maintain a list of the certified  
12 nurse-midwives that it has certified pursuant to this paragraph and  
13 the number it has issued to each one. The board shall make the list  
14 available to the California State Board of Pharmacy upon its  
15 request. Every certified nurse-midwife who is authorized pursuant  
16 to this section to furnish or issue a drug order for a controlled  
17 substance shall register with the United States Drug Enforcement  
18 Administration.

19 (2) The board has certified in accordance with paragraph (1)  
20 that the certified nurse-midwife has satisfactorily completed a  
21 course in pharmacology covering the drugs or devices to be  
22 furnished or ordered under this section. The board shall establish  
23 the requirements for satisfactory completion of this paragraph.

24 (3) Certified nurse-midwives who are certified by the board and  
25 hold an active furnishing number, who are currently authorized to  
26 furnish Schedule II controlled substances, and who are registered  
27 with the United States Drug Enforcement Administration shall  
28 provide documentation of continuing education specific to the use  
29 of Schedule II controlled substances in settings other than a hospital  
30 based on standards developed by the board.

31 (c) Drugs or devices furnished or ordered by a certified  
32 nurse-midwife may include Schedule II controlled substances  
33 under the California Uniform Controlled Substances Act (Division  
34 10 (commencing with Section 11000) of the Health and Safety  
35 Code) when the drugs and devices are furnished or ordered in  
36 accordance with requirements referenced in paragraphs (1) to (3),  
37 inclusive, of subdivision (b). In a nonhospital setting, a Schedule  
38 II controlled substance shall be furnished by a certified  
39 nurse-midwife only during labor and delivery and only after a  
40 consultation with a physician and surgeon.

1 (d) Furnishing of drugs or devices by a certified nurse-midwife  
2 means the act of making a pharmaceutical agent or agents available  
3 to the patient.

4 (e) “Drug order” or “order” for purposes of this section means  
5 an order for medication or for a drug or device that is dispensed  
6 to or for an ultimate user, issued by a certified nurse-midwife as  
7 an individual practitioner, within the meaning of Section 1306.03  
8 of Title 21 of the Code of Federal Regulations. Notwithstanding  
9 any other law, (1) a drug order issued pursuant to this section shall  
10 be treated in the same manner as a prescription of a physician; (2)  
11 all references to “prescription” in this code and the Health and  
12 Safety Code shall include drug orders issued by certified  
13 nurse-midwives; and (3) the signature of a certified nurse-midwife  
14 on a drug order issued in accordance with this section shall be  
15 deemed to be the signature of a prescriber for purposes of this code  
16 and the Health and Safety Code.

17 (f) A certified nurse-midwife is authorized to directly procure  
18 supplies and devices, to order, obtain, and administer drugs and  
19 diagnostic tests, to order laboratory and diagnostic testing, and to  
20 receive reports that are necessary to his or her practice as a certified  
21 nurse-midwife and consistent with nurse-midwifery education  
22 preparation.

23 ~~SEC. 7.~~

24 *SEC. 8.* Section 2746.52 of the Business and Professions Code  
25 is amended to read:

26 2746.52. (a) Notwithstanding Section 2746.5, the certificate  
27 to practice nurse-midwifery authorizes the holder to perform and  
28 repair episiotomies, and to repair first-degree and second-degree  
29 lacerations of the perineum, in a licensed acute care hospital, as  
30 defined in subdivision (a) of Section 1250 of the Health and Safety  
31 Code, in a licensed alternate birth center, as defined in paragraph  
32 (4) of subdivision (b) of Section 1204 of the Health and Safety  
33 Code, or a nationally accredited birth center, and in a home  
34 pursuant to paragraph (7) of subdivision (b) of Section 2746.5.

35 (b) The certified nurse-midwife performing and repairing  
36 first-degree and second-degree lacerations of the perineum shall  
37 do both of the following:

38 (1) Ensure that all complications are referred to a physician and  
39 surgeon immediately.

1 (2) Ensure immediate care of patients who are in need of care  
2 beyond the scope of practice of the certified nurse-midwife, or  
3 provide emergency care for times when a physician and surgeon  
4 is not available.

5 ~~SEC. 8.~~

6 *SEC. 9.* Section 2746.6 is added to the Business and Professions  
7 Code, to read:

8 2746.6. A consultative relationship between a certified  
9 nurse-midwife and a physician and surgeon shall not, by itself,  
10 provide the basis for finding a physician and surgeon liable for  
11 any act or omission of the certified nurse-midwife.

12 ~~SEC. 9.~~

13 *SEC. 10.* Section 4061 of the Business and Professions Code  
14 is amended to read:

15 4061. (a) A manufacturer's sales representative shall not  
16 distribute any dangerous drug or dangerous device as a  
17 complimentary sample without the written request of a physician,  
18 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
19 pursuant to Section 3640.7. However, a certified nurse-midwife  
20 who functions pursuant to Section 2746.51, a nurse practitioner  
21 who functions pursuant to a standardized procedure described in  
22 Section 2836.1, or protocol, a physician assistant who functions  
23 pursuant to a protocol described in Section 3502.1, or a  
24 naturopathic doctor who functions pursuant to a standardized  
25 procedure or protocol described in Section 3640.5, may sign for  
26 the request and receipt of complimentary samples of a dangerous  
27 drug or dangerous device that has been identified in the  
28 standardized procedure, protocol, or practice agreement.  
29 Standardized procedures, protocols, and practice agreements shall  
30 include specific approval by a physician. A review process,  
31 consistent with the requirements of Section 2725, 3502.1, or  
32 3640.5, of the complimentary samples requested and received by  
33 a nurse practitioner, certified nurse-midwife, physician assistant,  
34 or naturopathic doctor, shall be defined within the standardized  
35 procedure, protocol, or practice agreement.

36 (b) Each written request shall contain the names and addresses  
37 of the supplier and the requester, the name and quantity of the  
38 specific dangerous drug desired, the name of the certified  
39 nurse-midwife, nurse practitioner, physician assistant, or  
40 naturopathic doctor, if applicable, receiving the samples pursuant

1 to this section, the date of receipt, and the name and quantity of  
2 the dangerous drugs or dangerous devices provided. These records  
3 shall be preserved by the supplier with the records required by  
4 Section 4059.

5 (c) Nothing in this section is intended to expand the scope of  
6 practice of a certified nurse-midwife, nurse practitioner, physician  
7 assistant, or naturopathic doctor.

8 ~~SEC. 10.—Section 4076 of the Business and Professions Code~~  
9 ~~is amended to read:~~

10 ~~4076.—(a) A pharmacist shall not dispense any prescription~~  
11 ~~except in a container that meets the requirements of state and~~  
12 ~~federal law and is correctly labeled with all of the following:~~

13 ~~(1) Except when the prescriber or the certified nurse-midwife~~  
14 ~~who functions pursuant to Section 2746.51, the nurse practitioner~~  
15 ~~who functions pursuant to a standardized procedure described in~~  
16 ~~Section 2836.1 or protocol, the physician assistant who functions~~  
17 ~~pursuant to Section 3502.1, the naturopathic doctor who functions~~  
18 ~~pursuant to a standardized procedure or protocol described in~~  
19 ~~Section 3640.5, or the pharmacist who functions pursuant to a~~  
20 ~~policy, procedure, or protocol pursuant to Section 4052.1, 4052.2,~~  
21 ~~or 4052.6 orders otherwise, either the manufacturer's trade name~~  
22 ~~of the drug or the generic name and the name of the manufacturer.~~  
23 ~~Commonly used abbreviations may be used. Preparations~~  
24 ~~containing two or more active ingredients may be identified by~~  
25 ~~the manufacturer's trade name or the commonly used name or the~~  
26 ~~principal active ingredients.~~

27 ~~(2) The directions for the use of the drug.~~

28 ~~(3) The name of the patient or patients.~~

29 ~~(4) The name of the prescriber or, if applicable, the name of the~~  
30 ~~certified nurse-midwife who functions pursuant to Section 2746.51,~~  
31 ~~the nurse practitioner who functions pursuant to a standardized~~  
32 ~~procedure described in Section 2836.1 or protocol, the physician~~  
33 ~~assistant who functions pursuant to Section 3502.1, the naturopathic~~  
34 ~~doctor who functions pursuant to a standardized procedure or~~  
35 ~~protocol described in Section 3640.5, or the pharmacist who~~  
36 ~~functions pursuant to a policy, procedure, or protocol pursuant to~~  
37 ~~Section 4052.1, 4052.2, or 4052.6.~~

38 ~~(5) The date of issue.~~

39 ~~(6) The name and address of the pharmacy, and prescription~~  
40 ~~number or other means of identifying the prescription.~~

- 1 ~~(7) The strength of the drug or drugs dispensed.~~  
2 ~~(8) The quantity of the drug or drugs dispensed.~~  
3 ~~(9) The expiration date of the effectiveness of the drug~~  
4 ~~dispensed.~~  
5 ~~(10) The condition or purpose for which the drug was prescribed~~  
6 ~~if the condition or purpose is indicated on the prescription.~~  
7 ~~(11) (A) Commencing January 1, 2006, the physical description~~  
8 ~~of the dispensed medication, including its color, shape, and any~~  
9 ~~identification code that appears on the tablets or capsules, except~~  
10 ~~as follows:~~  
11 ~~(i) Prescriptions dispensed by a veterinarian.~~  
12 ~~(ii) An exemption from the requirements of this paragraph shall~~  
13 ~~be granted to a new drug for the first 120 days that the drug is on~~  
14 ~~the market and for the 90 days during which the national reference~~  
15 ~~file has no description on file.~~  
16 ~~(iii) Dispensed medications for which no physical description~~  
17 ~~exists in any commercially available database.~~  
18 ~~(B) This paragraph applies to outpatient pharmacies only.~~  
19 ~~(C) The information required by this paragraph may be printed~~  
20 ~~on an auxiliary label that is affixed to the prescription container.~~  
21 ~~(D) This paragraph shall not become operative if the board,~~  
22 ~~prior to January 1, 2006, adopts regulations that mandate the same~~  
23 ~~labeling requirements set forth in this paragraph.~~  
24 ~~(b) If a pharmacist dispenses a prescribed drug by means of a~~  
25 ~~unit dose medication system, as defined by administrative~~  
26 ~~regulation, for a patient in a skilled nursing, intermediate care, or~~  
27 ~~other health care facility, the requirements of this section will be~~  
28 ~~satisfied if the unit dose medication system contains the~~  
29 ~~mentioned information or the information is otherwise readily~~  
30 ~~available at the time of drug administration.~~  
31 ~~(c) If a pharmacist dispenses a dangerous drug or device in a~~  
32 ~~facility licensed pursuant to Section 1250 of the Health and Safety~~  
33 ~~Code, it is not necessary to include on individual unit dose~~  
34 ~~containers for a specific patient, the name of the certified~~  
35 ~~nurse-midwife who functions pursuant to Section 2746.51, the~~  
36 ~~nurse practitioner who functions pursuant to a standardized~~  
37 ~~procedure described in Section 2836.1 or protocol, the physician~~  
38 ~~assistant who functions pursuant to Section 3502.1, the naturopathic~~  
39 ~~doctor who functions pursuant to a standardized procedure or~~  
40 ~~protocol described in Section 3640.5, or the pharmacist who~~

1 functions pursuant to a policy, procedure, or protocol pursuant to  
 2 Section 4052.1, 4052.2, or 4052.6.

3 ~~(d) If a pharmacist dispenses a prescription drug for use in a~~  
 4 ~~facility licensed pursuant to Section 1250 of the Health and Safety~~  
 5 ~~Code, it is not necessary to include the information required in~~  
 6 ~~paragraph (11) of subdivision (a) when the prescription drug is~~  
 7 ~~administered to a patient by a person licensed under the Medical~~  
 8 ~~Practice Act (Chapter 5 (commencing with Section 2000)), the~~  
 9 ~~Nursing Practice Act (Chapter 6 (commencing with Section 2700)),~~  
 10 ~~or the Vocational Nursing Practice Act (Chapter 6.5 (commencing~~  
 11 ~~with Section 2840)), who is acting within his or her scope of~~  
 12 ~~practice.~~

13 *SEC. 11. Section 4076 of the Business and Professions Code*  
 14 *is amended to read:*

15 4076. (a) A pharmacist shall not dispense any prescription  
 16 except in a container that meets the requirements of state and  
 17 federal law and is correctly labeled with all of the following:

18 (1) Except when the prescriber or the certified nurse-midwife  
 19 who functions pursuant to ~~a standardized procedure or protocol~~  
 20 ~~described in Section 2746.51~~, the nurse practitioner who functions  
 21 pursuant to a standardized procedure described in Section 2836.1  
 22 or protocol, the physician assistant who functions pursuant to  
 23 Section 3502.1, the naturopathic doctor who functions pursuant  
 24 to a standardized procedure or protocol described in Section  
 25 3640.5, or the pharmacist who functions pursuant to a policy,  
 26 procedure, or protocol pursuant to Section 4052.1, 4052.2, or  
 27 4052.6 orders otherwise, either the manufacturer’s trade name of  
 28 the drug or the generic name and the name of the manufacturer.  
 29 Commonly used abbreviations may be used. Preparations  
 30 containing two or more active ingredients may be identified by  
 31 the manufacturer’s trade name or the commonly used name or the  
 32 principal active ingredients.

33 (2) The directions for the use of the drug.

34 (3) The name of the patient or patients.

35 (4) The name of the prescriber or, if applicable, the name of the  
 36 certified nurse-midwife who functions pursuant to ~~a standardized~~  
 37 ~~procedure or protocol described in Section 2746.51~~, the nurse  
 38 practitioner who functions pursuant to a standardized procedure  
 39 described in Section 2836.1 or protocol, the physician assistant  
 40 who functions pursuant to Section 3502.1, the naturopathic doctor

1 who functions pursuant to a standardized procedure or protocol  
2 described in Section 3640.5, or the pharmacist who functions  
3 pursuant to a policy, procedure, or protocol pursuant to Section  
4 4052.1, 4052.2, or 4052.6.

5 (5) The date of issue.

6 (6) The name and address of the pharmacy, and prescription  
7 number or other means of identifying the prescription.

8 (7) The strength of the drug or drugs dispensed.

9 (8) The quantity of the drug or drugs dispensed.

10 (9) The expiration date of the effectiveness of the drug  
11 dispensed.

12 (10) The condition or purpose for which the drug was prescribed  
13 if the condition or purpose is indicated on the prescription.

14 (11) (A) Commencing January 1, 2006, the physical description  
15 of the dispensed medication, including its color, shape, and any  
16 identification code that appears on the tablets or capsules, except  
17 as follows:

18 (i) Prescriptions dispensed by a veterinarian.

19 (ii) An exemption from the requirements of this paragraph shall  
20 be granted to a new drug for the first 120 days that the drug is on  
21 the market and for the 90 days during which the national reference  
22 file has no description on file.

23 (iii) Dispensed medications for which no physical description  
24 exists in any commercially available database.

25 (B) This paragraph applies to outpatient pharmacies only.

26 (C) The information required by this paragraph may be printed  
27 on an auxiliary label that is affixed to the prescription container.

28 (D) This paragraph shall not become operative if the board,  
29 prior to January 1, 2006, adopts regulations that mandate the same  
30 labeling requirements set forth in this paragraph.

31 (b) If a pharmacist dispenses a prescribed drug by means of a  
32 unit dose medication system, as defined by administrative  
33 regulation, for a patient in a skilled nursing, intermediate care, or  
34 other health care facility, the requirements of this section will be  
35 satisfied if the unit dose medication system contains the  
36 aforementioned information or the information is otherwise readily  
37 available at the time of drug administration.

38 (c) If a pharmacist dispenses a dangerous drug or device in a  
39 facility licensed pursuant to Section 1250 of the Health and Safety  
40 Code, it is not necessary to include on individual unit dose

1 containers for a specific patient, the name of the certified  
 2 nurse-midwife who functions pursuant to a standardized procedure  
 3 or protocol described in Section 2746.51, the nurse practitioner  
 4 who functions pursuant to a standardized procedure described in  
 5 Section 2836.1 or protocol, the physician assistant who functions  
 6 pursuant to Section 3502.1, the naturopathic doctor who functions  
 7 pursuant to a standardized procedure or protocol described in  
 8 Section 3640.5, or the pharmacist who functions pursuant to a  
 9 policy, procedure, or protocol pursuant to Section 4052.1, 4052.2,  
 10 or 4052.6.

11 (d) If a pharmacist dispenses a prescription drug for use in a  
 12 facility licensed pursuant to Section 1250 of the Health and Safety  
 13 Code, it is not necessary to include the information required in  
 14 paragraph (11) of subdivision (a) when the prescription drug is  
 15 administered to a patient by a person licensed under the Medical  
 16 Practice Act (Chapter 5 (commencing with Section 2000)), the  
 17 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),  
 18 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing  
 19 with Section 2840)), who is acting within his or her scope of  
 20 practice.

21 (e) A pharmacist shall use professional judgment to provide a  
 22 patient with directions for use that enhance the patient's  
 23 understanding of those directions, consistent with the prescriber's  
 24 instructions.

25 ~~SEC. 11.~~

26 *SEC. 12.* Section 4170 of the Business and Professions Code  
 27 is amended to read:

28 4170. (a) A prescriber shall not dispense drugs or dangerous  
 29 devices to patients in his or her office or place of practice unless  
 30 all of the following conditions are met:

31 (1) The dangerous drugs or dangerous devices are dispensed to  
 32 the prescriber's own patient, and the drugs or dangerous devices  
 33 are not furnished by a nurse or physician attendant.

34 (2) The dangerous drugs or dangerous devices are necessary in  
 35 the treatment of the condition for which the prescriber is attending  
 36 the patient.

37 (3) The prescriber does not keep a pharmacy, open shop, or  
 38 drugstore, advertised or otherwise, for the retailing of dangerous  
 39 drugs, dangerous devices, or poisons.

1 (4) The prescriber fulfills all of the labeling requirements  
2 imposed upon pharmacists by Section 4076, all of the  
3 recordkeeping requirements of this chapter, and all of the packaging  
4 requirements of good pharmaceutical practice, including the use  
5 of childproof containers.

6 (5) The prescriber does not use a dispensing device unless he  
7 or she personally owns the device and the contents of the device,  
8 and personally dispenses the dangerous drugs or dangerous devices  
9 to the patient packaged, labeled, and recorded in accordance with  
10 paragraph (4).

11 (6) The prescriber, prior to dispensing, offers to give a written  
12 prescription to the patient that the patient may elect to have filled  
13 by the prescriber or by any pharmacy.

14 (7) The prescriber provides the patient with written disclosure  
15 that the patient has a choice between obtaining the prescription  
16 from the dispensing prescriber or obtaining the prescription at a  
17 pharmacy of the patient's choice.

18 (8) A certified nurse-midwife who functions pursuant to Section  
19 2746.51, a nurse practitioner who functions pursuant to a  
20 standardized procedure described in Section 2836.1, or protocol,  
21 a physician assistant who functions pursuant to Section 3502.1, or  
22 a naturopathic doctor who functions pursuant to Section 3640.5,  
23 may hand to a patient of the supervising physician and surgeon,  
24 if applicable, a properly labeled prescription drug prepackaged by  
25 a physician and surgeon, a manufacturer as defined in this chapter,  
26 or a pharmacist.

27 (b) The Medical Board of California, the State Board of  
28 Optometry, the Bureau of Naturopathic Medicine, the Dental Board  
29 of California, the Osteopathic Medical Board of California, the  
30 Board of Registered Nursing, the Veterinary Medical Board, and  
31 the Physician Assistant Committee shall have authority with the  
32 California State Board of Pharmacy to ensure compliance with  
33 this section, and those boards are specifically charged with the  
34 enforcement of this chapter with respect to their respective  
35 licensees.

36 (c) "Prescriber," as used in this section, means a person, who  
37 holds a physician's and surgeon's certificate, a license to practice  
38 optometry, a license to practice naturopathic medicine, a license  
39 to practice dentistry, a license to practice veterinary medicine, or  
40 a certificate to practice podiatry, and who is duly registered by the

1 Medical Board of California, the State Board of Optometry, the  
2 Bureau of Naturopathic Medicine, the Dental Board of California,  
3 the Veterinary Medical Board, or the Board of Osteopathic  
4 Examiners of this state.

5 ~~SEC. 12.~~

6 *SEC. 13.* No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

---

<b>AUTHOR:</b>	Low	<b>BILL NUMBER:</b>	AB 1386
<b>SPONSOR:</b>	Mylan, Inc.	<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Emergency medical care: epinephrine auto-injectors.	<b>DATE LAST AMENDED:</b>	June 28, 2016

**SUMMARY:**

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

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

**ANALYSIS:**

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

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

**Amended analysis as of 1/4/16:**

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

**Amended analysis as of 1/5/16:**

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

**Amended analysis as of 1/13:**

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

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

**Amended analysis as of 5/31:**

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

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

**Amended summary and analysis as of 6/13:**

Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors, as defined, to school nurses and trained personnel who have volunteered to use epinephrine auto-injectors under emergency circumstances, as specified, and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

1. The bill would define the term "epinephrine auto-injector" for purposes of these provisions and other related provisions that authorize the use of epinephrine auto-injectors, as specified.
2. This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified. The bill would also exempt an authorizing physician and surgeon from certain sanctions for the issuance of an epinephrine auto-injector under those provisions, except as specified.

**Amended analysis as of 6/28:**

1. The bill would provide that a pharmacy may furnish epinephrine auto-injectors to an authorized entity, as defined, for the purpose of rendering emergency care, as specified, and that an authorized health care provider shall provide a new prescription for any additional epinephrine auto injectors required for use.

**BOARD POSITION:** Watch (2/11/16)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Not previously considered

**SUPPORT:**

Mylan, Inc. (sponsor)  
Allergy and Asthma Network  
Allergy Station@SacENT  
American Latex Allergy Association  
American Red Cross  
California Chapter of the American College of Emergency Physicians  
California Society of Allergy, Asthma and Immunology  
California Retailers Association  
Food Allergy Research & Education  
San Francisco Bay Area Food Allergy Network  
Two individuals

**OPPOSE:** None on file.

AMENDED IN SENATE JUNE 28, 2016

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 5, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1386**

---

---

**Introduced by Assembly Member Low**

February 27, 2015

---

---

An act to add Section 4119.4 to the Business and Professions Code, to amend Section 1714.23 of the Civil Code, to amend Section 49414 of the Education Code, and to amend Section 1797.197a of the Health and Safety Code, relating to emergency medical care.

LEGISLATIVE COUNSEL'S DIGEST

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

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

and the use and administration of epinephrine auto-injectors. The existing Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors, as defined, to school nurses and trained personnel who have volunteered to use epinephrine auto-injectors under emergency circumstances, as specified, and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

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

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

auto-injector, if that person has complied with specified certification and training requirements and standards.

This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified. The bill would also exempt an authorizing physician and surgeon from certain sanctions for the issuance of an epinephrine auto-injector under those provisions, except as specified.

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

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

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

State-mandated local program: yes.

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

1 SECTION 1. Section 4119.4 is added to the Business and  
2 Professions Code, to read:

3 4119.4. (a) Notwithstanding any other law, a pharmacy may  
4 furnish epinephrine auto-injectors to an authorized entity,—  
5 ~~defined by Section 1797.197a of the Health and Safety Code, for~~  
6 *the purpose of rendering emergency care in accordance with*  
7 *Section 1797.197a of the Health and Safety Code*, if both of the  
8 following requirements are met:

9 (1) The epinephrine auto-injectors are furnished exclusively for  
10 use by, or in connection with, an authorized entity.

11 (2) An authorized health care provider provides a prescription  
12 that specifies the quantity of epinephrine auto-injectors to be  
13 ~~furnished.~~ *furnished to an authorized entity described in*  
14 *subdivision (a) of Section 1797.197a of the Health and Safety*  
15 *Code. A new prescription shall be written for any additional*  
16 *epinephrine auto-injectors required for use.*

17 (b) The pharmacy shall label each epinephrine auto-injector  
18 dispensed with all of the following:

19 (1) The name of the person or entity to whom the prescription  
20 was issued.

21 (2) The designations “Section 1797.197a Responder” and “First  
22 Aid Purposes Only.”

1 (3) The dosage, use, and expiration date.

2 (c) Each dispensed prescription shall include the manufacturer's  
3 product information sheet for the epinephrine auto-injector.

4 (d) Records regarding the acquisition and disposition of  
5 epinephrine auto-injectors furnished pursuant to subdivision (a)  
6 shall be maintained by the authorized entity for a period of three  
7 years from the date the records were created. The authorized entity  
8 shall be responsible for monitoring the supply of epinephrine  
9 auto-injectors and ensuring the destruction of expired epinephrine  
10 auto-injectors.

11 (e) The epinephrine auto-injector dispensed pursuant to this  
12 section may be used only for the purpose, and under the  
13 circumstances, described in Section 1797.197a of the Health and  
14 Safety Code.

15 (f) For purposes of this section, "epinephrine auto-injector"  
16 means a disposable delivery device designed for the automatic  
17 injection of a premeasured dose of epinephrine into the human  
18 body to prevent or treat a life-threatening allergic reaction.

19 SEC. 2. Section 1714.23 of the Civil Code is amended to read:  
20 1714.23. (a) For purposes of this section, the following  
21 definitions shall apply:

22 (1) "Anaphylaxis" means a potentially life-threatening  
23 hypersensitivity or allergic reaction to a substance.

24 (A) Symptoms of anaphylaxis may include shortness of breath,  
25 wheezing, difficulty breathing, difficulty talking or swallowing,  
26 hives, itching, swelling, shock, or asthma.

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

30 (2) "Epinephrine auto-injector" means a disposable delivery  
31 device designed for the automatic injection of a premeasured dose  
32 of epinephrine into the human body to prevent or treat a  
33 life-threatening allergic reaction.

34 (b) (1) Any person described in subdivision (b) of Section  
35 1797.197a of the Health and Safety Code who administers an  
36 epinephrine auto-injector, in good faith and not for compensation,  
37 to another person who appears to be experiencing anaphylaxis at  
38 the scene of an emergency situation is not liable for any civil  
39 damages resulting from his or her acts or omissions in  
40 administering the epinephrine auto-injector, if that person has

1 complied with the requirements and standards of Section 1797.197a  
2 of the Health and Safety Code.

3 (2) (A) An authorized entity shall not be liable for any civil  
4 damages resulting from any act or omission other than an act or  
5 omission constituting gross negligence or willful or wanton  
6 misconduct connected to the administration of an epinephrine  
7 auto-injector by any one of its employees, volunteers, or agents  
8 who is a lay rescuer, as defined by paragraph (4) of subdivision  
9 (a) of Section 1797.197a of the Health and Safety Code. ~~Code~~. *Code, if*  
10 *the entity has complied with all applicable requirements of Section*  
11 *1797.197a of the Health and Safety Code.*

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

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

16 (c) The protection specified in *paragraph (1) of subdivision (b)*  
17 *shall not apply in a case of personal injury or wrongful death that*  
18 *results from the gross negligence or willful or wanton misconduct*  
19 *of the person who renders emergency care treatment by the use of*  
20 *an epinephrine auto-injector.*

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

24 (e) An authorizing physician and surgeon is not subject to  
25 professional review, liable in a civil action, or subject to criminal  
26 prosecution for the issuance of a prescription or order ~~pursuant to~~  
27 ~~this section~~, *in accordance with Section 1797.197a of the Health*  
28 *and Safety Code unless the physician and surgeon's issuance of*  
29 *the prescription or order constitutes gross negligence or willful or*  
30 *malicious conduct.*

31 SEC. 3. Section 49414 of the Education Code is amended to  
32 read:

33 49414. (a) School districts, county offices of education, and  
34 charter schools shall provide emergency epinephrine auto-injectors  
35 to school nurses or trained personnel who have volunteered  
36 pursuant to subdivision (d), and school nurses or trained personnel  
37 may use epinephrine auto-injectors to provide emergency medical  
38 aid to persons suffering, or reasonably believed to be suffering,  
39 from an anaphylactic reaction.

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

3 (1) “Anaphylaxis” means a potentially life-threatening  
 4 hypersensitivity to a substance.

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

8 (B) Causes of anaphylaxis may include, but are not limited to,  
 9 an insect sting, food allergy, drug reaction, and exercise.

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

14 (3) “Epinephrine auto-injector” means a disposable delivery  
 15 device designed for the automatic injection of a premeasured dose  
 16 of epinephrine into the human body to prevent or treat a  
 17 life-threatening allergic reaction.

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

20 (5) “Volunteer” or “trained personnel” means an employee who  
 21 has volunteered to administer epinephrine auto-injectors to a person  
 22 if the person is suffering, or reasonably believed to be suffering,  
 23 from anaphylaxis, has been designated by a school, and has  
 24 received training pursuant to subdivision (d).

25 (c) Each private elementary and secondary school in the state  
 26 may voluntarily determine whether or not to make emergency  
 27 epinephrine auto-injectors and trained personnel available at its  
 28 school. In making this determination, a school shall evaluate the  
 29 emergency medical response time to the school and determine  
 30 whether initiating emergency medical services is an acceptable  
 31 alternative to epinephrine auto-injectors and trained personnel. A  
 32 private elementary or secondary school choosing to exercise the  
 33 authority provided under this subdivision shall not receive state  
 34 funds specifically for purposes of this subdivision.

35 (d) Each public and private elementary and secondary school  
 36 in the state may designate one or more volunteers to receive initial  
 37 and annual refresher training, based on the standards developed  
 38 pursuant to subdivision (e), regarding the storage and emergency  
 39 use of an epinephrine auto-injector from the school nurse or other

1 qualified person designated by an authorizing physician and  
2 surgeon.

3 (e) (1) Every five years, or sooner as deemed necessary by the  
4 Superintendent, the Superintendent shall review minimum  
5 standards of training for the administration of epinephrine  
6 auto-injectors that satisfy the requirements of paragraph (2). For  
7 purposes of this subdivision, the Superintendent shall consult with  
8 organizations and providers with expertise in administering  
9 epinephrine auto-injectors and administering medication in a school  
10 environment, including, but not limited to, the State Department  
11 of Public Health, the Emergency Medical Services Authority, the  
12 American Academy of Allergy, Asthma and Immunology, the  
13 California School Nurses Organization, the California Medical  
14 Association, the American Academy of Pediatrics, Food Allergy  
15 Research and Education, the California Society of Allergy, Asthma  
16 and Immunology, the American College of Allergy, Asthma and  
17 Immunology, the Sean N. Parker Center for Allergy Research, and  
18 others.

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

21 (A) Techniques for recognizing symptoms of anaphylaxis.

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

24 (C) Emergency followup procedures, including calling the  
25 emergency 911 telephone number and contacting, if possible, the  
26 pupil's parent and physician.

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

29 (E) Instruction on how to determine whether to use an adult  
30 epinephrine auto-injector or a junior epinephrine auto-injector,  
31 which shall include consideration of a pupil's grade level or age  
32 as a guideline of equivalency for the appropriate pupil weight  
33 determination.

34 (F) Written materials covering the information required under  
35 this subdivision.

36 (3) Training established pursuant to this subdivision shall be  
37 consistent with the most recent Voluntary Guidelines for Managing  
38 Food Allergies In Schools and Early Care and Education Programs  
39 published by the federal Centers for Disease Control and

1 Prevention and the most recent guidelines for medication  
2 administration issued by the department.

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

5 (f) A school district, county office of education, or charter school  
6 shall distribute a notice at least once per school year to all staff  
7 that contains the following information:

8 (1) A description of the volunteer request stating that the request  
9 is for volunteers to be trained to administer an epinephrine  
10 auto-injector to a person if the person is suffering, or reasonably  
11 believed to be suffering, from anaphylaxis, as specified in  
12 subdivision (b).

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

15 (g) (1) A qualified supervisor of health at a school district,  
16 county office of education, or charter school shall obtain from an  
17 authorizing physician and surgeon a prescription for each school  
18 for epinephrine auto-injectors that, at a minimum, includes, for  
19 elementary schools, one regular epinephrine auto-injector and one  
20 junior epinephrine auto-injector, and for junior high schools, middle  
21 schools, and high schools, if there are no pupils who require a  
22 junior epinephrine auto-injector, one regular epinephrine  
23 auto-injector. A qualified supervisor of health at a school district,  
24 county office of education, or charter school shall be responsible  
25 for stocking the epinephrine auto-injector and restocking it if it is  
26 used.

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

31 (3) A prescription pursuant to this subdivision may be filled by  
32 local or mail order pharmacies or epinephrine auto-injector  
33 manufacturers.

34 (4) An authorizing physician and surgeon shall not be subject  
35 to professional review, be liable in a civil action, or be subject to  
36 criminal prosecution for the issuance of a prescription or order  
37 pursuant to this section, unless the physician and surgeon's issuance  
38 of the prescription or order constitutes gross negligence or willful  
39 or malicious conduct.

1 (h) A school nurse or, if the school does not have a school nurse  
2 or the school nurse is not onsite or available, a volunteer may  
3 administer an epinephrine auto-injector to a person exhibiting  
4 potentially life-threatening symptoms of anaphylaxis at school or  
5 a school activity when a physician is not immediately available.  
6 If the epinephrine auto-injector is used it shall be restocked as soon  
7 as reasonably possible, but no later than two weeks after it is used.  
8 Epinephrine auto-injectors shall be restocked before their expiration  
9 date.

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

13 (j) A school district, county office of education, or charter school  
14 shall ensure that each employee who volunteers under this section  
15 will be provided defense and indemnification by the school district,  
16 county office of education, or charter school for any and all civil  
17 liability, in accordance with, but not limited to, that provided in  
18 Division 3.6 (commencing with Section 810) of Title 1 of the  
19 Government Code. This information shall be reduced to writing,  
20 provided to the volunteer, and retained in the volunteer's personnel  
21 file.

22 (k) A state agency, the department, or a public school may  
23 accept gifts, grants, and donations from any source for the support  
24 of the public school carrying out the provisions of this section,  
25 including, but not limited to, the acceptance of epinephrine  
26 auto-injectors from a manufacturer or wholesaler.

27 SEC. 4. Section 1797.197a of the Health and Safety Code is  
28 amended to read:

29 1797.197a. (a) For purposes of this section, the following  
30 definitions shall apply:

31 (1) "Anaphylaxis" means a potentially life-threatening  
32 hypersensitivity or allergic reaction to a substance.

33 (A) Symptoms of anaphylaxis may include shortness of breath,  
34 wheezing, difficulty breathing, difficulty talking or swallowing,  
35 hives, itching, swelling, shock, or asthma.

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

39 (2) "Authorized entity" means any for-profit, nonprofit, or  
40 government entity or organization that employs at least one person

1 or utilizes at least one volunteer or agent that has voluntarily  
2 completed a training course as described in subdivision (c).

3 (3) “Epinephrine auto-injector” means a disposable delivery  
4 device designed for the automatic injection of a premeasured dose  
5 of epinephrine into the human body to prevent or treat a  
6 life-threatening allergic reaction.

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

11 (5) “Prehospital emergency medical care person” has the same  
12 meaning as defined in paragraph (2) of subdivision (a) of Section  
13 1797.189.

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

17 (1) The epinephrine auto-injector is legally obtained by  
18 prescription from an authorized health care provider or from an  
19 authorized entity that acquired the epinephrine auto-injector  
20 pursuant to subdivision (e).

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

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

25 (4) The person using the epinephrine auto-injector has  
26 successfully completed a course of training with an authorized  
27 training provider, as described in subdivision (c), and has current  
28 certification of training issued by the provider.

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

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

36 (c) (1) The authorized training providers shall be approved,  
37 and the minimum standards for training and the use and  
38 administration of epinephrine auto-injectors pursuant to this section  
39 shall be established and approved, by the authority. The authority  
40 may designate existing training standards for the use and

1 administration of epinephrine auto-injectors by prehospital  
2 emergency medical care personnel to satisfy the requirements of  
3 this section.

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

6 (A) Techniques for recognizing circumstances, signs, and  
7 symptoms of anaphylaxis.

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

10 (C) Emergency followup procedures, including activation of  
11 the Emergency Medical Services System, by calling the emergency  
12 9-1-1 telephone number or otherwise alerting and summoning  
13 more advanced medical personnel and services.

14 (D) Compliance with all regulations governing the training,  
15 indications, use, and precautions concerning epinephrine  
16 auto-injectors.

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

20 (F) Completion of a training course in cardiopulmonary  
21 resuscitation and the use of an automatic external defibrillator  
22 (AED) for infants, children, and adults that complies with  
23 regulations adopted by the authority and the standards of the  
24 American Heart Association or the American Red Cross, and a  
25 current certification for that training.

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

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

34 (A) Fraud.

35 (B) Incompetence.

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

39 (D) Conviction of any crime that is substantially related to the  
40 qualifications, functions, or duties of training program directors

1 or instructors. The record of conviction or a certified copy of the  
2 record shall be conclusive evidence of the conviction.

3 (E) Violating or attempting to violate, directly or indirectly, or  
4 assisting in or abetting the violation of, or conspiring to violate,  
5 any provision of this section or the regulations promulgated by the  
6 authority pertaining to the review and approval of training  
7 programs in anaphylaxis and the use and administration of  
8 epinephrine auto-injectors, as described in this subdivision.

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

13 (2) The fees shall be deposited in the Specialized First Aid  
14 Training Program Approval Fund, which is hereby created in the  
15 State Treasury. All moneys deposited in the fund shall be made  
16 available, upon appropriation, to the authority for purposes  
17 described in paragraph (1).

18 (3) The authority may transfer unused portions of the Specialized  
19 First Aid Training Program Approval Fund to the Surplus Money  
20 Investment Fund. Funds transferred to the Surplus Money  
21 Investment Fund shall be placed in a separate trust account, and  
22 shall be available for transfer to the Specialized First Aid Training  
23 Program Approval Fund, together with the interest earned, when  
24 requested by the authority.

25 (4) The authority shall maintain a reserve balance in the  
26 Specialized First Aid Training Program Approval Fund of 5 percent  
27 of annual revenues. Any increase in the fees deposited in the  
28 Specialized First Aid Training Program Approval Fund shall be  
29 effective upon determination by the authority that additional  
30 moneys are required to fund expenditures pursuant to subdivision  
31 (c).

32 (e) (1) An authorized health care provider may issue a  
33 prescription for an epinephrine auto-injector to a prehospital  
34 emergency medical care person or a lay rescuer for the purpose of  
35 rendering emergency care to another person upon presentation of  
36 a current epinephrine auto-injector certification card issued by the  
37 authority demonstrating that the person is trained and qualified to  
38 administer an epinephrine auto-injector pursuant to this section or  
39 any other law.

1 (2) An authorized health care provider may issue a prescription  
2 for an epinephrine auto-injector to an authorized entity if the  
3 authorized entity submits evidence it employs at least one person,  
4 or utilizes at least one volunteer or agent, who is trained and has  
5 a current epinephrine auto-injector certification card issued by the  
6 authority demonstrating that the person is qualified to administer  
7 an epinephrine auto-injector pursuant to this section.

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

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

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

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

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

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

20 (E) The process to replace the expired epinephrine auto-injector,  
21 including the proper disposal of the expired epinephrine  
22 auto-injector or used epinephrine auto-injector in a sharps  
23 container.

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

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

33 (h) This section shall not be construed to limit or restrict the  
34 ability of prehospital emergency medical care personnel, under  
35 any other statute or regulation, to administer epinephrine, including  
36 the use of epinephrine auto-injectors, or to require additional  
37 training or certification beyond what is already required under the  
38 other statute or regulation.

39 SEC. 5. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Mayes	<b>BILL NUMBER:</b>	AB 1748
<b>SPONSOR:</b>	Mayes	<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Pupils: pupil health: opioid antagonist	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

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

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

**ANALYSIS:**

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

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

The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or

another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions.

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

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

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

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

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

**Amended analysis as of 4/14:**

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

**Amended analysis as of 4/25:**

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

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

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

The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

**Amended analysis as of 5/11:**

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

**Amended analysis as of 6/20:**

The bill would provide that volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector, as specified, and in the form the volunteer is most comfortable with.

**Amended analysis as of 8/1:**

This bill would delete the State Department of Public Health from and add the California Society of Addiction Medicine to the list of organizations with which the Superintendent would consult every five years regarding the minimum standards of training.

The bill would include in the minimum standards for training that the required call to 911 would not also require the pupil to be transported to an emergency room.

**BOARD POSITION:** Watch (4/14/16)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Watch (5/12/16)

**SUPPORT:**

American Nurses Association/California  
California Pharmacists Association;  
California School Nurses Organization  
California Society of Addiction Medicine  
Drug Policy Alliance

**OPPOSE:**

California Teachers Association

AMENDED IN SENATE AUGUST 1, 2016  
AMENDED IN SENATE JUNE 20, 2016  
AMENDED IN ASSEMBLY MAY 11, 2016  
AMENDED IN ASSEMBLY APRIL 25, 2016  
AMENDED IN ASSEMBLY APRIL 14, 2016  
AMENDED IN ASSEMBLY MARCH 18, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1748**

---

---

**Introduced by Assembly Member Mayes**

February 2, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or

charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

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

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions. ~~The~~

*The* bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. ~~The~~

*The* bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide

emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours. The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers. ~~The~~

*The* bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist to immediately administer naloxone hydrochloride or another opioid antagonist under certain circumstances. The bill would provide that volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector, as specified. ~~The~~

*The* bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

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

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

- 1 SECTION 1. Section 4119.8 is added to the Business and
- 2 Professions Code, to read:
- 3 4119.8. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish naloxone hydrochloride or another opioid antagonist to a
- 5 school district, county office of education, or charter school

1 pursuant to Section 49414.3 of the Education Code if all of the  
2 following are met:

3 (1) The naloxone hydrochloride or another opioid antagonist is  
4 furnished exclusively for use at a school district schoolsite, county  
5 office of education schoolsite, or charter school.

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

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

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

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

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

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

34 (2) "Auto-injector" means a disposable delivery device designed  
35 for the automatic injection of a premeasured dose of an opioid  
36 antagonist into the human body and approved by the federal Food  
37 and Drug Administration for layperson use.

38 (3) "Opioid antagonist" means naloxone hydrochloride or  
39 another drug approved by the federal Food and Drug  
40 Administration that, when administered, negates or neutralizes in

1 whole or in part the pharmacological effects of an opioid in the  
2 body, and has been approved for the treatment of an opioid  
3 overdose.

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

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

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

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

38 (2) An employee who volunteers pursuant to this section may  
39 rescind his or her offer to administer emergency naloxone

1 hydrochloride or another opioid antagonist at any time, including  
2 after receipt of training.

3 (e) (1) The Superintendent shall establish minimum standards  
4 of training for the administration of naloxone hydrochloride or  
5 another opioid antagonist that satisfies the requirements of  
6 paragraph (2). Every five years, or sooner as deemed necessary  
7 by the Superintendent, the Superintendent shall review minimum  
8 standards of training for the administration of naloxone  
9 hydrochloride or other opioid antagonists that satisfy the  
10 requirements of paragraph (2). For purposes of this subdivision,  
11 the Superintendent shall consult with organizations and providers  
12 with expertise in administering naloxone hydrochloride or another  
13 opioid antagonist and administering medication in a school  
14 environment, including, but not limited to, the State Department  
15 of Public Health, *California Society of Addiction Medicine*, the  
16 Emergency Medical Services Authority, the California School  
17 Nurses Organization, the California Medical Association, the  
18 American Academy of Pediatrics, and others.

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

21 (A) Techniques for recognizing symptoms of an opioid  
22 overdose.

23 (B) Standards and procedures for the storage, restocking, and  
24 emergency use of naloxone hydrochloride or another opioid  
25 antagonist.

26 (C) Basic emergency followup procedures, including, but not  
27 limited to, a requirement for the school or charter school  
28 administrator or, if the administrator is not available, another school  
29 staff member to call the emergency 911 telephone number and to  
30 contact the pupil's parent or guardian. ~~The requirement for the~~  
31 ~~school or charter school administrator or other school staff member~~  
32 ~~to call the emergency 911 telephone number shall not require a~~  
33 ~~pupil to be transported to an emergency room.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (4) An authorizing physician and surgeon shall not be subject  
40 to professional review, be liable in a civil action, or be subject to

1 criminal prosecution for the issuance of a prescription or order  
2 pursuant to this section, unless the physician and surgeon's issuance  
3 of the prescription or order constitutes gross negligence or willful  
4 or malicious conduct.

5 (h) (1) A school nurse or, if the school does not have a school  
6 nurse or the school nurse is not onsite or available, a volunteer  
7 may administer naloxone hydrochloride or another opioid  
8 antagonist to a person exhibiting potentially life-threatening  
9 symptoms of an opioid overdose at school or a school activity  
10 when a physician is not immediately available. If the naloxone  
11 hydrochloride or another opioid antagonist is used it shall be  
12 restocked as soon as reasonably possible, but no later than two  
13 weeks after it is used. Naloxone hydrochloride or another opioid  
14 antagonist shall be restocked before its expiration date.

15 (2) Volunteers may administer naloxone hydrochloride or  
16 another opioid antagonist only by nasal spray or by auto-injector.

17 (3) A volunteer shall be allowed to administer naloxone  
18 hydrochloride or another opioid antagonist in a form listed in  
19 paragraph (2) that the volunteer is most comfortable with.

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

30 (j) (1) Notwithstanding any other law, a person trained as  
31 required under subdivision (d), who administers naloxone  
32 hydrochloride or another opioid antagonist, in good faith and not  
33 for compensation, to a person who appears to be experiencing an  
34 opioid overdose shall not be subject to professional review, be  
35 liable in a civil action, or be subject to criminal prosecution for  
36 his or her acts or omissions in administering the naloxone  
37 hydrochloride or another opioid antagonist.

38 (2) The protection specified in paragraph (1) shall not apply in  
39 a case of gross negligence or willful and wanton misconduct of

1 the person who renders emergency care treatment by the use of  
2 naloxone hydrochloride or another opioid antagonist.

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

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

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Calderon	<b>BILL NUMBER:</b>	AB 2079
<b>SPONSOR:</b>	SEIU California SEIU Local 2015	<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Skilled nursing facilities: staffing	<b>DATE LAST AMENDED:</b>	June 13, 2016

**SUMMARY:**

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

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

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

**ANALYSIS:**

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

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

**Amended analysis as of 4/18:**

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

**Amended summary and analysis as of 5/31:**

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

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

The bill now adds new language to section (3): Existing law requires the Director of Health Care Services to adopt regulations relating to the nursing hours provided per patient in skilled nursing facilities.

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

**Amended analysis as of 6/13:**

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

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

**BOARD POSITION:** Watch (4/14/16)

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

**SUPPORT:**

SEIU California (sponsor)  
California Commission on Aging  
California Labor Federation  
Clergy and Laity United for Economic Justice  
California Department of Justice

**OPPOSE:**

Association of California Healthcare Districts  
California Association of Health Facilities  
LeadingAge California

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2079**

---

---

**Introduced by Assembly Member Calderon**

February 17, 2016

---

---

An act to amend Sections 1276.5 and 1276.65 of the Health and Safety Code, and to amend Section 14126.022 of, and to repeal and add Section 14110.7 of, the Welfare and Institutions Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill, instead, would require the department to develop regulations that become effective January 1, 2018, and include a minimum number of ~~equivalent~~ direct care service hours per patient day for direct

caregivers working in skilled nursing facilities, as specified. The bill would require the posted information to include a resident census and an accurate report of the number of staff working each shift and to be posted in specified locations, including an area used for employee breaks. The bill would require a skilled nursing facility to make staffing data available, upon oral or written request and at a reasonable cost, within 15 days of receiving a request. By expanding the scope of a crime, this bill would impose a state-mandated local program.

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

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

(3) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law requires the Director of Health Care Services to adopt regulations relating to the nursing hours provided per patient in skilled nursing facilities *facilities*.

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

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

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

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

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

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

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

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

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

30 (B) Commencing January 1, 2018, skilled nursing facilities,  
31 except those skilled nursing facilities that are a distinct part of a  
32 general acute care facility or a state hospital, shall have a minimum  
33 number of ~~equivalent~~ direct care service hours of 3.5 per patient  
34 day, with 2.4 hours per patient day for certified nursing assistants  
35 (CNAs) and 1.1 hours per patient day for licensed nurses, except  
36 as set forth in Section 1276.9.

37 (C) Commencing January 1, 2019, skilled nursing facilities,  
38 except those skilled nursing facilities that are a distinct part of a

1 general acute care facility or a state hospital, shall have a minimum  
2 number of ~~equivalent~~ direct care service hours of 3.8 per patient  
3 day, with 2.6 hours per patient day for CNAs and 1.2 hours per  
4 patient day for licensed nurses, except as set forth in Section  
5 1276.9.

6 (D) Commencing January 1, 2020, skilled nursing facilities,  
7 except those skilled nursing facilities that are a distinct part of a  
8 general acute care facility or a state hospital, shall have a minimum  
9 number of ~~equivalent~~ direct care service hours of 4.1 per patient  
10 day, with 2.8 hours per patient day for CNAs and 1.3 hours per  
11 patient day for licensed nurses, except as set forth in Section  
12 1276.9.

13 (2) Notwithstanding Section 14110.7 or any other law, the  
14 minimum number of ~~equivalent~~ direct care service hours per patient  
15 required in a skilled nursing facility that is a distinct part of a  
16 facility licensed as a general acute care hospital or that is operated  
17 by the State Department of State Hospitals shall be 3.2 hours per  
18 patient day, except as provided in Section 1276.9.

19 (3) *For purposes of this subdivision “direct care service hours”*  
20 *means the actual hours of work performed per patient day by a*  
21 *direct caregiver, as defined in Section 1276.65, without doubling*  
22 *the hours performed per patient day by registered nurses and*  
23 *licensed vocational nurses.*

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

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

35 (2) To qualify as an administrator for an intermediate care  
36 facility for the developmentally disabled, a qualified intellectual  
37 disability professional shall complete at least six months of  
38 administrative training or demonstrate six months of experience  
39 in an administrative capacity in a licensed health facility, as defined

1 in Section 1250, excluding those facilities specified in subdivisions  
2 (e), (h), and (i).

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

5 1276.65. (a) For purposes of this section, the following  
6 definitions shall apply:

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

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

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

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

26 (b) Notwithstanding any other law, the State Department of  
27 Public Health shall develop regulations that become effective  
28 January 1, 2018, and establish a minimum number of ~~equivalent~~  
29 direct care service hours per patient day for direct caregivers  
30 working in a skilled nursing facility, as specified in subdivision  
31 (b) of Section 1276.5. The regulations shall require that no less  
32 care be given than is required pursuant to Section 1276.5 and  
33 Section 14110.7 of the Welfare and Institutions Code.

34 (c) The ~~equivalent~~ direct care service hour requirements of this  
35 section shall be minimum standards only and shall be satisfied  
36 daily. Skilled nursing facilities shall employ and schedule  
37 additional staff as needed to ensure quality resident care based on  
38 the needs of individual residents and to ensure compliance with  
39 all relevant state and federal staffing requirements.

1 (d) No later than January 1, 2019, and every five years thereafter,  
2 the department shall consult with consumers, consumer advocates,  
3 recognized collective bargaining agents, and providers to determine  
4 the sufficiency of the staffing standards provided in this section  
5 and may adopt regulations to increase the minimum staffing  
6 standards to adequate levels.

7 (e) (1) In a manner pursuant to federal requirements, effective  
8 January 1, 2003, every skilled nursing facility shall post  
9 information about resident census and staffing levels that includes  
10 the current number of licensed and unlicensed nursing staff directly  
11 responsible for resident care in the facility. This posting shall  
12 include staffing requirements developed pursuant to this section  
13 and an accurate report of the number of direct care staff working  
14 during the current shift, including a report of the number of  
15 registered nurses, licensed vocational nurses, psychiatric  
16 technicians, and certified nurse assistants. The information shall  
17 be posted on paper that is at least 8.5 inches by 14 inches and shall  
18 be printed in a type of at least 16 point.

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

21 (A) An area readily accessible to members of the public.

22 (B) An area used for employee breaks.

23 (C) An area used by residents for communal functions,  
24 including, but not limited to, dining, resident council meetings, or  
25 activities.

26 (3) (A) Upon oral or written request, every skilled nursing  
27 facility shall make direct caregiver staffing data available to the  
28 public for review at a reasonable cost. A skilled nursing facility  
29 shall provide the data to the requestor within 15 days after receiving  
30 a request.

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

38 (f) (1) Notwithstanding any other law, the department shall  
39 inspect for compliance with this section during state and federal  
40 periodic inspections, including, but not limited to, those inspections

1 required under Section 1422. This inspection requirement shall  
2 not limit the department’s authority in other circumstances to cite  
3 for violations of this section or to inspect for compliance with this  
4 section.

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

8 (g) The requirements of this section are in addition to any  
9 requirement set forth in Section 1276.5 of this code and Section  
10 14110.7 of the Welfare and Institutions Code.

11 (h) In implementing this section, the department may contract  
12 as necessary, on a bid or nonbid basis, for professional consulting  
13 services from nationally recognized higher education and research  
14 institutions, or other qualified individuals and entities not  
15 associated with a skilled nursing facility, with demonstrated  
16 expertise in long-term care. This subdivision establishes an  
17 accelerated process for issuing contracts pursuant to this section  
18 and contracts entered into pursuant to this section shall be exempt  
19 from the requirements of Chapter 1 (commencing with Section  
20 10100) and Chapter 2 (commencing with Section 10290) of Part  
21 2 of Division 2 of the Public Contract Code.

22 (i) This section shall not apply to facilities defined in Section  
23 1276.9.

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

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

28 14110.7. (a) In skilled nursing facilities, the minimum number  
29 of ~~equivalent~~ direct care service hours shall be 3.2, except as set  
30 forth in Section 1276.9 of the Health and Safety Code.

31 (b) (1) The department shall adopt regulations setting forth the  
32 minimum number of ~~equivalent~~ direct care service hours per patient  
33 required in skilled nursing facilities, subject to the specific  
34 requirements of this section. However, notwithstanding this section  
35 or any other law, the minimum number of ~~equivalent~~ direct care  
36 service hours per patient required in a skilled nursing facility shall  
37 be 3.2 hours, and, commencing January 1, 2018, skilled nursing  
38 facilities shall be required to increase their ~~equivalent~~ direct care  
39 service hours incrementally, as described in this subdivision, except

1 as otherwise provided in subdivisions (c) to (e), inclusive, and  
2 Section 1276.9 of the Health and Safety Code.

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

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

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

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

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

29 (e) In intermediate care facilities/developmentally disabled, the  
30 minimum number of equivalent direct care service hours shall be  
31 2.7.

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

34 14126.022. (a) (1) By August 1, 2011, the department shall  
35 develop the Skilled Nursing Facility Quality and Accountability  
36 Supplemental Payment System, subject to approval by the federal  
37 Centers for Medicare and Medicaid Services, and the availability  
38 of federal, state, or other funds.

39 (2) (A) The system shall be utilized to provide supplemental  
40 payments to skilled nursing facilities that improve the quality and

1 accountability of care rendered to residents in skilled nursing  
2 facilities, as defined in subdivision (c) of Section 1250 of the  
3 Health and Safety Code, and to penalize those facilities that do  
4 not meet measurable standards.

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

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

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

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

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

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

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

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

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

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

38 (b) (1) There is hereby created in the State Treasury, the Skilled  
39 Nursing Facility Quality and Accountability Special Fund. The  
40 fund shall contain moneys deposited pursuant to subdivisions (g)

1 and (j) to (m), inclusive. Notwithstanding Section 16305.7 of the  
2 Government Code, the fund shall contain all interest and dividends  
3 earned on moneys in the fund.

4 (2) Notwithstanding Section 13340 of the Government Code,  
5 the fund shall be continuously appropriated without regard to fiscal  
6 year to the department for making quality and accountability  
7 payments, in accordance with subdivision (n), to facilities that  
8 meet or exceed predefined measures as established by this section.

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

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

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

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

20 (c) No appropriation associated with this bill is intended to  
21 implement the provisions of Section 1276.65 of the Health and  
22 Safety Code.

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

37 (2) The department, in partnership with the California  
38 Department of Aging, shall seek approval from the federal Centers  
39 for Medicare and Medicaid Services to obtain federal Medicaid  
40 reimbursement for activities conducted by the Long-Term Care

1 Ombudsman Program. The department shall report to the fiscal  
2 committees of the Legislature during budget hearings on progress  
3 being made and any unresolved issues during the 2011–12 budget  
4 deliberations.

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

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

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

24 (i) Fifteen thousand dollars (\$15,000) if the facility fails to meet  
25 the requirements for 5 percent or more of the audited days up to  
26 49 percent.

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

29 (B) (i) If the skilled nursing facility does not dispute the  
30 determination or assessment, the penalties shall be paid in full by  
31 the licensee to the State Department of Public Health within 30  
32 days of the facility’s receipt of the notice of penalty and deposited  
33 into the Skilled Nursing Facility Minimum Staffing Penalty  
34 Account.

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

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

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

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

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

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

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

25 (E) The appeals process set forth in this paragraph shall be  
26 exempt from Chapter 4.5 (commencing with Section 11400) and  
27 Chapter 5 (commencing with Section 11500), of Part 1 of Division  
28 3 of Title 2 of the Government Code. The provisions of Sections  
29 100171 and 131071 of the Health and Safety Code shall not apply  
30 to appeals under this paragraph.

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

37 (G) The assessment of a penalty under this subdivision does not  
38 supplant the State Department of Public Health’s investigation  
39 process or issuance of deficiencies or citations under Chapter 2.4

1 (commencing with Section 1417) of Division 2 of the Health and  
2 Safety Code.

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

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

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

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

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

20 (i) Immunization rates.

21 (ii) Facility acquired pressure ulcer incidence.

22 (iii) The use of physical restraints.

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

26 (v) Resident and family satisfaction.

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

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

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

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

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

6 (iii) The use of chemical restraints.

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

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

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

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

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

1 of 1 percent, from which the department shall transfer the General  
2 Fund portion of this amount into the Skilled Nursing Facility  
3 Quality and Accountability Special Fund.

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

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

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

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

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

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

39 (4) Notwithstanding paragraph (1), if the department is unable  
40 to pay the supplemental payments by April 30, 2014, then on May

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

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

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

29 (q) Notwithstanding Chapter 3.5 (commencing with Section  
30 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
31 the following shall apply:

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

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

38 (r) Notwithstanding paragraph (1) of subdivision (n), if a final  
39 judicial determination is made by any state or federal court that is  
40 not appealed, in any action by any party, or a final determination

1 is made by the administrator of the federal Centers for Medicare  
2 and Medicaid Services, that any payments pursuant to subdivisions  
3 (a) and (n) are invalid, unlawful, or contrary to any federal law or  
4 regulation, or state law, these subdivisions shall become inoperative  
5 and, for the 2011–12 rate year, the rate increase provided under  
6 subparagraph (A) of paragraph (4) of subdivision (c) of Section  
7 14126.033 shall be reduced by the amounts described in  
8 subdivision (j). For the 2013–14 and 2014–15 rate years, any rate  
9 increase shall be reduced by the amounts described in subdivisions  
10 (j) to (l), inclusive.

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

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Rodriguez	<b>BILL NUMBER:</b>	AB 2105
<b>SPONSOR:</b>		<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Workforce development: allied health professions	<b>DATE LAST AMENDED:</b>	June 14, 2016

**SUMMARY:**

This bill was introduced on February 17, 2016, as *Workforce development*.

Existing law establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires the board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding "earn and learn" job training opportunities, models, and programs. Under existing law, this reporting requirement is inoperative on January 1, 2019.

**ANALYSIS:**

This bill would extend that inoperative date to January 1, 2020.

**Amended analysis as of 4/12:**

The title of the bill is changed from *Workforce development* to *Workforce development: report: allied health care professionals*.

The bill would require the board to consider the recommendations in the report to determine whether the recommendations should be included within the board's work plan for the 2017–18 fiscal year, contact, or delegate to another state entity to contact, Medicare and Medicaid Services to determine how these federal entities could become engaged in a cross-sector collaboration on expanding the use of apprenticeship programs to help prepare allied health care professionals to meet the needs of California businesses and the public, and approve the progress and outcomes of these activities as an agenda item.

**Amended analysis as of 4/28:**

The bill would change the inoperative date back to January 1, 2019.

**Amended summary and analysis as of 6/14:**

The title of the bill is changed from *Workforce development: report: allied health care professionals* to *Workforce development: allied health professions*.

Existing law requires the California Workforce Development Board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding expanding job training and employment for allied health professions.

This bill would delete the amendment of April 14 and would now require the Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.

**BOARD POSITION:** Not previously considered

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Not previously considered

**SUPPORT:**

Jewish Vocational Services of San Francisco  
Service Employees International Union

**OPPOSE:** None on file.

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY APRIL 28, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2105**

---

---

**Introduced by Assembly Member Rodriguez**

February 17, 2016

---

---

An act to amend Section 14017 of the Unemployment Insurance Code, relating to workforce development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2105, as amended, Rodriguez. Workforce development: ~~report:~~ allied health-care professionals: *professions*.

Existing law establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires the board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding "earn and learn" job training opportunities, models, and programs. *expanding job training and employment for allied health professions.*

This bill would require the board to consider the recommendations in the report to determine whether the recommendations should be included within the board's work plan for the 2017–18 fiscal year, contact, or delegate to another state entity to contact, Medicare and

~~Medicaid Services to determine how these federal entities could become engaged in a cross-sector collaboration on expanding the use of apprenticeship programs to help prepare allied health care professionals to meet the needs of California businesses and the public, and approve the progress and outcomes of these activities as an agenda item. Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.~~

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

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

- 1 SECTION 1. Section 14017 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 14017. (a) In efforts to expand job training and employment
- 4 for allied health professions, the California Workforce
- 5 Development Board, in consultation with the Division of
- 6 Apprenticeship Standards, shall do the following:
- 7 (1) Identify opportunities for “earn and learn” job training
- 8 opportunities that meet the industry’s workforce demands and that
- 9 are in high-wage, high-demand jobs.
- 10 (2) Identify and develop specific requirements and qualifications
- 11 for entry into “earn and learn” job training models.
- 12 (3) Establish standards for “earn and learn” job training
- 13 programs that are outcome oriented and accountable. The standards
- 14 shall measure the results from program participation, including a
- 15 measurement of how many complete the program with an
- 16 industry-recognized credential that certifies that the individual is
- 17 ready to enter the specific allied health profession for which he or
- 18 she has been trained.
- 19 (4) Develop means to identify, assess, and prepare a pool of
- 20 qualified candidates seeking to enter “earn and learn” job training
- 21 models.
- 22 (b) (1) The board, on or before December 1, 2015, shall prepare
- 23 and submit to the appropriate policy committees of the Legislature
- 24 a report on the findings and recommendations of the board.

1     ~~(2) The board shall consider the recommendations in the report~~  
2 ~~to determine whether any or all of the recommendations should~~  
3 ~~be included within the board's work plan for the 2017-18 fiscal~~  
4 ~~year or referred to another state entity for possible action. At a~~  
5 ~~minimum, the board shall contact, or shall delegate to another state~~  
6 ~~entity to contact, Medicare and Medicaid Services to determine~~  
7 ~~how these federal entities could become engaged in a cross-sector~~  
8 ~~collaboration on expanding the use of apprenticeship programs to~~  
9 ~~help prepare allied health care professionals to meet the needs of~~  
10 ~~California businesses and the public. The board shall approve the~~  
11 ~~progress and outcomes of these activities as an agenda item.~~

12     ~~(3)~~

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

16     (c) (1) *The Department of Consumer Affairs shall engage in a*  
17 *stakeholder process to update policies and remove barriers to*  
18 *facilitate the development of earn and learn training programs in*  
19 *the allied health professions, including barriers identified in the*  
20 *report prepared by the board pursuant to subdivision (b), entitled*  
21 *Expanding Earn and Learn Models in the California Health Care*  
22 *Industry. The stakeholder process shall include all of the following:*

23     (A) *The department convening allied health workforce*  
24 *stakeholders, which shall include, but are not limited to, the*  
25 *department's relevant licensure boards, the California community*  
26 *College system, the California Workforce Development Board,*  
27 *and the State Department of Public Health, and which may include*  
28 *other relevant entities such as the Office of Statewide Health*  
29 *Planning and Development, employer and worker representatives,*  
30 *and community-based organizations.*

31     (B) *Addressing issues that include, but are not limited to,*  
32 *prelicensure classifications in allied health occupations that would*  
33 *allow students, in a supervised setting, to gain experience in their*  
34 *chosen field before obtaining licensure, and the payment of wages*  
35 *while in a workplace-based training program.*

36     (C) *The department ensuring that existing standards of consumer*  
37 *protection are maintained.*

38     (D) *The sharing of any statutory barriers identified through*  
39 *this process with the relevant committees of the Legislature.*

- 1     (2) *The process described in paragraph (1) shall be completed*
- 2     *by, and this subdivision shall be inoperative on, January 1, 2020.*

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Thurmond	<b>BILL NUMBER:</b>	AB 2272
<b>SPONSOR:</b>	California Nurses Association/National Nurses United	<b>BILL STATUS:</b>	Senate Committee on Appropriations
<b>SUBJECT:</b>	Occupational safety and health standards	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. A violation of these standards and regulations under specific circumstances is a crime.

**ANALYSIS:**

This bill would require the board to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures. The bill would require the board, in adopting these standards, to take into consideration and use as a benchmark certain standards adopted by specified organizations. The bill would require the board to use as the mandated requirement for plume scavenging systems recommendations of the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health, where the board determines those recommendations are more effective in the evacuation of plume and would be more protective of occupational health than the described standards.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks or respirators does not satisfy the requirements for protection from surgical plumes under these provisions.

**Amended analysis as of 6/14:**

This bill would require the board, by June 1, 2018, to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures.

The bill would require the board, as part of the standards, to include a requirement that employers provide training to all health care workers involved in procedures that involve the creation of plume, as specified.

**Amended analysis as of 8/1:**

The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.

**BOARD POSITION:** Not previously considered

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Not previously considered

**SUPPORT:**

California Nurses Association/National Nurses United (Sponsor)

American Lung Association in California

California Labor Federation, AFL-CIO

Service Employees International Union

The International Council on Surgical Plume

**OPPOSE:**

California Hospital Association

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 14, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2272**

---

---

**Introduced by Assembly Member Thurmond**

February 18, 2016

---

---

An act to add Section 144.9 to the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, as amended, Thurmond. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. A violation of these standards and regulations under specific circumstances is a crime.

This bill would require the board, by June 1, 2018, to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures. The bill would require the board, in adopting these standards, to take into consideration and use as a benchmark certain standards adopted by specified organizations. The bill would require the board to use as the mandated requirement for plume scavenging systems recommendations of the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health,

where the board determines those recommendations are more effective in the evacuation of plume and would be more protective of occupational health than the described standards.

The bill would require the board, as part of the standards, to include a requirement that employers provide training to all health care workers involved in procedures that involve the creation of plume, as specified.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks or respirators does not satisfy the requirements for protection from surgical plumes under these provisions. *The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.*

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 144.9 is added to the Labor Code, to  
2 read:  
3 144.9. (a) As used in this section:  
4 (1) "Electrocautery device" means a device that is electrically  
5 heated to cut, ablate, or coagulate human tissue for therapeutic  
6 purposes.  
7 (2) "Electrosurgical device" means a device that uses a radio  
8 frequency electric current passing through the patient to cut, ablate,  
9 or coagulate human tissue for therapeutic purposes.  
10 (3) "Energy-based device" means a device that uses energy to  
11 ablate, cauterize, or mechanically manipulate target human tissue  
12 including lasers, electrosurgical generators, broadband light  
13 sources, ultrasonic instruments, plasma generators, bone saws, and  
14 drills.

1 (4) “Plume” means noxious airborne contaminants generated  
2 as byproducts of the use of energy-based devices, electrosurgical  
3 devices, electrocautery devices, or mechanical tools during surgical,  
4 diagnostic, or therapeutic procedures.

5 (5) “Plume scavenging system” means smoke evacuators, laser  
6 plume evacuators, plume scavengers, and local exhaust ventilators  
7 ~~that capture and neutralize at least 95~~ *that, when used in*  
8 *accordance with the manufacturer’s instructions, conform to the*  
9 *general requirement of the 2014 ISO Standard 16571 to remove*  
10 *and neutralize at least 90* percent of plume at the site of origin and  
11 before plume can make ocular contact or contact with the  
12 respiratory tract of health care personnel or patients.

13 (b) (1) The board shall, by June 1, 2018, adopt an occupational  
14 safety and health standard requiring a health facility, as defined  
15 in subdivision (a) of Section 1250 of the Health and Safety Code,  
16 to evacuate or remove plume through the use of a plume  
17 scavenging system in all settings that employ techniques that  
18 involve the creation of plume. In developing the standard, the  
19 board shall take into consideration and use as a benchmark the  
20 standards titled “Systems for evacuation of plume generated by  
21 medical devices” (ISO 16571) adopted by the International  
22 Organization for Standardization and the standards titled “Plume  
23 scavenging in surgical, diagnostic, therapeutic, and aesthetic  
24 settings” (CSA Z305.13-13) adopted by the CSA Group. Where,  
25 in the determination of the board, recommendations of the federal  
26 Occupational Safety and Health Administration or National  
27 Institute for Occupational Safety and Health are more effective in  
28 the evacuation of plume and would be more protective of  
29 occupational health than the ISO or CSA standards, the board shall  
30 use those federal recommendations as the mandated requirement  
31 for plume scavenging systems.

32 (2) As part of the standard, the board shall include a requirement  
33 for employers to provide training and education to all health care  
34 workers that will participate in procedures that involve the creation  
35 of plume. The training shall include, but not be limited to, the  
36 appropriate use of the plume scavenging systems and equipment  
37 utilized by the facility, and general education on the contents of  
38 plume, the circumstances in which it is generated, and the  
39 associated health and safety hazards. The training shall be designed  
40 to provide an opportunity for interactive questions and answers

1 with a person knowledgeable about occupational exposure to plume  
2 and the specific equipment utilized.

3 (3) In developing standards, the board may consider input from  
4 health facilities, practicing physicians from affected specialties,  
5 registered nurses and other affected health care personnel, labor  
6 and specialty organizations representing affected registered nurses,  
7 labor and specialty organizations representing other affected health  
8 care personnel, and other stakeholders.

9 (c) (1) Nothing in this section alters, amends, expands, or  
10 reduces existing general room ventilation standards or  
11 requirements. These plume scavenging standards are in addition  
12 to general room ventilation standards or requirements, and  
13 compliance with general room ventilation standards shall not satisfy  
14 the requirements of this section.

15 (2) *Evidence that the plume scavenging system conforms to the*  
16 *minimum requirements of this section when installed, operated,*  
17 *and maintained in accordance with the manufacturer’s instructions,*  
18 *shall be provided by the manufacturer.*

19 (d) The use of surgical masks or respirators shall not satisfy the  
20 requirements of this section.

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

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Gordon	<b>BILL NUMBER:</b>	AB 2744
<b>SPONSOR:</b>	The Internet Association	<b>BILL STATUS:</b>	Senate 3 <sup>rd</sup> Reading
<b>SUBJECT:</b>	Healing arts: referrals	<b>DATE LAST AMENDED:</b>	June 16, 2016

**SUMMARY:**

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

**ANALYSIS:**

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

**Amended analysis as of 4/11:**

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

**Amended analysis as of 6/6:**

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

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

**Amended analysis as of 6/16:**

The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser, as specified. The bill would require a third-party advertiser to make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region.

**BOARD POSITION:** Watch (4/14/16)

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

**SUPPORT:**

The Internet Association (sponsor)  
Groupon

**OPPOSE:**

California Medical Association  
California Society of Plastic Surgeons

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN SENATE JUNE 6, 2016

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2744**

---

---

**Introduced by Assembly Member Gordon**  
(Coauthor: Senator Hill)

February 19, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, as amended, Gordon. Healing arts: referrals.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

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

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

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

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

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

1 donations, loans, or a combination thereof to the health center  
2 entity pursuant to a contract, lease, grant, loan, or other agreement,  
3 if that agreement contributes to the ability of the health center  
4 entity to maintain or increase the availability, or enhance the  
5 quality, of services provided to a medically underserved population  
6 served by the health center, shall be permitted only to the extent  
7 sanctioned or permitted by federal law.

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

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

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

37 (g) The payment or receipt of consideration for advertising,  
38 wherein a licensee offers or sells services through a third-party  
39 advertiser, shall not constitute a referral of patients when the  
40 third-party advertiser does not itself recommend, endorse, or

1 otherwise select a licensee. ~~To the extent~~ *If* the licensee determines,  
2 after consultation with the purchaser of the service, that the service  
3 is not appropriate for the purchaser, the purchaser shall receive a  
4 refund of the full purchase ~~price~~. *price as determined by the terms*  
5 *of the advertising service agreement between the third-party*  
6 *advertiser and the licensee.* This subdivision shall not apply to  
7 basic health care services, as defined in subdivision (b) of Section  
8 1345 of the Health and Safety Code, or essential health benefits,  
9 as defined in Section 1367.005 of the Health and Safety Code and  
10 Section 10112.27 of the Insurance Code. The entity that provides  
11 the advertising shall be able to demonstrate that the licensee  
12 consented in writing to the requirements of this subdivision. A  
13 third-party advertiser shall make available ~~for purchase services~~  
14 ~~advertised by all licensees to prospective purchasers~~  
15 ~~advertisements for services of all licensees then advertising through~~  
16 ~~the third-party advertiser~~ in the applicable geographic region.

17 (h) A violation of this section is a public offense and is  
18 punishable upon a first conviction by imprisonment in a county  
19 jail for not more than one year, or by imprisonment pursuant to  
20 subdivision (h) of Section 1170 of the Penal Code, or by a fine not  
21 exceeding fifty thousand dollars (\$50,000), or by both that  
22 imprisonment and fine. A second or subsequent conviction is  
23 punishable by imprisonment pursuant to subdivision (h) of Section  
24 1170 of the Penal Code, or by that imprisonment and a fine of fifty  
25 thousand dollars (\$50,000).

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Low	<b>BILL NUMBER:</b>	AB 2859
<b>SPONSOR:</b>	Low	<b>BILL STATUS:</b>	Assembly 3 <sup>rd</sup> Reading
<b>SUBJECT:</b>	Professions and vocations: retired category: licenses	<b>DATE LAST AMENDED:</b>	August 3, 2016

**SUMMARY:**

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

**ANALYSIS:**

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

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

**Amended analysis as of 6/15:**

This bill would additionally authorize any of the boards within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons. The bill also would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would not apply to a board that has other statutory authority to establish a retired license.

**Amended analysis as of 8/3:**

This bill would require that a board that will now provide this category of licensure shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

**BOARD POSITION:** Watch (4/14/16)

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

**SUPPORT:**

California Board of Accountancy

Contractors State License Board

**OPPOSE:** None on file

AMENDED IN SENATE AUGUST 3, 2016

AMENDED IN SENATE JUNE 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2859**

---

---

**Introduced by Assembly Member Low**

February 19, 2016

---

---

An act to add Section ~~463~~ 464 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would additionally authorize any of the boards within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include

specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons. The bill also would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive. The bill would not apply to a board that has other statutory authority to establish a retired license.

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

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

1 SECTION 1. Section ~~463~~ 464 is added to the Business and  
 2 Professions Code, to read:  
 3 ~~463.~~  
 4 464. (a) Any of the boards within the department may  
 5 establish, by regulation, a system for a retired category of licensure  
 6 for persons who are not actively engaged in the practice of their  
 7 profession or vocation.  
 8 (b) The regulation shall contain the following:  
 9 (1) A retired license shall be issued to a person with either an  
 10 active license or an inactive license that was not placed on inactive  
 11 status for disciplinary reasons.  
 12 (2) The holder of a retired license issued pursuant to this section  
 13 shall not engage in any activity for which a license is required,  
 14 unless the board, by regulation, specifies the criteria for a retired  
 15 licensee to practice his or her profession or vocation.  
 16 (3) The holder of a retired license shall not be required to renew  
 17 that license.  
 18 (4) *The board shall establish an appropriate application fee for*  
 19 *a retired license to cover the reasonable regulatory cost of issuing*  
 20 *a retired license.*  
 21 ~~(4)~~  
 22 (5) In order for the holder of a retired license issued pursuant  
 23 to this section to restore his or her license to an active status, the  
 24 holder of that license shall meet all the following:

- 1 (A) Pay a fee established by statute or regulation.
- 2 (B) Certify, in a manner satisfactory to the board, that he or she
- 3 has not committed an act or crime constituting grounds for denial
- 4 of licensure.
- 5 (C) Comply with the fingerprint submission requirements
- 6 established by regulation.
- 7 (D) If the board requires completion of continuing education
- 8 for renewal of an active license, complete continuing education
- 9 equivalent to that required for renewal of an active license, unless
- 10 a different requirement is specified by the board.
- 11 (E) Complete any other requirements as specified by the board
- 12 by regulation.
- 13 (c) A board may upon its own determination, and shall upon
- 14 receipt of a complaint from any person, investigate the actions of
- 15 any licensee, including a person with a license that either restricts
- 16 or prohibits the practice of that person in his or her profession or
- 17 vocation, including, but not limited to, a license that is retired,
- 18 inactive, canceled, revoked, or suspended.
- 19 (d) Subdivisions (a) and (b) shall not apply to a board that has
- 20 other statutory authority to establish a retired license.

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Lara	<b>BILL NUMBER:</b>	SB 482
<b>SPONSOR:</b>	California Narcotic Officers' Association Consumer Attorneys of California	<b>BILL STATUS:</b>	Assembly 2 <sup>nd</sup> Reading
<b>SUBJECT:</b>	Controlled substances: CURES database	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

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

**ANALYSIS:**

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

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

**Amended analysis as of 4/7:**

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements if a specified condition exists,

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

**Amended analysis as of 6/6:**

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

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

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

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

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

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

**Amended analysis as of 6/21:**

This bill would require a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours before prescribing a Schedule II, Schedule III, or

Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

This bill would provide that the duty to consult the CURES database does not apply when a health care practitioner prescribes, orders, administers, furnishes, or dispenses a controlled substance in the emergency department of a general acute care hospital if the quantity of the controlled substance does not exceed a seven-day supply of the controlled substance to be used in accordance with the directions for use.

**Amended analysis as of 8/1:**

This bill would require, if a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient pursuant to one of those exemptions, the health care practitioner to consult the CURES database before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

**BOARD POSITION:** Support (6/4/15) position continued on 6/16/16.

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

**SUPPORT:**

California Narcotic Officers' Association (co-sponsor)

Consumer Attorneys of California (co-sponsor)

American Insurance Association

California Chamber of Commerce

California Teamsters Public Affairs Council

Center for Public Interest Law

Consumer Watchdog

National Alliance on Mental Illness

ShatterProof

**OPPOSE:**

California Medical Association

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN ASSEMBLY JUNE 6, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 482**

---

---

**Introduced by Senator Lara**

February 26, 2015

---

---

An act to amend ~~Section~~ *Sections 11165 and 11165.1* of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would require a health care practitioner authorized to prescribe, order, administer, ~~furnish, or dispense~~ *or furnish* a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than ~~24 hours~~ *hours, or the previous business day*, before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, ~~furnishing, or dispensing~~ *or furnishing* a controlled substance to a patient receiving hospice care, to a patient admitted to a specified ~~facility~~, *facility for use while on facility premises*, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use. ~~The bill would exempt a health care practitioner from this requirement if it is not reasonably possible for him or her to access the information in the CURES database in a timely manner, another health care practitioner or designee authorized to access the CURES database is not reasonably available, and the quantity of controlled substance prescribed, ordered, administered, furnished, or dispensed does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use and no refill of the controlled substance is allowed.~~ *The bill would require, if a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient pursuant to one of those exemptions, the health care practitioner to consult the CURES database before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.*

~~The~~

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

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

~~The~~

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

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

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

1     SECTION 1. Section 11165 of the Health and Safety Code is  
2 amended to read:

3     11165. (a) To assist health care practitioners in their efforts  
4 to ensure appropriate prescribing, ordering, administering,  
5 furnishing, and dispensing of controlled substances, law  
6 enforcement and regulatory agencies in their efforts to control the  
7 diversion and resultant abuse of Schedule II, Schedule III, and  
8 Schedule IV controlled substances, and for statistical analysis,  
9 education, and research, the Department of Justice shall, contingent  
10 upon the availability of adequate funds in the CURES Fund,  
11 maintain the Controlled Substance Utilization Review and  
12 Evaluation System (CURES) for the electronic monitoring of, and  
13 Internet access to information regarding, the prescribing and  
14 dispensing of Schedule II, Schedule III, and Schedule IV controlled  
15 substances by all practitioners authorized to prescribe, order,  
16 administer, furnish, or dispense these controlled substances.

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

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

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

19 (3) *In accordance with federal and state privacy laws and*  
20 *regulations, a health care practitioner may provide a patient with*  
21 *a copy of the patient's CURES patient activity report and keep a*  
22 *copy of the report in the patient's medical record if reasonable*  
23 *care has been taken to ensure that the report is provided or kept*  
24 *in compliance with subdivision (d) of Section 11165.1.*

25 (d) For each prescription for a Schedule II, Schedule III, or  
26 Schedule IV controlled substance, as defined in the controlled  
27 substances schedules in federal law and regulations, specifically  
28 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21  
29 of the Code of Federal Regulations, the dispensing pharmacy,  
30 clinic, or other dispenser shall report the following information to  
31 the Department of Justice as soon as reasonably possible, but not  
32 more than seven days after the date a controlled substance is  
33 dispensed, in a format specified by the Department of Justice:

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

39 (2) The prescriber's category of licensure, license number,  
40 national provider identifier (NPI) number, if applicable, the federal

1 controlled substance registration number, and the state medical  
2 license number of any prescriber using the federal controlled  
3 substance registration number of a government-exempt facility.

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

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

8 (5) Quantity of the controlled substance dispensed.

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

11 (7) Number of refills ordered.

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

14 (9) Date of origin of the prescription.

15 (10) Date of dispensing of the prescription.

16 (e) The Department of Justice may invite stakeholders to assist,  
17 advise, and make recommendations on the establishment of rules  
18 and regulations necessary to ensure the proper administration and  
19 enforcement of the CURES database. All prescriber and dispenser  
20 invitees shall be licensed by one of the boards or committees  
21 identified in subdivision (d) of Section 208 of the Business and  
22 Professions Code, in active practice in California, and a regular  
23 user of CURES.

24 (f) The Department of Justice shall, prior to upgrading CURES,  
25 consult with prescribers licensed by one of the boards or  
26 committees identified in subdivision (d) of Section 208 of the  
27 Business and Professions Code, one or more of the boards or  
28 committees identified in subdivision (d) of Section 208 of the  
29 Business and Professions Code, and any other stakeholder  
30 identified by the department, for the purpose of identifying  
31 desirable capabilities and upgrades to the CURES Prescription  
32 Drug Monitoring Program (PDMP).

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

36 ~~SECTION 1.~~

37 *SEC. 2.* Section 11165.1 of the Health and Safety Code is  
38 amended to read:

39 11165.1. (a) (1) (A) (i) A health care practitioner authorized  
40 to prescribe, order, administer, furnish, or dispense Schedule II,

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

13 (ii) A pharmacist shall, before July 1, 2016, or upon licensure,  
14 whichever occurs later, submit an application developed by the  
15 Department of Justice to obtain approval to access information  
16 online regarding the controlled substance history of a patient that  
17 is stored on the Internet and maintained within the Department of  
18 Justice, and, upon approval, the department shall release to that  
19 pharmacist the electronic history of controlled substances dispensed  
20 to an individual under his or her care based on data contained in  
21 the CURES PDMP.

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

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

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

28 (iii) Suspended or revoked federal DEA registration.

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

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

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

37 (2) A health care practitioner authorized to prescribe, order,  
38 administer, furnish, or dispense Schedule II, Schedule III, or  
39 Schedule IV controlled substances pursuant to Section 11150 or  
40 a pharmacist shall be deemed to have complied with paragraph

1 (1) if the licensed health care practitioner or pharmacist has been  
2 approved to access the CURES database through the process  
3 developed pursuant to subdivision (a) of Section 209 of the  
4 Business and Professions Code.

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

8 (c) In order to prevent the inappropriate, improper, or illegal  
9 use of Schedule II, Schedule III, or Schedule IV controlled  
10 substances, the Department of Justice may initiate the referral of  
11 the history of controlled substances dispensed to an individual  
12 based on data contained in CURES to licensed health care  
13 practitioners, pharmacists, or both, providing care or services to  
14 the individual.

15 (d) The history of controlled substances dispensed to an  
16 individual based on data contained in CURES that is received by  
17 a practitioner or pharmacist from the Department of Justice  
18 pursuant to this section is medical information subject to the  
19 provisions of the Confidentiality of Medical Information Act  
20 contained in Part 2.6 (commencing with Section 56) of Division  
21 1 of the Civil Code.

22 (e) Information concerning a patient's controlled substance  
23 history provided to a prescriber or pharmacist pursuant to this  
24 section shall include prescriptions for controlled substances listed  
25 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code  
26 of Federal Regulations.

27 (f) A health care practitioner, pharmacist, and any person acting  
28 on behalf of a health care practitioner or pharmacist, when acting  
29 with reasonable care and in good faith, is not subject to civil or  
30 administrative liability arising from any false, incomplete, or  
31 inaccurate information submitted to, or reported by, the CURES  
32 database or for any resulting failure of the CURES database to  
33 accurately or timely report that information.

34 ~~SEC. 2.~~

35 *SEC. 3.* Section 11165.4 is added to the Health and Safety  
36 Code, to read:

37 11165.4. (a) (1) (A) (i) A health care practitioner authorized  
38 to prescribe, order, administer, ~~furnish, or dispense or furnish~~ a  
39 controlled substance shall consult the CURES database to review  
40 a patient's controlled substance history before prescribing a

1 Schedule II, Schedule III, or Schedule IV controlled substance to  
2 the patient for the first time and at least once every four months  
3 thereafter if the substance remains part of the treatment of the  
4 patient.

5 *(ii) If a health care practitioner authorized to prescribe, order,*  
6 *administer, or furnish a controlled substance is not required,*  
7 *pursuant an exemption described in subdivision (c), to consult the*  
8 *CURES database the first time he or she prescribes, orders,*  
9 *administers, or furnishes a controlled substance to a patient, he*  
10 *or she shall consult the CURES database to review the patient's*  
11 *controlled substance history before subsequently prescribing a*  
12 *Schedule II, Schedule III, or Schedule IV controlled substance to*  
13 *the patient and at least once every four months thereafter if the*  
14 *substance remains part of the treatment of the patient.*

15 (B) For purposes of this paragraph, “first time” means the initial  
16 occurrence in which a health care practitioner, in his or her role  
17 as a health care practitioner, intends to prescribe, order, administer,  
18 ~~furnish, or dispense~~ *or furnish* a Schedule II, Schedule III, or  
19 Schedule IV controlled substance to a patient and has not  
20 previously prescribed a controlled substance to the patient.

21 (2) A health care practitioner shall obtain a patient's controlled  
22 substance history from the CURES database no earlier than 24  
23 ~~hours~~ *hours, or the previous business day*, before he or she  
24 prescribes, orders, administers, ~~furnishes, or dispenses~~ *or furnishes*  
25 a Schedule II, Schedule III, or Schedule IV controlled substance  
26 to the patient.

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

29 (c) The duty to consult the CURES database, as described in  
30 subdivision (a), does not apply to a health care practitioner in any  
31 of the following circumstances:

32 (1) If a health care practitioner prescribes, orders, or furnishes  
33 a controlled substance to be administered ~~or dispensed~~ to a patient  
34 while the patient is admitted to any of the following facilities or  
35 during an emergency transfer between any of the following  
36 ~~facilities:~~ *facilities for use while on facility premises:*

37 (A) A licensed clinic, as described in Chapter 1 (commencing  
38 with Section 1200) of Division 2.

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

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

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

5 (2) ~~When~~*If* a health care practitioner prescribes, orders,  
6 administers, ~~furnishes, or dispenses~~ *or furnishes* a controlled  
7 substance in the emergency department of a general acute care  
8 hospital ~~if~~ *and* the quantity of the controlled substance does not  
9 exceed a *nonrefillable* seven-day supply of the controlled substance  
10 to be used in accordance with the directions for use.

11 (3) If a health care practitioner prescribes, orders, administers,  
12 ~~furnishes, or dispenses~~ *or furnishes* a controlled substance to a  
13 patient as part of the patient’s treatment for a surgical ~~procedure,~~  
14 ~~if procedure~~ *and* the quantity of the controlled substance does not  
15 exceed a nonrefillable five-day supply of the controlled substance  
16 to be used in accordance with the directions for ~~use,~~ *use* in any of  
17 the following facilities:

18 (A) A licensed clinic, as described in Chapter 1 (commencing  
19 with Section 1200) of Division 2.

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

22 (C) A health facility, as described in Chapter 2 (commencing  
23 with Section 1250) of Division 2.

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

26 (E) A place of practice, as defined in Section 1658 of the  
27 Business and Professions Code.

28 (4) If a health care practitioner prescribes, orders, administers,  
29 ~~furnishes, or dispenses~~ *or furnishes* a controlled substance to a  
30 patient currently receiving hospice care, as defined in Section  
31 1339.40.

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

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

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

37 (iii) ~~The~~ The quantity of controlled substance prescribed, ordered,  
38 administered, ~~furnished, or dispensed~~ *or furnished* does not exceed  
39 a nonrefillable five-day supply of the controlled substance to be

1 used in accordance with the directions for use and no refill of the  
2 controlled substance is allowed.

3 (B) A health care practitioner who does not consult the CURES  
4 database under subparagraph (A) shall document the reason he or  
5 she did not consult the database in the patient’s medical record.

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

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

15 (8) If the CURES database cannot be accessed because of  
16 exceptional circumstances, as demonstrated by a health care  
17 practitioner.

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

22 (2) This section does not create a private cause of action against  
23 a health care practitioner. This section does not limit a health care  
24 practitioner’s liability for the negligent failure to diagnose or treat  
25 a patient.

26 (e) This section is not operative until six months after the  
27 Department of Justice certifies that the CURES database is ready  
28 for statewide use. The department shall notify the Secretary of  
29 State and the office of the Legislative Counsel of the date of that  
30 certification.

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

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

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Hill	<b>BILL NUMBER:</b>	SB 1039
<b>SPONSOR:</b>	Hill	<b>BILL STATUS:</b>	Assembly Committee on Appropriations
<b>SUBJECT:</b>	Professions and Vocations	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

This bill is an omnibus bill and applies to a number of boards and bureaus within the Department of Consumer Affairs.

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

**ANALYSIS:**

Section 3: This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements.

**Amended summary and analysis as of 4/7:**

Section 3 renumbered as Section 4 and adds: The Nursing Practice Act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

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

This bill would provide that standards for continuing education shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the

scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care.

Added Section 6: Existing law requires certain businesses that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, among other provisions, as specified.

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

**Amended analysis as of 4/12:**

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

**Amended analysis as of 4/21:**

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

Section 6 renumbered to Section 5.

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

**Amended analysis as of 5/31:**

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

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

**Amended analysis as of 6/22:**

Section 3 now renumbered as Section 5 related to the Nursing Practice Act and Section 6 renumbered as Section 8 related to telephone medical advice.

**Amended analysis as of 6/30:**

This bill would continue to amend various sections of the Business and Professions Code and the Corporations Code, but does not amend or repeal any sections related to the Nursing Practice Act or telephone medical advice.

**Amended analysis as of 8/1:**

This bill continues with amendments for other parts of the Business and Professions Code but does not amend or repeal any sections related to the Nursing Practice Act or telephone medical advice.

**BOARD POSITION:** Support amendments to BPC 2746.51, 2786.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2. Watch position for the other provisions (4/14/16). No position taken on

repeal/amend provisions related to Section 6; Language not available to members at the time of the meeting. Continue with previous positions (6/16/16).

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Watch (5/12/16)

**SUPPORT:** None on file related to the Nursing Practice Act

**OPPOSE:** Related to the amendments proposed for the Nursing Practice Act:  
American Nurses Association/California

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN ASSEMBLY JUNE 22, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE APRIL 7, 2016

**SENATE BILL**

**No. 1039**

---

---

**Introduced by Senator Hill**

February 12, 2016

---

---

An act to amend Sections 1944, ~~2472~~, ~~2499.5~~, 2733, 2746.51, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4830, 4999, 4999.2, 8516, and 8518 of, to amend, repeal, and add Sections 4400, 7137, and 7153.3 of, to repeal Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, and to repeal and add Sections 2546.9, 2565, 2566, 2566.1, and 4999.5 of, the Business and Professions Code, to amend Section 1348.8 of the Health and Safety Code, and to amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified.

The bill would state the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program, as specified, to increase the supply of dentists serving in medically underserved areas.

(2) Existing law, the Dental Practice Act, requires the Dental Hygiene Committee of California to establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. Existing law prohibits the biennial renewal fee from exceeding \$160. Existing law requires these fees to be deposited in the State Dental Hygiene Fund and makes these moneys subject to appropriation by the Legislature.

This bill would instead prohibit the biennial renewal fee from exceeding \$500.

~~(3) The Medical Practice Act creates, within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine. Under the act, only a doctor of podiatric medicine who is ankle certified by the California Board of Podiatric Medicine on and after January 1, 1984, may perform certain surgical procedures. Existing law establishes various fees applicable to certificates to practice podiatric medicine, including, but not limited to, an application fee, a duplicate wall certificate fee, a duplicate renewal receipt fee, a letter of good standing fee or a letter for a loan deferment fee, a fee for the issuance of a resident's license, a filing fee to appeal the failure of an oral examination, and a fee for continuing education approval. Existing law also establishes a fee for ankle certification for persons licensed prior to January 1, 1984. Existing law requires these fees to be deposited in the Board of Podiatric Medicine Fund and makes these fees subject to appropriation by the Legislature.~~

~~This bill would authorize a doctor of podiatric medicine to perform those surgical procedures regardless of whether he or she has been ankle certified, would delete that ankle certification fee, and would increase the amounts of those other fees:~~

~~(4)~~

(3) Existing law makes the State Board of Optometry responsible for the regulation of nonresident contact lens sellers, registered dispensing opticians, spectacle lens dispensers, and contact lens dispensers. Existing law establishes regulatory fees in this regard, including, but not limited to, an initial registration fee, a renewal fee, and a delinquency fee. Existing law requires these fees to be deposited

in the Dispensing Opticians Fund and makes these fees available, subject to appropriation, to the State Board of Optometry.

This bill would establish a specified minimum and maximum application fee amount for nonresident contact lens sellers, registered dispensing opticians, and spectacle lens dispensers. The bill would also establish increased minimum and maximum amounts for those already established fees. The bill would authorize the State Board of Optometry to periodically revise and fix these fees, as specified.

(5)

(4) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing education courses given to registered nurses available for board inspection. That act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements. The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(6)

(5) The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs. That law prescribes various fees to be paid by licensees and applicants for licensure, and requires all fees collected on behalf of the board to be credited to the Pharmacy Board Contingent Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would, on and after July 1, 2017, modify specified fees to be paid by licensees and applicants for licensure pursuant to that act.

By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(7)

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

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

(8)

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

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

(9)

(8) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. That law also prescribes various fees to be paid by licensees and applicants for licensure, requires the board to set the fees by regulation, and requires fees and civil penalties received under that law to be deposited in the Contractors'

License Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

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

(10)

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

This bill would require the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill would not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill would require instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner's designated agent, as specified. The bill would allow an inspection report to be a complete, limited, supplemental, or reinspection report, as

defined. The bill would require all inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill would require the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch. By placing new requirements on a registered company or licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

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

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

(H)

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

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

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

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

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

6 SEC. 2. Section 1944 of the Business and Professions Code is  
7 amended to read:

8 1944. (a) The committee shall establish by resolution the  
9 amount of the fees that relate to the licensing of a registered dental  
10 hygienist, a registered dental hygienist in alternative practice, and  
11 a registered dental hygienist in extended functions. The fees  
12 established by board resolution in effect on June 30, 2009, as they  
13 relate to the licensure of registered dental hygienists, registered  
14 dental hygienists in alternative practice, and registered dental  
15 hygienists in extended functions, shall remain in effect until

1 modified by the committee. The fees are subject to the following  
2 limitations:

3 (1) The application fee for an original license and the fee for  
4 issuance of an original license shall not exceed two hundred fifty  
5 dollars (\$250).

6 (2) The fee for examination for licensure as a registered dental  
7 hygienist shall not exceed the actual cost of the examination.

8 (3) The fee for examination for licensure as a registered dental  
9 hygienist in extended functions shall not exceed the actual cost of  
10 the examination.

11 (4) The fee for examination for licensure as a registered dental  
12 hygienist in alternative practice shall not exceed the actual cost of  
13 administering the examination.

14 (5) The biennial renewal fee shall not exceed five hundred  
15 dollars (\$500).

16 (6) The delinquency fee shall not exceed one-half of the renewal  
17 fee. Any delinquent license may be restored only upon payment  
18 of all fees, including the delinquency fee, and compliance with all  
19 other applicable requirements of this article.

20 (7) The fee for issuance of a duplicate license to replace one  
21 that is lost or destroyed, or in the event of a name change, shall  
22 not exceed twenty-five dollars (\$25) or one-half of the renewal  
23 fee, whichever is greater.

24 (8) The fee for certification of licensure shall not exceed one-half  
25 of the renewal fee.

26 (9) The fee for each curriculum review, feasibility study review,  
27 and site evaluation for educational programs for dental hygienists  
28 who are not accredited by a committee-approved agency shall not  
29 exceed two thousand one hundred dollars (\$2,100).

30 (10) The fee for each review or approval of course requirements  
31 for licensure or procedures that require additional training shall  
32 not exceed seven hundred fifty dollars (\$750).

33 (11) The initial application and biennial fee for a provider of  
34 continuing education shall not exceed five hundred dollars (\$500).

35 (12) The amount of fees payable in connection with permits  
36 issued under Section 1962 is as follows:

37 (A) The initial permit fee is an amount equal to the renewal fee  
38 for the applicant's license to practice dental hygiene in effect on  
39 the last regular renewal date before the date on which the permit  
40 is issued.

1 (B) If the permit will expire less than one year after its issuance,  
2 then the initial permit fee is an amount equal to 50 percent of the  
3 renewal fee in effect on the last regular renewal date before the  
4 date on which the permit is issued.

5 (b) The renewal and delinquency fees shall be fixed by the  
6 committee by resolution at not more than the current amount of  
7 the renewal fee for a license to practice under this article nor less  
8 than five dollars (\$5).

9 (c) Fees fixed by the committee by resolution pursuant to this  
10 section shall not be subject to the approval of the Office of  
11 Administrative Law.

12 (d) Fees collected pursuant to this section shall be collected by  
13 the committee and deposited into the State Dental Hygiene Fund,  
14 which is hereby created. All money in this fund shall, upon  
15 appropriation by the Legislature in the annual Budget Act, be used  
16 to implement this article.

17 (e) No fees or charges other than those listed in this section shall  
18 be levied by the committee in connection with the licensure of  
19 registered dental hygienists, registered dental hygienists in  
20 alternative practice, or registered dental hygienists in extended  
21 functions.

22 (f) The fee for registration of an extramural dental facility shall  
23 not exceed two hundred fifty dollars (\$250).

24 (g) The fee for registration of a mobile dental hygiene unit shall  
25 not exceed one hundred fifty dollars (\$150).

26 (h) The biennial renewal fee for a mobile dental hygiene unit  
27 shall not exceed two hundred fifty dollars (\$250).

28 (i) The fee for an additional office permit shall not exceed two  
29 hundred fifty dollars (\$250).

30 (j) The biennial renewal fee for an additional office as described  
31 in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

32 (k) The initial application and biennial special permit fee is an  
33 amount equal to the biennial renewal fee specified in paragraph  
34 (6) of subdivision (a).

35 (l) The fees in this section shall not exceed an amount sufficient  
36 to cover the reasonable regulatory cost of carrying out this article.

37 ~~SEC. 3.—Section 2472 of the Business and Professions Code is~~  
38 ~~amended to read:~~

39 ~~2472.—(a) The certificate to practice podiatric medicine~~  
40 ~~authorizes the holder to practice podiatric medicine.~~

1 ~~(b) As used in this chapter, “podiatric medicine” means the~~  
2 ~~diagnosis, medical, surgical, mechanical, manipulative, and~~  
3 ~~electrical treatment of the human foot, including the ankle and~~  
4 ~~tendons that insert into the foot and the nonsurgical treatment of~~  
5 ~~the muscles and tendons of the leg governing the functions of the~~  
6 ~~foot.~~

7 ~~(c) A doctor of podiatric medicine shall not administer an~~  
8 ~~anesthetic other than local. If an anesthetic other than local is~~  
9 ~~required for any procedure, the anesthetic shall be administered~~  
10 ~~by another licensed health care practitioner who is authorized to~~  
11 ~~administer the required anesthetic within the scope of his or her~~  
12 ~~practice.~~

13 ~~(d) (1) A doctor of podiatric medicine may do the following:~~  
14 ~~(A) Perform surgical treatment of the ankle and tendons at the~~  
15 ~~level of the ankle pursuant to subdivision (c).~~

16 ~~(B) Perform services under the direct supervision of a physician~~  
17 ~~and surgeon, as an assistant at surgery, in surgical procedures that~~  
18 ~~are otherwise beyond the scope of practice of a doctor of podiatric~~  
19 ~~medicine.~~

20 ~~(C) Perform a partial amputation of the foot no further proximal~~  
21 ~~than the Chopart’s joint.~~

22 ~~(2) Nothing in this subdivision shall be construed to permit a~~  
23 ~~doctor of podiatric medicine to function as a primary surgeon for~~  
24 ~~any procedure beyond his or her scope of practice.~~

25 ~~(e) A doctor of podiatric medicine may perform surgical~~  
26 ~~treatment of the ankle and tendons at the level of the ankle only~~  
27 ~~in the following locations:~~

28 ~~(1) A licensed general acute care hospital, as defined in Section~~  
29 ~~1250 of the Health and Safety Code.~~

30 ~~(2) A licensed surgical clinic, as defined in Section 1204 of the~~  
31 ~~Health and Safety Code, if the doctor of podiatric medicine has~~  
32 ~~surgical privileges, including the privilege to perform surgery on~~  
33 ~~the ankle, in a general acute care hospital described in paragraph~~  
34 ~~(1) and meets all the protocols of the surgical clinic.~~

35 ~~(3) An ambulatory surgical center that is certified to participate~~  
36 ~~in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395~~  
37 ~~et seq.) of the federal Social Security Act, if the doctor of podiatric~~  
38 ~~medicine has surgical privileges, including the privilege to perform~~  
39 ~~surgery on the ankle, in a general acute care hospital described in~~  
40 ~~paragraph (1) and meets all the protocols of the surgical center.~~

1 ~~(4) A freestanding physical plant housing outpatient services~~  
2 ~~of a licensed general acute care hospital, as defined in Section~~  
3 ~~1250 of the Health and Safety Code, if the doctor of podiatric~~  
4 ~~medicine has surgical privileges, including the privilege to perform~~  
5 ~~surgery on the ankle, in a general acute care hospital described in~~  
6 ~~paragraph (1). For purposes of this section, a “freestanding physical~~  
7 ~~plant” means any building that is not physically attached to a~~  
8 ~~building where inpatient services are provided.~~

9 ~~(5) An outpatient setting accredited pursuant to subdivision (g)~~  
10 ~~of Section 1248.1 of the Health and Safety Code.~~

11 ~~SEC. 4. Section 2499.5 of the Business and Professions Code~~  
12 ~~is amended to read:~~

13 ~~2499.5. The following fees apply to certificates to practice~~  
14 ~~podiatric medicine. The amount of fees prescribed for doctors of~~  
15 ~~podiatric medicine shall be those set forth in this section unless a~~  
16 ~~lower fee is established by the board in accordance with Section~~  
17 ~~2499.6. Fees collected pursuant to this section shall be fixed by~~  
18 ~~the board in amounts not to exceed the actual costs of providing~~  
19 ~~the service for which the fee is collected.~~

20 ~~(a) Each applicant for a certificate to practice podiatric medicine~~  
21 ~~shall pay an application fee of one hundred dollars (\$100) at the~~  
22 ~~time the application is filed. If the applicant qualifies for a~~  
23 ~~certificate, he or she shall pay a fee which shall be fixed by the~~  
24 ~~board at an amount not to exceed one hundred dollars (\$100) nor~~  
25 ~~less than five dollars (\$5) for the issuance of the certificate.~~

26 ~~(b) The oral examination fee shall be seven hundred dollars~~  
27 ~~(\$700), or the actual cost, whichever is lower, and shall be paid~~  
28 ~~by each applicant. If the applicant’s credentials are insufficient or~~  
29 ~~if the applicant does not desire to take the examination, and has~~  
30 ~~so notified the board 30 days prior to the examination date, only~~  
31 ~~the examination fee is returnable to the applicant. The board may~~  
32 ~~charge an examination fee for any subsequent reexamination of~~  
33 ~~the applicant.~~

34 ~~(c) Each applicant who qualifies for a certificate, as a condition~~  
35 ~~precedent to its issuance, in addition to other fees required by this~~  
36 ~~section, shall pay an initial license fee. The initial license fee shall~~  
37 ~~be eight hundred dollars (\$800). The initial license shall expire~~  
38 ~~the second year after its issuance on the last day of the month of~~  
39 ~~birth of the licensee. The board may reduce the initial license fee~~  
40 ~~by up to 50 percent of the amount of the fee for any applicant who~~

1 is enrolled in a postgraduate training program approved by the  
2 board or who has completed a postgraduate training program  
3 approved by the board within six months prior to the payment of  
4 the initial license fee.

5 (d) ~~The biennial renewal fee shall be nine hundred dollars~~  
6 ~~(\$900). Any licensee enrolled in an approved residency program~~  
7 ~~shall be required to pay only 50 percent of the biennial renewal~~  
8 ~~fee at the time of his or her first renewal.~~

9 (e) ~~The delinquency fee is one hundred fifty dollars (\$150).~~

10 (f) ~~The duplicate wall certificate fee is one hundred dollars~~  
11 ~~(\$100).~~

12 (g) ~~The duplicate renewal receipt fee is fifty dollars (\$50).~~

13 (h) ~~The endorsement fee is thirty dollars (\$30).~~

14 (i) ~~The letter of good standing fee or for loan deferment is one~~  
15 ~~hundred dollars (\$100).~~

16 (j) ~~There shall be a fee of one hundred dollars (\$100) for the~~  
17 ~~issuance of a resident's license under Section 2475.~~

18 (k) ~~The filing fee to appeal the failure of an oral examination~~  
19 ~~shall be one hundred dollars (\$100).~~

20 (l) ~~The fee for approval of a continuing education course or~~  
21 ~~program shall be two hundred fifty dollars (\$250).~~

22 ~~SEC. 5.~~

23 ~~SEC. 3.~~ Section 2546.9 of the Business and Professions Code  
24 is repealed.

25 ~~SEC. 6.~~

26 ~~SEC. 4.~~ Section 2546.9 is added to the Business and Professions  
27 Code, to read:

28 2546.9. The amount of fees prescribed in connection with the  
29 registration of nonresident contact lens sellers is that established  
30 by the following schedule:

31 (a) The application fee for a nonresident contact lens seller shall  
32 be a minimum of one hundred fifty dollars (\$150) and shall not  
33 exceed two hundred dollars (\$200).

34 (b) The initial registration fee shall be a minimum of two  
35 hundred dollars (\$200) and shall not exceed three hundred dollars  
36 (\$300).

37 (c) The renewal fee shall be a minimum of two hundred dollars  
38 (\$200) and shall not exceed three hundred dollars (\$300).

39 (d) The delinquency fee shall be a minimum of fifty dollars  
40 (\$50) and shall not exceed seventy-five dollars (\$75).

1 (e) The fee for replacement of a lost, stolen, or destroyed  
2 registration shall be twenty-five dollars (\$25).

3 (f) The State Board of Optometry may periodically revise and  
4 fix by regulation the fees specified in subdivisions (a), (b), (c), and  
5 (d), and these revised fees shall not exceed the reasonable  
6 regulatory cost.

7 (g) The fees collected pursuant to this chapter shall be deposited  
8 in the Dispensing Opticians Fund, and shall be available, upon  
9 appropriation, to the State Board of Optometry for the purposes  
10 of this chapter.

11 ~~SEC. 7.~~

12 *SEC. 5.* Section 2565 of the Business and Professions Code is  
13 repealed.

14 ~~SEC. 8.~~

15 *SEC. 6.* Section 2565 is added to the Business and Professions  
16 Code, to read:

17 2565. The amount of fees prescribed in connection with the  
18 registration of dispensing opticians shall be as set forth in this  
19 section.

20 (a) The application fee for registration shall be a minimum of  
21 one hundred fifty dollars (\$150) and shall not exceed two hundred  
22 dollars (\$200).

23 (b) The initial registration fee shall be a minimum of two  
24 hundred dollars (\$200) and shall not exceed three hundred dollars  
25 (\$300).

26 (c) The renewal fee shall be a minimum of two hundred dollars  
27 (\$200) and shall not exceed three hundred dollars (\$300).

28 (d) The delinquency fee shall be a minimum of fifty dollars  
29 (\$50) and shall not exceed seventy-five dollars (\$75).

30 (e) The fee for replacement of a lost, stolen, or destroyed  
31 certificate shall be twenty-five dollars (\$25).

32 (f) The State Board of Optometry may periodically revise and  
33 fix by regulation the fees specified in subdivisions (a), (b), (c), and  
34 (d), and these revised fees shall not exceed the reasonable  
35 regulatory cost.

36 ~~SEC. 9.~~

37 *SEC. 7.* Section 2566 of the Business and Professions Code is  
38 repealed.

1 ~~SEC. 10.~~

2 *SEC. 8.* Section 2566 is added to the Business and Professions  
3 Code, to read:

4 2566. The amount of fees prescribed in connection with  
5 certificates for contact lens dispensers is as follows:

6 (a) The application fee for a registered contact lens dispenser  
7 shall be a minimum of one hundred fifty dollars (\$150) and shall  
8 not exceed two hundred dollars (\$200).

9 (b) The initial registration fee shall be a minimum of two  
10 hundred dollars (\$200) and shall not exceed three hundred dollars  
11 (\$300).

12 (c) The biennial fee for the renewal of certificates shall be a  
13 minimum of two hundred dollars (\$200) and shall not exceed three  
14 hundred dollars (\$300).

15 (d) The delinquency fee shall be a minimum of fifty dollars  
16 (\$50) and shall not exceed seventy-five dollars (\$75).

17 (e) The division may by regulation provide for a refund of a  
18 portion of the application fee to applicants who do not meet the  
19 requirements for registration.

20 (f) The State Board of Optometry may periodically revise and  
21 fix by regulation the fees specified in subdivisions (a), (b), (c), and  
22 (d), and these revised fees shall not exceed the reasonable  
23 regulatory cost.

24 (g) The fee for replacement of a lost, stolen, or destroyed  
25 certificate is twenty-five dollars (\$25).

26 ~~SEC. 11.~~

27 *SEC. 9.* Section 2566.1 of the Business and Professions Code  
28 is repealed.

29 ~~SEC. 12.~~

30 *SEC. 10.* Section 2566.1 is added to the Business and  
31 Professions Code, to read:

32 2566.1. The amount of fees prescribed in connection with  
33 certificates for spectacle lens dispensers shall be as set forth in this  
34 section:

35 (a) The application for registration fee shall be a minimum of  
36 one hundred fifty dollars (\$150) and shall not exceed two hundred  
37 dollars (\$200).

38 (b) The initial registration fee shall be a minimum of two  
39 hundred dollars (\$200) and shall not exceed three hundred dollars  
40 (\$300).

1 (c) The renewal fee shall be a minimum of two hundred dollars  
2 (\$200) and shall not exceed three hundred dollars (\$300).

3 (d) The delinquency fee shall be a minimum of fifty dollars  
4 (\$50) and shall not exceed seventy-five dollars (\$75).

5 (e) The fee for replacement of a lost, stolen, or destroyed  
6 certificate is twenty-five dollars (\$25).

7 (f) The State Board of Optometry may periodically revise and  
8 fix by regulation the fees specified in subdivisions (a), (b), (c), and  
9 (d), and these revised fees shall not exceed the reasonable  
10 regulatory cost.

11 ~~SEC. 13.~~

12 *SEC. 11.* Section 2733 of the Business and Professions Code  
13 is amended to read:

14 2733. (a) (1) (A) Upon approval of an application filed  
15 pursuant to subdivision (b) of Section 2732.1, and upon the  
16 payment of the fee prescribed by subdivision (k) of Section 2815,  
17 the board may issue a temporary license to practice professional  
18 nursing, and a temporary certificate to practice as a certified public  
19 health nurse for a period of six months from the date of issuance.

20 (B) Upon approval of an application filed pursuant to  
21 subdivision (b) of Section 2732.1, and upon the payment of the  
22 fee prescribed by subdivision (d) of Section 2838.2, the board may  
23 issue a temporary certificate to practice as a certified clinical nurse  
24 specialist for a period of six months from the date of issuance.

25 (C) Upon approval of an application filed pursuant to  
26 subdivision (b) of Section 2732.1, and upon the payment of the  
27 fee prescribed by subdivision (e) of Section 2815.5, the board may  
28 issue a temporary certificate to practice as a certified nurse-midwife  
29 for a period of six months from the date of issuance.

30 (D) Upon approval of an application filed pursuant to  
31 subdivision (b) of Section 2732.1, and upon the payment of the  
32 fee prescribed by subdivision (d) of Section 2830.7, the board may  
33 issue a temporary certificate to practice as a certified nurse  
34 anesthetist for a period of six months from the date of issuance.

35 (E) Upon approval of an application filed pursuant to subdivision  
36 (b) of Section 2732.1, and upon the payment of the fee prescribed  
37 by subdivision (p) of Section 2815, the board may issue a  
38 temporary certificate to practice as a certified nurse practitioner  
39 for a period of six months from the date of issuance.

1 (2) A temporary license or temporary certificate shall terminate  
2 upon notice thereof by certified mail, return receipt requested, if  
3 it is issued by mistake or if the application for permanent licensure  
4 is denied.

5 (b) Upon written application, the board may reissue a temporary  
6 license or temporary certificate to any person who has applied for  
7 a regular renewable license pursuant to subdivision (b) of Section  
8 2732.1 and who, in the judgment of the board has been excusably  
9 delayed in completing his or her application for or the minimum  
10 requirements for a regular renewable license, but the board may  
11 not reissue a temporary license or temporary certificate more than  
12 twice to any one person.

13 ~~SEC. 14.~~

14 *SEC. 12.* Section 2746.51 of the Business and Professions Code  
15 is amended to read:

16 2746.51. (a) Neither this chapter nor any other provision of  
17 law shall be construed to prohibit a certified nurse-midwife from  
18 furnishing or ordering drugs or devices, including controlled  
19 substances classified in Schedule II, III, IV, or V under the  
20 California Uniform Controlled Substances Act (Division 10  
21 (commencing with Section 11000) of the Health and Safety Code),  
22 when all of the following apply:

23 (1) The drugs or devices are furnished or ordered incidentally  
24 to the provision of any of the following:

25 (A) Family planning services, as defined in Section 14503 of  
26 the Welfare and Institutions Code.

27 (B) Routine health care or perinatal care, as defined in  
28 subdivision (d) of Section 123485 of the Health and Safety Code.

29 (C) Care rendered, consistent with the certified nurse-midwife's  
30 educational preparation or for which clinical competency has been  
31 established and maintained, to persons within a facility specified  
32 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the  
33 Health and Safety Code, a clinic as specified in Section 1204 of  
34 the Health and Safety Code, a general acute care hospital as defined  
35 in subdivision (a) of Section 1250 of the Health and Safety Code,  
36 a licensed birth center as defined in Section 1204.3 of the Health  
37 and Safety Code, or a special hospital specified as a maternity  
38 hospital in subdivision (f) of Section 1250 of the Health and Safety  
39 Code.

1 (2) The drugs or devices are furnished or ordered by a certified  
2 nurse-midwife in accordance with standardized procedures or  
3 protocols. For purposes of this section, standardized procedure  
4 means a document, including protocols, developed and approved  
5 by the supervising physician and surgeon, the certified  
6 nurse-midwife, and the facility administrator or his or her designee.  
7 The standardized procedure covering the furnishing or ordering  
8 of drugs or devices shall specify all of the following:

9 (A) Which certified nurse-midwife may furnish or order drugs  
10 or devices.

11 (B) Which drugs or devices may be furnished or ordered and  
12 under what circumstances.

13 (C) The extent of physician and surgeon supervision.

14 (D) The method of periodic review of the certified  
15 nurse-midwife's competence, including peer review, and review  
16 of the provisions of the standardized procedure.

17 (3) If Schedule II or III controlled substances, as defined in  
18 Sections 11055 and 11056 of the Health and Safety Code, are  
19 furnished or ordered by a certified nurse-midwife, the controlled  
20 substances shall be furnished or ordered in accordance with a  
21 patient-specific protocol approved by the treating or supervising  
22 physician and surgeon. For Schedule II controlled substance  
23 protocols, the provision for furnishing the Schedule II controlled  
24 substance shall address the diagnosis of the illness, injury, or  
25 condition for which the Schedule II controlled substance is to be  
26 furnished.

27 (4) The furnishing or ordering of drugs or devices by a certified  
28 nurse-midwife occurs under physician and surgeon supervision.  
29 For purposes of this section, no physician and surgeon shall  
30 supervise more than four certified nurse-midwives at one time.  
31 Physician and surgeon supervision shall not be construed to require  
32 the physical presence of the physician, but does include all of the  
33 following:

34 (A) Collaboration on the development of the standardized  
35 procedure or protocol.

36 (B) Approval of the standardized procedure or protocol.

37 (C) Availability by telephonic contact at the time of patient  
38 examination by the certified nurse-midwife.

39 (b) (1) The furnishing or ordering of drugs or devices by a  
40 certified nurse-midwife is conditional on the issuance by the board

1 of a number to the applicant who has successfully completed the  
2 requirements of paragraph (2). The number shall be included on  
3 all transmittals of orders for drugs or devices by the certified  
4 nurse-midwife. The board shall maintain a list of the certified  
5 nurse-midwives that it has certified pursuant to this paragraph and  
6 the number it has issued to each one. The board shall make the list  
7 available to the California State Board of Pharmacy upon its  
8 request. Every certified nurse-midwife who is authorized pursuant  
9 to this section to furnish or issue a drug order for a controlled  
10 substance shall register with the United States Drug Enforcement  
11 Administration.

12 (2) The board has certified in accordance with paragraph (1)  
13 that the certified nurse-midwife has satisfactorily completed a  
14 course in pharmacology covering the drugs or devices to be  
15 furnished or ordered under this section. The board shall establish  
16 the requirements for satisfactory completion of this paragraph.  
17 The board may charge the applicant a fee to cover all necessary  
18 costs to implement this section, that shall be not less than four  
19 hundred dollars (\$400) nor more than one thousand five hundred  
20 dollars (\$1,500) for an initial application, nor less than one hundred  
21 fifty dollars (\$150) nor more than one thousand dollars (\$1,000)  
22 for an application for renewal. The board may charge a penalty  
23 fee for failure to renew a furnishing number within the prescribed  
24 time that shall be not less than seventy-five dollars (\$75) nor more  
25 than five hundred dollars (\$500).

26 (3) A physician and surgeon may determine the extent of  
27 supervision necessary pursuant to this section in the furnishing or  
28 ordering of drugs and devices.

29 (4) A copy of the standardized procedure or protocol relating  
30 to the furnishing or ordering of controlled substances by a certified  
31 nurse-midwife shall be provided upon request to any licensed  
32 pharmacist who is uncertain of the authority of the certified  
33 nurse-midwife to perform these functions.

34 (5) Certified nurse-midwives who are certified by the board and  
35 hold an active furnishing number, who are currently authorized  
36 through standardized procedures or protocols to furnish Schedule  
37 II controlled substances, and who are registered with the United  
38 States Drug Enforcement Administration shall provide  
39 documentation of continuing education specific to the use of

1 Schedule II controlled substances in settings other than a hospital  
2 based on standards developed by the board.

3 (c) Drugs or devices furnished or ordered by a certified  
4 nurse-midwife may include Schedule II controlled substances  
5 under the California Uniform Controlled Substances Act (Division  
6 10 (commencing with Section 11000) of the Health and Safety  
7 Code) under the following conditions:

8 (1) The drugs and devices are furnished or ordered in accordance  
9 with requirements referenced in paragraphs (2) to (4), inclusive,  
10 of subdivision (a) and in paragraphs (1) to (3), inclusive, of  
11 subdivision (b).

12 (2) When Schedule II controlled substances, as defined in  
13 Section 11055 of the Health and Safety Code, are furnished or  
14 ordered by a certified nurse-midwife, the controlled substances  
15 shall be furnished or ordered in accordance with a patient-specific  
16 protocol approved by the treating or supervising physician and  
17 surgeon.

18 (d) Furnishing of drugs or devices by a certified nurse-midwife  
19 means the act of making a pharmaceutical agent or agents available  
20 to the patient in strict accordance with a standardized procedure  
21 or protocol. Use of the term “furnishing” in this section shall  
22 include the following:

23 (1) The ordering of a drug or device in accordance with the  
24 standardized procedure or protocol.

25 (2) Transmitting an order of a supervising physician and  
26 surgeon.

27 (e) “Drug order” or “order” for purposes of this section means  
28 an order for medication or for a drug or device that is dispensed  
29 to or for an ultimate user, issued by a certified nurse-midwife as  
30 an individual practitioner, within the meaning of Section 1306.03  
31 of Title 21 of the Code of Federal Regulations. Notwithstanding  
32 any other provision of law, (1) a drug order issued pursuant to this  
33 section shall be treated in the same manner as a prescription of the  
34 supervising physician; (2) all references to “prescription” in this  
35 code and the Health and Safety Code shall include drug orders  
36 issued by certified nurse-midwives; and (3) the signature of a  
37 certified nurse-midwife on a drug order issued in accordance with  
38 this section shall be deemed to be the signature of a prescriber for  
39 purposes of this code and the Health and Safety Code.

1     ~~SEC. 15.~~

2     *SEC. 13.* Section 2786.5 of the Business and Professions Code  
3 is amended to read:

4     2786.5. (a) An institution of higher education or a private  
5 postsecondary school of nursing approved by the board pursuant  
6 to subdivision (b) of Section 2786 shall remit to the board for  
7 deposit in the Board of Registered Nursing Fund the following  
8 fees, in accordance with the following schedule:

9     (1) The fee for approval of a school of nursing shall be fixed  
10 by the board at not less than forty thousand dollars (\$40,000) nor  
11 more than eighty thousand dollars (\$80,000).

12     (2) The fee for continuing approval of a nursing program  
13 established after January 1, 2013, shall be fixed by the board at  
14 not less than fifteen thousand dollars (\$15,000) nor more than  
15 thirty thousand dollars (\$30,000).

16     (3) The processing fee for authorization of a substantive change  
17 to an approval of a school of nursing shall be fixed by the board  
18 at not less than two thousand five hundred dollars (\$2,500) nor  
19 more than five thousand dollars (\$5,000).

20     (b) If the board determines that the annual cost of providing  
21 oversight and review of a school of nursing, as required by this  
22 article, is less than the amount of any fees required to be paid by  
23 that institution pursuant to this article, the board may decrease the  
24 fees applicable to that institution to an amount that is proportional  
25 to the board's costs associated with that institution.

26     ~~SEC. 16.~~

27     *SEC. 14.* Section 2811 of the Business and Professions Code  
28 is amended to read:

29     2811. (a) Each person holding a regular renewable license  
30 under this chapter, whether in an active or inactive status, shall  
31 apply for a renewal of his or her license and pay the biennial  
32 renewal fee required by this chapter each two years on or before  
33 the last day of the month following the month in which his or her  
34 birthday occurs, beginning with the second birthday following the  
35 date on which the license was issued, whereupon the board shall  
36 renew the license.

37     (b) Each such license not renewed in accordance with this  
38 section shall expire but may within a period of eight years  
39 thereafter be reinstated upon payment of the fee required by this  
40 chapter and upon submission of such proof of the applicant's

1 qualifications as may be required by the board, except that during  
2 such eight-year period no examination shall be required as a  
3 condition for the reinstatement of any such expired license which  
4 has lapsed solely by reason of nonpayment of the renewal fee.  
5 After the expiration of such eight-year period the board may require  
6 as a condition of reinstatement that the applicant pass such  
7 examination as it deems necessary to determine his present fitness  
8 to resume the practice of professional nursing.

9 (c) A license in an inactive status may be restored to an active  
10 status if the licensee meets the continuing education standards of  
11 Section 2811.5.

12 ~~SEC. 17.~~

13 *SEC. 15.* Section 2811.5 of the Business and Professions Code  
14 is amended to read:

15 2811.5. (a) Each person renewing his or her license under  
16 Section 2811 shall submit proof satisfactory to the board that,  
17 during the preceding two-year period, he or she has been informed  
18 of the developments in the registered nurse field or in any special  
19 area of practice engaged in by the licensee, occurring since the  
20 last renewal thereof, either by pursuing a course or courses of  
21 continuing education in the registered nurse field or relevant to  
22 the practice of the licensee, and approved by the board, or by other  
23 means deemed equivalent by the board.

24 (b) For purposes of this section, the board shall, by regulation,  
25 establish standards for continuing education. The standards shall  
26 be established in a manner to ensure that a variety of alternative  
27 forms of continuing education are available to licensees, including,  
28 but not limited to, academic studies, in-service education, institutes,  
29 seminars, lectures, conferences, workshops, extension studies, and  
30 home study programs. The standards shall take cognizance of  
31 specialized areas of practice, and content shall be relevant to the  
32 practice of nursing and shall be related to the scientific knowledge  
33 or technical skills required for the practice of nursing or be related  
34 to direct or indirect patient or client care. The continuing education  
35 standards established by the board shall not exceed 30 hours of  
36 direct participation in a course or courses approved by the board,  
37 or its equivalent in the units of measure adopted by the board.

38 (c) The board shall audit continuing education providers at least  
39 once every five years to ensure adherence to regulatory

1 requirements, and shall withhold or rescind approval from any  
2 provider that is in violation of the regulatory requirements.

3 (d) The board shall encourage continuing education in spousal  
4 or partner abuse detection and treatment. In the event the board  
5 establishes a requirement for continuing education coursework in  
6 spousal or partner abuse detection or treatment, that requirement  
7 shall be met by each licensee within no more than four years from  
8 the date the requirement is imposed.

9 (e) In establishing standards for continuing education, the board  
10 shall consider including a course in the special care needs of  
11 individuals and their families facing end-of-life issues, including,  
12 but not limited to, all of the following:

- 13 (1) Pain and symptom management.
- 14 (2) The psycho-social dynamics of death.
- 15 (3) Dying and bereavement.
- 16 (4) Hospice care.

17 (f) In establishing standards for continuing education, the board  
18 may include a course on pain management.

19 (g) This section shall not apply to licensees during the first two  
20 years immediately following their initial licensure in California  
21 or any other governmental jurisdiction.

22 (h) The board may, in accordance with the intent of this section,  
23 make exceptions from continuing education requirements for  
24 licensees residing in another state or country, or for reasons of  
25 health, military service, or other good cause.

26 ~~SEC. 18.~~

27 *SEC. 16.* Section 2815 of the Business and Professions Code  
28 is amended to read:

29 2815. Subject to the provisions of Section 128.5, the amount  
30 of the fees prescribed by this chapter in connection with the  
31 issuance of licenses for registered nurses under its provisions is  
32 that fixed by the following schedule:

33 (a) (1) The fee to be paid upon the filing by a graduate of an  
34 approved school of nursing in this state of an application for a  
35 licensure by examination shall be fixed by the board at not less  
36 than three hundred dollars (\$300) nor more than one thousand  
37 dollars (\$1,000).

38 (2) The fee to be paid upon the filing by a graduate of a school  
39 of nursing in another state, district, or territory of the United States  
40 of an application for a licensure by examination shall be fixed by

1 the board at not less than three hundred fifty dollars (\$350) nor  
2 more than one thousand dollars (\$1,000).

3 (3) The fee to be paid upon the filing by a graduate of a school  
4 of nursing in another country of an application for a licensure by  
5 examination shall be fixed by the board at not less than seven  
6 hundred fifty dollars (\$750) nor more than one thousand five  
7 hundred dollars (\$1,500).

8 (4) The fee to be paid upon the filing of an application for  
9 licensure by a repeat examination shall be fixed by the board at  
10 not less than two hundred fifty dollars (\$250) and not more than  
11 one thousand dollars (\$1,000).

12 (b) The fee to be paid for taking each examination shall be the  
13 actual cost to purchase an examination from a vendor approved  
14 by the board.

15 (c) (1) The fee to be paid for application by a person who is  
16 licensed or registered as a nurse in another state, district, or territory  
17 of the United States for licensure by endorsement shall be fixed  
18 by the board at not less than three hundred fifty dollars (\$350) nor  
19 more than one thousand dollars (\$1,000).

20 (2) The fee to be paid for application by a person who is licensed  
21 or registered as a nurse in another country for licensure by  
22 endorsement shall be fixed by the board at not less than seven  
23 hundred fifty dollars (\$750) nor more than one thousand five  
24 hundred dollars (\$1,500).

25 (d) (1) The biennial fee to be paid upon the filing of an  
26 application for renewal of the license shall be not less than one  
27 hundred eighty dollars (\$180) nor more than seven hundred fifty  
28 dollars (\$750). In addition, an assessment of ten dollars (\$10) shall  
29 be collected and credited to the Registered Nurse Education Fund,  
30 pursuant to Section 2815.1.

31 (2) The fee to be paid upon the filing of an application for  
32 reinstatement pursuant to subdivision (b) of Section 2811 shall be  
33 not less than three hundred fifty dollars (\$350) nor more than one  
34 thousand dollars (\$1,000).

35 (e) The penalty fee for failure to renew a license within the  
36 prescribed time shall be fixed by the board at not more than 50  
37 percent of the regular renewal fee, but not less than ninety dollars  
38 (\$90) nor more than three hundred seventy-five dollars (\$375).

- 1 (f) The fee to be paid for approval of a continuing education  
2 provider shall be fixed by the board at not less than five hundred  
3 dollars (\$500) nor more than one thousand dollars (\$1,000).
- 4 (g) The biennial fee to be paid upon the filing of an application  
5 for renewal of provider approval shall be fixed by the board at not  
6 less than seven hundred fifty dollars (\$750) nor more than one  
7 thousand dollars (\$1,000).
- 8 (h) The penalty fee for failure to renew provider approval within  
9 the prescribed time shall be fixed at not more than 50 percent of  
10 the regular renewal fee, but not less than one hundred twenty-five  
11 dollars (\$125) nor more than five hundred dollars (\$500).
- 12 (i) The penalty for submitting insufficient funds or fictitious  
13 check, draft or order on any bank or depository for payment of  
14 any fee to the board shall be fixed at not less than fifteen dollars  
15 (\$15) nor more than thirty dollars (\$30).
- 16 (j) The fee to be paid for an interim permit shall be fixed by the  
17 board at not less than one hundred dollars (\$100) nor more than  
18 two hundred fifty dollars (\$250).
- 19 (k) The fee to be paid for a temporary license shall be fixed by  
20 the board at not less than one hundred dollars (\$100) nor more  
21 than two hundred fifty dollars (\$250).
- 22 (l) The fee to be paid for processing endorsement papers to other  
23 states shall be fixed by the board at not less than one hundred  
24 dollars (\$100) nor more than two hundred dollars (\$200).
- 25 (m) The fee to be paid for a certified copy of a school transcript  
26 shall be fixed by the board at not less than fifty dollars (\$50) nor  
27 more than one hundred dollars (\$100).
- 28 (n) (1) The fee to be paid for a duplicate pocket license shall  
29 be fixed by the board at not less than fifty dollars (\$50) nor more  
30 than seventy-five dollars (\$75).
- 31 (2) The fee to be paid for a duplicate wall certificate shall be  
32 fixed by the board at not less than sixty dollars (\$60) nor more  
33 than one hundred dollars (\$100).
- 34 (o) (1) The fee to be paid by a registered nurse for an evaluation  
35 of his or her qualifications to use the title “nurse practitioner” shall  
36 be fixed by the board at not less than five hundred dollars (\$500)  
37 nor more than one thousand five hundred dollars (\$1,500).
- 38 (2) The fee to be paid by a registered nurse for a temporary  
39 certificate to practice as a nurse practitioner shall be fixed by the

1 board at not less than one hundred fifty dollars (\$150) nor more  
2 than five hundred dollars (\$500).

3 (3) The fee to be paid upon the filing of an application for  
4 renewal of a certificate to practice as a nurse practitioner shall be  
5 not less than one hundred fifty dollars (\$150) nor more than one  
6 thousand dollars (\$1,000).

7 (4) The penalty fee for failure to renew a certificate to practice  
8 as a nurse practitioner within the prescribed time shall be not less  
9 than seventy-five dollars (\$75) nor more than five hundred dollars  
10 (\$500).

11 (p) The fee to be paid by a registered nurse for listing as a  
12 “psychiatric mental health nurse” shall be fixed by the board at  
13 not less than three hundred fifty dollars (\$350) nor more than seven  
14 hundred fifty dollars (\$750).

15 (q) The fee to be paid for duplicate National Council Licensure  
16 Examination for registered nurses (NCLEX-RN) examination  
17 results shall be not less than sixty dollars (\$60) nor more than one  
18 hundred dollars (\$100).

19 (r) The fee to be paid for a letter certifying a license shall be  
20 not less than twenty dollars (\$20) nor more than thirty dollars  
21 (\$30).

22 No further fee shall be required for a license or a renewal thereof  
23 other than as prescribed by this chapter.

24 ~~SEC. 19.~~

25 *SEC. 17.* Section 2815.5 of the Business and Professions Code  
26 is amended to read:

27 2815.5. The amount of the fees prescribed by this chapter in  
28 connection with the issuance of certificates as nurse-midwives is  
29 that fixed by the following schedule:

30 (a) The fee to be paid upon the filing of an application for a  
31 certificate shall be fixed by the board at not less than five hundred  
32 dollars (\$500) nor more than one thousand five hundred dollars  
33 (\$1,500).

34 (b) The biennial fee to be paid upon the application for a renewal  
35 of a certificate shall be fixed by the board at not less than one  
36 hundred fifty dollars (\$150) nor more than one thousand dollars  
37 (\$1,000).

38 (c) The penalty fee for failure to renew a certificate within the  
39 prescribed time shall be 50 percent of the renewal fee in effect on

1 the date of the renewal of the license, but not less than seventy-five  
2 dollars (\$75) nor more than five hundred dollars (\$500).

3 (d) The fee to be paid upon the filing of an application for the  
4 nurse-midwife equivalency examination shall be fixed by the board  
5 at not less than one hundred dollars (\$100) nor more than two  
6 hundred dollars (\$200).

7 (e) The fee to be paid for a temporary certificate shall be fixed  
8 by the board at not less than one hundred fifty dollars (\$150) nor  
9 more than five hundred dollars (\$500).

10 ~~SEC. 20.~~

11 *SEC. 18.* Section 2816 of the Business and Professions Code  
12 is amended to read:

13 2816. The nonrefundable fee to be paid by a registered nurse  
14 for an evaluation of his or her qualifications to use the title “public  
15 health nurse” shall be equal to the fees set out in subdivision (o)  
16 of Section 2815. The fee to be paid upon the application for  
17 renewal of the certificate to practice as a public health nurse shall  
18 be fixed by the board at not less than one hundred twenty-five  
19 dollars (\$125) and not more than five hundred dollars (\$500). All  
20 fees payable under this section shall be collected by and paid to  
21 the Registered Nursing Fund. It is the intention of the Legislature  
22 that the costs of carrying out the purposes of this article shall be  
23 covered by the revenue collected pursuant to this section.

24 ~~SEC. 21.~~

25 *SEC. 19.* Section 2830.7 of the Business and Professions Code  
26 is amended to read:

27 2830.7. The amount of the fees prescribed by this chapter in  
28 connection with the issuance of certificates as nurse anesthetists  
29 is that fixed by the following schedule:

30 (a) The fee to be paid upon the filing of an application for a  
31 certificate shall be fixed by the board at not less than five hundred  
32 dollars (\$500) nor more than one thousand five hundred dollars  
33 (\$1,500).

34 (b) The biennial fee to be paid upon the application for a renewal  
35 of a certificate shall be fixed by the board at not less than one  
36 hundred fifty dollars (\$150) nor more than one thousand dollars  
37 (\$1,000).

38 (c) The penalty fee for failure to renew a certificate within the  
39 prescribed time shall be 50 percent of the renewal fee in effect on

1 the date of the renewal of the license, but not less than seventy-five  
2 dollars (\$75) nor more than five hundred dollars (\$500).

3 (d) The fee to be paid for a temporary certificate shall be fixed  
4 by the board at not less than one hundred fifty dollars (\$150) nor  
5 more than five hundred dollars (\$500).

6 ~~SEC. 22.~~

7 *SEC. 20.* Section 2836.3 of the Business and Professions Code  
8 is amended to read:

9 2836.3. (a) The furnishing of drugs or devices by nurse  
10 practitioners is conditional on issuance by the board of a number  
11 to the nurse applicant who has successfully completed the  
12 requirements of subdivision (g) of Section 2836.1. The number  
13 shall be included on all transmittals of orders for drugs or devices  
14 by the nurse practitioner. The board shall make the list of numbers  
15 issued available to the Board of Pharmacy. The board may charge  
16 the applicant a fee to cover all necessary costs to implement this  
17 section, that shall be not less than four hundred dollars (\$400) nor  
18 more than one thousand five hundred dollars (\$1,500) for an initial  
19 application, nor less than one hundred fifty dollars (\$150) nor more  
20 than one thousand dollars (\$1,000) for an application for renewal.  
21 The board may charge a penalty fee for failure to renew a  
22 furnishing number within the prescribed time that shall be not less  
23 than seventy-five dollars (\$75) nor more than five hundred dollars  
24 (\$500).

25 (b) The number shall be renewable at the time of the applicant's  
26 registered nurse license renewal.

27 (c) The board may revoke, suspend, or deny issuance of the  
28 numbers for incompetence or gross negligence in the performance  
29 of functions specified in Sections 2836.1 and 2836.2.

30 ~~SEC. 23.~~

31 *SEC. 21.* Section 2838.2 of the Business and Professions Code  
32 is amended to read:

33 2838.2. (a) A clinical nurse specialist is a registered nurse with  
34 advanced education, who participates in expert clinical practice,  
35 education, research, consultation, and clinical leadership as the  
36 major components of his or her role.

37 (b) The board may establish categories of clinical nurse  
38 specialists and the standards required to be met for nurses to hold  
39 themselves out as clinical nurse specialists in each category. The  
40 standards shall take into account the types of advanced levels of

1 nursing practice that are or may be performed and the clinical and  
2 didactic education, experience, or both needed to practice safety  
3 at those levels. In setting the standards, the board shall consult  
4 with clinical nurse specialists, physicians and surgeons appointed  
5 by the Medical Board of *California* with expertise with clinical  
6 nurse specialists, and health care organizations that utilize clinical  
7 nurse specialists.

8 (c) A registered nurse who meets one of the following  
9 requirements may apply to become a clinical nurse specialist:

10 (1) Possession of a master's degree in a clinical field of nursing.

11 (2) Possession of a master's degree in a clinical field related to  
12 nursing with coursework in the components referred to in  
13 subdivision (a).

14 (3) On or before July 1, 1998, meets the following requirements:

15 (A) Current licensure as a registered nurse.

16 (B) Performs the role of a clinical nurse specialist as described  
17 in subdivision (a).

18 (C) Meets any other criteria established by the board.

19 (d) (1) A nonrefundable fee of not less than five hundred dollars  
20 (\$500), but not to exceed one thousand five hundred dollars  
21 (\$1,500) shall be paid by a registered nurse applying to be a clinical  
22 nurse specialist for the evaluation of his or her qualifications to  
23 use the title "clinical nurse specialist."

24 (2) The fee to be paid for a temporary certificate to practice as  
25 a clinical nurse specialist shall be not less than thirty dollars (\$30)  
26 nor more than fifty dollars (\$50).

27 (3) A biennial renewal fee shall be paid upon submission of an  
28 application to renew the clinical nurse specialist certificate and  
29 shall be established by the board at no less than one hundred fifty  
30 dollars (\$150) and no more than one thousand dollars (\$1,000).

31 (4) The penalty fee for failure to renew a certificate within the  
32 prescribed time shall be 50 percent of the renewal fee in effect on  
33 the date of the renewal of the license, but not less than seventy-five  
34 dollars (\$75) nor more than five hundred dollars (\$500).

35 (5) The fees authorized by this subdivision shall not exceed the  
36 amount necessary to cover the costs to the board to administer this  
37 section.

38 ~~SEC. 24.~~

39 *SEC. 22.* Section 4128.2 of the Business and Professions Code  
40 is amended to read:

1 4128.2. (a) In addition to the pharmacy license requirement  
2 described in Section 4110, a centralized hospital packaging  
3 pharmacy shall obtain a specialty license from the board prior to  
4 engaging in the functions described in Section 4128.

5 (b) An applicant seeking a specialty license pursuant to this  
6 article shall apply to the board on forms established by the board.

7 (c) Before issuing the specialty license, the board shall inspect  
8 the pharmacy and ensure that the pharmacy is in compliance with  
9 this article and regulations established by the board.

10 (d) A license to perform the functions described in Section 4128  
11 may only be issued to a pharmacy that is licensed by the board as  
12 a hospital pharmacy.

13 (e) A license issued pursuant to this article shall be renewed  
14 annually and is not transferrable.

15 (f) An applicant seeking renewal of a specialty license shall  
16 apply to the board on forms established by the board.

17 (g) A license to perform the functions described in Section 4128  
18 shall not be renewed until the pharmacy has been inspected by the  
19 board and found to be in compliance with this article and  
20 regulations established by the board.

21 (h) Until July 1, 2017, the fee for issuance or annual renewal  
22 of a centralized hospital packaging pharmacy license shall be six  
23 hundred dollars (\$600) and may be increased by the board to eight  
24 hundred dollars (\$800).

25 ~~SEC. 25.~~

26 *SEC. 23.* Section 4400 of the Business and Professions Code  
27 is amended to read:

28 4400. The amount of fees and penalties prescribed by this  
29 chapter, except as otherwise provided, is that fixed by the board  
30 according to the following schedule:

31 (a) The fee for a nongovernmental pharmacy license shall be  
32 four hundred dollars (\$400) and may be increased to five hundred  
33 twenty dollars (\$520). The fee for the issuance of a temporary  
34 nongovernmental pharmacy permit shall be two hundred fifty  
35 dollars (\$250) and may be increased to three hundred twenty-five  
36 dollars (\$325).

37 (b) The fee for a nongovernmental pharmacy license annual  
38 renewal shall be two hundred fifty dollars (\$250) and may be  
39 increased to three hundred twenty-five dollars (\$325).

1 (c) The fee for the pharmacist application and examination shall  
2 be two hundred dollars (\$200) and may be increased to two  
3 hundred sixty dollars (\$260).

4 (d) The fee for regrading an examination shall be ninety dollars  
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
6 If an error in grading is found and the applicant passes the  
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license and biennial renewal shall  
9 be one hundred fifty dollars (\$150) and may be increased to one  
10 hundred ninety-five dollars (\$195).

11 (f) The fee for a nongovernmental wholesaler or third-party  
12 logistics provider license and annual renewal shall be seven  
13 hundred eighty dollars (\$780) and may be decreased to no less  
14 than six hundred dollars (\$600). The application fee for any  
15 additional location after licensure of the first 20 locations shall be  
16 three hundred dollars (\$300) and may be decreased to no less than  
17 two hundred twenty-five dollars (\$225). A temporary license fee  
18 shall be seven hundred fifteen dollars (\$715) and may be decreased  
19 to no less than five hundred fifty dollars (\$550).

20 (g) The fee for a hypodermic license and renewal shall be one  
21 hundred twenty-five dollars (\$125) and may be increased to one  
22 hundred sixty-five dollars (\$165).

23 (h) (1) The fee for application, investigation, and issuance of  
24 a license as a designated representative pursuant to Section 4053,  
25 or as a designated representative-3PL pursuant to Section 4053.1,  
26 shall be three hundred thirty dollars (\$330) and may be decreased  
27 to no less than two hundred fifty-five dollars (\$255).

28 (2) The fee for the annual renewal of a license as a designated  
29 representative or designated representative-3PL shall be one  
30 hundred ninety-five dollars (\$195) and may be decreased to no  
31 less than one hundred fifty dollars (\$150).

32 (i) (1) The fee for the application, investigation, and issuance  
33 of a license as a designated representative for a veterinary  
34 food-animal drug retailer pursuant to Section 4053 shall be three  
35 hundred thirty dollars (\$330) and may be decreased to no less than  
36 two hundred fifty-five dollars (\$255).

37 (2) The fee for the annual renewal of a license as a designated  
38 representative for a veterinary food-animal drug retailer shall be  
39 one hundred ninety-five dollars (\$195) and may be decreased to  
40 no less than one hundred fifty dollars (\$150).

1 (j) (1) The application fee for a nonresident wholesaler or  
2 third-party logistics provider license issued pursuant to Section  
3 4161 shall be seven hundred eighty dollars (\$780) and may be  
4 decreased to no less than six hundred dollars (\$600).

5 (2) For nonresident wholesalers or third-party logistics providers  
6 that have 21 or more facilities operating nationwide the application  
7 fees for the first 20 locations shall be seven hundred eighty dollars  
8 (\$780) and may be decreased to no less than six hundred dollars  
9 (\$600). The application fee for any additional location after  
10 licensure of the first 20 locations shall be three hundred dollars  
11 (\$300) and may be decreased to no less than two hundred  
12 twenty-five dollars (\$225). A temporary license fee shall be seven  
13 hundred fifteen dollars (\$715) and may be decreased to no less  
14 than five hundred fifty dollars (\$550).

15 (3) The annual renewal fee for a nonresident wholesaler license  
16 or third-party logistics provider license issued pursuant to Section  
17 4161 shall be seven hundred eighty dollars (\$780) and may be  
18 decreased to no less than six hundred dollars (\$600).

19 (k) The fee for evaluation of continuing education courses for  
20 accreditation shall be set by the board at an amount not to exceed  
21 forty dollars (\$40) per course hour.

22 (l) The fee for an intern pharmacist license shall be ninety dollars  
23 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
24 The fee for transfer of intern hours or verification of licensure to  
25 another state shall be twenty-five dollars (\$25) and may be  
26 increased to thirty dollars (\$30).

27 (m) The board may waive or refund the additional fee for the  
28 issuance of a license where the license is issued less than 45 days  
29 before the next regular renewal date.

30 (n) The fee for the reissuance of any license, or renewal thereof,  
31 that has been lost or destroyed or reissued due to a name change  
32 shall be thirty-five dollars (\$35) and may be increased to forty-five  
33 dollars (\$45).

34 (o) The fee for the reissuance of any license, or renewal thereof,  
35 that must be reissued because of a change in the information, shall  
36 be one hundred dollars (\$100) and may be increased to one hundred  
37 thirty dollars (\$130).

38 (p) It is the intent of the Legislature that, in setting fees pursuant  
39 to this section, the board shall seek to maintain a reserve in the

1 Pharmacy Board Contingent Fund equal to approximately one  
2 year's operating expenditures.

3 (q) The fee for any applicant for a nongovernmental clinic  
4 license shall be four hundred dollars (\$400) and may be increased  
5 to five hundred twenty dollars (\$520) for each license. The annual  
6 fee for renewal of the license shall be two hundred fifty dollars  
7 (\$250) and may be increased to three hundred twenty-five dollars  
8 (\$325) for each license.

9 (r) The fee for the issuance of a pharmacy technician license  
10 shall be eighty dollars (\$80) and may be increased to one hundred  
11 five dollars (\$105). The fee for renewal of a pharmacy technician  
12 license shall be one hundred dollars (\$100) and may be increased  
13 to one hundred thirty dollars (\$130).

14 (s) The fee for a veterinary food-animal drug retailer license  
15 shall be four hundred five dollars (\$405) and may be increased to  
16 four hundred twenty-five dollars (\$425). The annual renewal fee  
17 for a veterinary food-animal drug retailer license shall be two  
18 hundred fifty dollars (\$250) and may be increased to three hundred  
19 twenty-five dollars (\$325).

20 (t) The fee for issuance of a retired license pursuant to Section  
21 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
22 forty-five dollars (\$45).

23 (u) The fee for issuance or renewal of a nongovernmental sterile  
24 compounding pharmacy license shall be six hundred dollars (\$600)  
25 and may be increased to seven hundred eighty dollars (\$780). The  
26 fee for a temporary license shall be five hundred fifty dollars (\$550)  
27 and may be increased to seven hundred fifteen dollars (\$715).

28 (v) The fee for the issuance or renewal of a nonresident sterile  
29 compounding pharmacy license shall be seven hundred eighty  
30 dollars (\$780). In addition to paying that application fee, the  
31 nonresident sterile compounding pharmacy shall deposit, when  
32 submitting the application, a reasonable amount, as determined by  
33 the board, necessary to cover the board's estimated cost of  
34 performing the inspection required by Section 4127.2. If the  
35 required deposit is not submitted with the application, the  
36 application shall be deemed to be incomplete. If the actual cost of  
37 the inspection exceeds the amount deposited, the board shall  
38 provide to the applicant a written invoice for the remaining amount  
39 and shall not take action on the application until the full amount  
40 has been paid to the board. If the amount deposited exceeds the

1 amount of actual and necessary costs incurred, the board shall  
2 remit the difference to the applicant.

3 (w) This section shall become inoperative on July 1, 2017, and  
4 as of January 1, 2018, is repealed.

5 ~~SEC. 26.~~

6 *SEC. 24.* Section 4400 is added to the Business and Professions  
7 Code, to read:

8 4400. The amount of fees and penalties prescribed by this  
9 chapter, except as otherwise provided, is that fixed by the board  
10 according to the following schedule:

11 (a) The fee for a nongovernmental pharmacy license shall be  
12 five hundred twenty dollars (\$520) and may be increased to five  
13 hundred seventy dollars (\$570). The fee for the issuance of a  
14 temporary nongovernmental pharmacy permit shall be two hundred  
15 fifty dollars (\$250) and may be increased to three hundred  
16 twenty-five dollars (\$325).

17 (b) The fee for a nongovernmental pharmacy license annual  
18 renewal shall be six hundred sixty-five dollars (\$665) and may be  
19 increased to nine hundred thirty dollars (\$930).

20 (c) The fee for the pharmacist application and examination shall  
21 be two hundred sixty dollars (\$260) and may be increased to two  
22 hundred eighty-five dollars (\$285).

23 (d) The fee for regrading an examination shall be ninety dollars  
24 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
25 If an error in grading is found and the applicant passes the  
26 examination, the regrading fee shall be refunded.

27 (e) The fee for a pharmacist license shall be one hundred  
28 ninety-five dollars (\$195) and may be increased to two hundred  
29 fifteen dollars (\$215). The fee for a pharmacist biennial renewal  
30 shall be three hundred sixty dollars (\$360) and may be increased  
31 to five hundred five dollars (\$505).

32 (f) The fee for a nongovernmental wholesaler or third-party  
33 logistics provider license and annual renewal shall be seven  
34 hundred eighty dollars (\$780) and may be increased to eight  
35 hundred twenty dollars (\$820). The application fee for any  
36 additional location after licensure of the first 20 locations shall be  
37 three hundred dollars (\$300) and may be decreased to no less than  
38 two hundred twenty-five dollars (\$225). A temporary license fee  
39 shall be seven hundred fifteen dollars (\$715) and may be decreased  
40 to no less than five hundred fifty dollars (\$550).

1 (g) The fee for a hypodermic license shall be one hundred  
2 seventy dollars (\$170) and may be increased to two hundred forty  
3 dollars (\$240). The fee for a hypodermic license renewal shall be  
4 two hundred dollars (\$200) and may be increased to two hundred  
5 eighty dollars (\$280).

6 (h) (1) The fee for application, investigation, and issuance of  
7 a license as a designated representative pursuant to Section 4053,  
8 or as a designated representative-3PL pursuant to Section 4053.1,  
9 shall be one hundred fifty dollars (\$150) and may be increased to  
10 two hundred ten dollars (\$210).

11 (2) The fee for the annual renewal of a license as a designated  
12 representative or designated representative-3PL shall be two  
13 hundred fifteen dollars (\$215) and may be increased to three  
14 hundred dollars (\$300).

15 (i) (1) The fee for the application, investigation, and issuance  
16 of a license as a designated representative for a veterinary  
17 food-animal drug retailer pursuant to Section 4053 shall be one  
18 hundred fifty dollars (\$150) and may be increased to two hundred  
19 ten dollars (\$210).

20 (2) The fee for the annual renewal of a license as a designated  
21 representative for a veterinary food-animal drug retailer shall be  
22 two hundred fifteen dollars (\$215) and may be increased to three  
23 hundred dollars (\$300).

24 (j) (1) The application fee for a nonresident wholesaler or  
25 third-party logistics provider license issued pursuant to Section  
26 4161 shall be seven hundred eighty dollars (\$780) and may be  
27 increased to eight hundred twenty dollars (\$820).

28 (2) For nonresident wholesalers or third-party logistics providers  
29 that have 21 or more facilities operating nationwide the application  
30 fees for the first 20 locations shall be seven hundred eighty dollars  
31 (\$780) and may be increased to eight hundred twenty dollars  
32 (\$820). The application fee for any additional location after  
33 licensure of the first 20 locations shall be three hundred dollars  
34 (\$300) and may be decreased to no less than two hundred  
35 twenty-five dollars (\$225). A temporary license fee shall be seven  
36 hundred fifteen dollars (\$715) and may be decreased to no less  
37 than five hundred fifty dollars (\$550).

38 (3) The annual renewal fee for a nonresident wholesaler license  
39 or third-party logistics provider license issued pursuant to Section

1 4161 shall be seven hundred eighty dollars (\$780) and may be  
2 increased to eight hundred twenty dollars (\$820).

3 (k) The fee for evaluation of continuing education courses for  
4 accreditation shall be set by the board at an amount not to exceed  
5 forty dollars (\$40) per course hour.

6 (l) The fee for an intern pharmacist license shall be one hundred  
7 sixty-five dollars (\$165) and may be increased to two hundred  
8 thirty dollars (\$230). The fee for transfer of intern hours or  
9 verification of licensure to another state shall be twenty-five dollars  
10 (\$25) and may be increased to thirty dollars (\$30).

11 (m) The board may waive or refund the additional fee for the  
12 issuance of a license where the license is issued less than 45 days  
13 before the next regular renewal date.

14 (n) The fee for the reissuance of any license, or renewal thereof,  
15 that has been lost or destroyed or reissued due to a name change  
16 shall be thirty-five dollars (\$35) and may be increased to forty-five  
17 dollars (\$45).

18 (o) The fee for the reissuance of any license, or renewal thereof,  
19 that must be reissued because of a change in the information, shall  
20 be one hundred dollars (\$100) and may be increased to one hundred  
21 thirty dollars (\$130).

22 (p) It is the intent of the Legislature that, in setting fees pursuant  
23 to this section, the board shall seek to maintain a reserve in the  
24 Pharmacy Board Contingent Fund equal to approximately one  
25 year's operating expenditures.

26 (q) The fee for any applicant for a nongovernmental clinic  
27 license shall be five hundred twenty dollars (\$520) for each license  
28 and may be increased to five hundred seventy dollars (\$570). The  
29 annual fee for renewal of the license shall be three hundred  
30 twenty-five dollars (\$325) for each license and may be increased  
31 to three hundred sixty dollars (\$360).

32 (r) The fee for the issuance of a pharmacy technician license  
33 shall be one hundred forty dollars (\$140) and may be increased to  
34 one hundred ninety-five dollars (\$195). The fee for renewal of a  
35 pharmacy technician license shall be one hundred forty dollars  
36 (\$140) and may be increased to one hundred ninety-five dollars  
37 (\$195).

38 (s) The fee for a veterinary food-animal drug retailer license  
39 shall be four hundred thirty-five dollars (\$435) and may be  
40 increased to six hundred ten dollars (\$610). The annual renewal

1 fee for a veterinary food-animal drug retailer license shall be three  
2 hundred thirty dollars (\$330) and may be increased to four hundred  
3 sixty dollars (\$460).

4 (t) The fee for issuance of a retired license pursuant to Section  
5 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
6 forty-five dollars (\$45).

7 (u) The fee for issuance of a nongovernmental sterile  
8 compounding pharmacy license shall be one thousand six hundred  
9 forty-five dollars (\$1,645) and may be increased to two thousand  
10 three hundred five dollars (\$2,305). The fee for a temporary license  
11 shall be five hundred fifty dollars (\$550) and may be increased to  
12 seven hundred fifteen dollars (\$715). The annual renewal fee of  
13 the license shall be one thousand three hundred twenty-five dollars  
14 (\$1,325) and may be increased to one thousand eight hundred  
15 fifty-five dollars (\$1,855).

16 (v) The fee for the issuance of a nonresident sterile compounding  
17 pharmacy license shall be two thousand three hundred eighty  
18 dollars (\$2,380) and may be increased to three thousand three  
19 hundred thirty-five dollars (\$3,335). The annual renewal of the  
20 license shall be two thousand two hundred seventy dollars (\$2,270)  
21 and may be increased to three thousand one hundred eighty dollars  
22 (\$3,180). In addition to paying that application fee, the nonresident  
23 sterile compounding pharmacy shall deposit, when submitting the  
24 application, a reasonable amount, as determined by the board,  
25 necessary to cover the board's estimated cost of performing the  
26 inspection required by Section 4127.2. If the required deposit is  
27 not submitted with the application, the application shall be deemed  
28 to be incomplete. If the actual cost of the inspection exceeds the  
29 amount deposited, the board shall provide to the applicant a written  
30 invoice for the remaining amount and shall not take action on the  
31 application until the full amount has been paid to the board. If the  
32 amount deposited exceeds the amount of actual and necessary  
33 costs incurred, the board shall remit the difference to the applicant.

34 (w) The fee for the issuance of a centralized hospital packaging  
35 license shall be eight hundred twenty dollars (\$820) and may be  
36 increased to one thousand one hundred fifty dollars (\$1,150). The  
37 annual renewal of the license shall be eight hundred five dollars  
38 (\$805) and may be increased to one thousand one hundred  
39 twenty-five dollars (\$1,125).

40 (x) This section shall become operative on July 1, 2017.

1     ~~SEC. 27.~~

2     *SEC. 25.* Section 4830 of the Business and Professions Code  
3 is amended to read:

4     4830. (a) This chapter does not apply to:

5         (1) Veterinarians while serving in any armed branch of the  
6 military service of the United States or the United States  
7 Department of Agriculture while actually engaged and employed  
8 in their official capacity.

9         (2) Veterinarians holding a current, valid license in good  
10 standing in another state or country who provide assistance to a  
11 California licensed veterinarian and attend on a specific case. The  
12 California licensed veterinarian shall maintain a valid  
13 veterinarian-client-patient relationship. The veterinarian providing  
14 the assistance shall not establish a veterinarian-client-patient  
15 relationship with the client by attending the case or at a future time  
16 and shall not practice veterinary medicine, open an office, appoint  
17 a place to meet patients, communicate with clients who reside  
18 within the limits of this state, give orders, or have ultimate authority  
19 over the care or primary diagnosis of a patient that is located within  
20 this state.

21         (3) Veterinarians called into the state by a law enforcement  
22 agency or animal control agency pursuant to subdivision (b).

23         (4) Veterinarians employed by the University of California  
24 while engaged in the performance of duties in connection with the  
25 College of Agriculture, the Agricultural Experiment Station, the  
26 School of Veterinary Medicine, or the agricultural extension work  
27 of the university or employed by the Western University of Health  
28 Sciences while engaged in the performance of duties in connection  
29 with the College of Veterinary Medicine or the agricultural  
30 extension work of the university.

31         (5) Students in the School of Veterinary Medicine of the  
32 University of California or the College of Veterinary Medicine of  
33 the Western University of Health Sciences who participate in  
34 diagnosis and treatment as part of their educational experience,  
35 including those in off-campus educational programs under the  
36 direct supervision of a licensed veterinarian in good standing, as  
37 defined in paragraph (1) of subdivision (b) of Section 4848,  
38 appointed by the University of California, Davis, or the Western  
39 University of Health Sciences.

1 (6) A veterinarian who is employed by the Meat and Poultry  
2 Inspection Branch of the California Department of Food and  
3 Agriculture while actually engaged and employed in his or her  
4 official capacity. A person exempt under this paragraph shall not  
5 otherwise engage in the practice of veterinary medicine unless he  
6 or she is issued a license by the board.

7 (7) Unlicensed personnel employed by the Department of Food  
8 and Agriculture or the United States Department of Agriculture  
9 when in the course of their duties they are directed by a veterinarian  
10 supervisor to conduct an examination, obtain biological specimens,  
11 apply biological tests, or administer medications or biological  
12 products as part of government disease or condition monitoring,  
13 investigation, control, or eradication activities.

14 (b) (1) For purposes of paragraph (3) of subdivision (a), a  
15 regularly licensed veterinarian in good standing who is called from  
16 another state by a law enforcement agency or animal control  
17 agency, as defined in Section 31606 of the Food and Agricultural  
18 Code, to attend to cases that are a part of an investigation of an  
19 alleged violation of federal or state animal fighting or animal  
20 cruelty laws within a single geographic location shall be exempt  
21 from the licensing requirements of this chapter if the law  
22 enforcement agency or animal control agency determines that it  
23 is necessary to call the veterinarian in order for the agency or  
24 officer to conduct the investigation in a timely, efficient, and  
25 effective manner. In determining whether it is necessary to call a  
26 veterinarian from another state, consideration shall be given to the  
27 availability of veterinarians in this state to attend to these cases.  
28 An agency, department, or officer that calls a veterinarian pursuant  
29 to this subdivision shall notify the board of the investigation.

30 (2) Notwithstanding any other provision of this chapter, a  
31 regularly licensed veterinarian in good standing who is called from  
32 another state to attend to cases that are a part of an investigation  
33 described in paragraph (1) may provide veterinary medical care  
34 for animals that are affected by the investigation with a temporary  
35 shelter facility, and the temporary shelter facility shall be exempt  
36 from the registration requirement of Section 4853 if all of the  
37 following conditions are met:

38 (A) The temporary shelter facility is established only for the  
39 purpose of the investigation.

1 (B) The temporary shelter facility provides veterinary medical  
2 care, shelter, food, and water only to animals that are affected by  
3 the investigation.

4 (C) The temporary shelter facility complies with Section 4854.

5 (D) The temporary shelter facility exists for not more than 60  
6 days, unless the law enforcement agency or animal control agency  
7 determines that a longer period of time is necessary to complete  
8 the investigation.

9 (E) Within 30 calendar days upon completion of the provision  
10 of veterinary health care services at a temporary shelter facility  
11 established pursuant to this section, the veterinarian called from  
12 another state by a law enforcement agency or animal control agency  
13 to attend to a case shall file a report with the board. The report  
14 shall contain the date, place, type, and general description of the  
15 care provided, along with a listing of the veterinary health care  
16 practitioners who participated in providing that care.

17 (c) For purposes of paragraph (3) of subdivision (a), the board  
18 may inspect temporary facilities established pursuant to this  
19 section.

20 ~~SEC. 28:~~

21 *SEC. 26.* Section 4999 of the Business and Professions Code  
22 is amended to read:

23 4999. “Telephone medical advice service” means any business  
24 entity that employs, or contracts or subcontracts, directly or  
25 indirectly, with, the full-time equivalent of five or more persons  
26 functioning as health care professionals, whose primary function  
27 is to provide telephone medical advice, that provides telephone  
28 medical advice services to a patient at a California address.  
29 “Telephone medical advice service” does not include a medical  
30 group that operates in multiple locations in California if no more  
31 than five full-time equivalent persons at any one location perform  
32 telephone medical advice services and those persons limit the  
33 telephone medical advice services to patients being treated at that  
34 location.

35 ~~SEC. 29:~~

36 *SEC. 27.* Section 4999.1 of the Business and Professions Code  
37 is repealed.

38 ~~SEC. 30:~~

39 *SEC. 28.* Section 4999.2 of the Business and Professions Code  
40 is amended to read:

1 4999.2. A telephone medical advice service shall be responsible  
2 for complying with the following requirements:

3 (a) (1) Ensuring that all health care professionals who provide  
4 medical advice services are appropriately licensed, certified, or  
5 registered as a physician and surgeon pursuant to Chapter 5  
6 (commencing with Section 2000) or the Osteopathic Initiative Act,  
7 as a dentist, dental hygienist, dental hygienist in alternative  
8 practice, or dental hygienist in extended functions pursuant to  
9 Chapter 4 (commencing with Section 1600), as an occupational  
10 therapist pursuant to Chapter 5.6 (commencing with Section 2570),  
11 as a registered nurse pursuant to Chapter 6 (commencing with  
12 Section 2700), as a psychologist pursuant to Chapter 6.6  
13 (commencing with Section 2900), as a naturopathic doctor pursuant  
14 to Chapter 8.2 (commencing with Section 3610), as a marriage  
15 and family therapist pursuant to Chapter 13 (commencing with  
16 Section 4980), as a licensed clinical social worker pursuant to  
17 Chapter 14 (commencing with Section 4991), as a licensed  
18 professional clinical counselor pursuant to Chapter 16  
19 (commencing with Section 4999.10), as an optometrist pursuant  
20 to Chapter 7 (commencing with Section 3000), or as a chiropractor  
21 pursuant to the Chiropractic Initiative Act, and operating consistent  
22 with the laws governing their respective scopes of practice in the  
23 state within which they provide telephone medical advice services,  
24 except as provided in subdivision (b).

25 (2) Ensuring that all health care professionals who provide  
26 telephone medical advice services from an out-of-state location,  
27 as identified in paragraph (1), are licensed, registered, or certified  
28 in the state within which they are providing the telephone medical  
29 advice services and are operating consistent with the laws  
30 governing their respective scopes of practice.

31 (b) Ensuring that the telephone medical advice provided is  
32 consistent with good professional practice.

33 (c) Maintaining records of telephone medical advice services,  
34 including records of complaints, provided to patients in California  
35 for a period of at least five years.

36 (d) Ensuring that no staff member uses a title or designation  
37 when speaking to an enrollee, subscriber, or consumer that may  
38 cause a reasonable person to believe that the staff member is a  
39 licensed, certified, or registered health care professional described

1 in paragraph (1) of subdivision (a), unless the staff member is a  
2 licensed, certified, or registered professional.

3 (e) Complying with all directions and requests for information  
4 made by the department.

5 (f) Notifying the department within 30 days of any change of  
6 name, physical location, mailing address, or telephone number of  
7 any business, owner, partner, corporate officer, or agent for service  
8 of process in California, together with copies of all resolutions or  
9 other written communications that substantiate these changes.

10 ~~SEC. 31.~~

11 *SEC. 29.* Section 4999.3 of the Business and Professions Code  
12 is repealed.

13 ~~SEC. 32.~~

14 *SEC. 30.* Section 4999.4 of the Business and Professions Code  
15 is repealed.

16 ~~SEC. 33.~~

17 *SEC. 31.* Section 4999.5 of the Business and Professions Code  
18 is repealed.

19 ~~SEC. 34.~~

20 *SEC. 32.* Section 4999.5 is added to the Business and  
21 Professions Code, to read:

22 4999.5. The respective healing arts licensing boards shall be  
23 responsible for enforcing this chapter and any other laws and  
24 regulations affecting California licensed health care professionals  
25 providing telephone medical advice services.

26 ~~SEC. 35.~~

27 *SEC. 33.* Section 4999.6 of the Business and Professions Code  
28 is repealed.

29 ~~SEC. 36.~~

30 *SEC. 34.* Section 7137 of the Business and Professions Code  
31 is amended to read:

32 7137. The board shall set fees by regulation. These fees shall  
33 not exceed the following schedule:

34 (a) The application fee for an original license in a single  
35 classification shall not be more than three hundred dollars (\$300).

36 The application fee for each additional classification applied for  
37 in connection with an original license shall not be more than  
38 seventy-five dollars (\$75).

39 The application fee for each additional classification pursuant  
40 to Section 7059 shall not be more than seventy-five dollars (\$75).

1 The application fee to replace a responsible managing officer,  
2 responsible managing manager, responsible managing member,  
3 or responsible managing employee pursuant to Section 7068.2  
4 shall not be more than seventy-five dollars (\$75).

5 (b) The fee for rescheduling an examination for an applicant  
6 who has applied for an original license, additional classification,  
7 a change of responsible managing officer, responsible managing  
8 manager, responsible managing member, or responsible managing  
9 employee, or for an asbestos certification or hazardous substance  
10 removal certification, shall not be more than sixty dollars (\$60).

11 (c) The fee for scheduling or rescheduling an examination for  
12 a licensee who is required to take the examination as a condition  
13 of probation shall not be more than sixty dollars (\$60).

14 (d) The initial license fee for an active or inactive license shall  
15 not be more than one hundred eighty dollars (\$180).

16 (e) The renewal fee for an active license shall not be more than  
17 three hundred sixty dollars (\$360).

18 The renewal fee for an inactive license shall not be more than  
19 one hundred eighty dollars (\$180).

20 (f) The delinquency fee is an amount equal to 50 percent of the  
21 renewal fee, if the license is renewed after its expiration.

22 (g) The registration fee for a home improvement salesperson  
23 shall not be more than seventy-five dollars (\$75).

24 (h) The renewal fee for a home improvement salesperson  
25 registration shall not be more than seventy-five dollars (\$75).

26 (i) The application fee for an asbestos certification examination  
27 shall not be more than seventy-five dollars (\$75).

28 (j) The application fee for a hazardous substance removal or  
29 remedial action certification examination shall not be more than  
30 seventy-five dollars (\$75).

31 (k) In addition to any other fees charged to C-10 and C-7  
32 contractors, the board may charge a fee not to exceed twenty dollars  
33 (\$20), which shall be used by the board to enforce provisions of  
34 the Labor Code related to electrician certification.

35 (l) This section shall become inoperative on July 1, 2017, and  
36 as of January 1, 2018, is repealed.

37 ~~SEC. 37.~~

38 *SEC. 35.* Section 7137 is added to the Business and Professions  
39 Code, to read:

1 7137. The board may set fees by regulation. These fees shall  
2 be set according to the following schedule:  
3 (a) (1) The application fee for an original license in a single  
4 classification shall be three hundred thirty dollars (\$330) and may  
5 be increased to not more than three hundred seventy-five dollars  
6 (\$375).  
7 (2) The application fee for each additional classification applied  
8 for in connection with an original license shall not be more than  
9 eighty-five dollars (\$85).  
10 (3) The application fee for each additional classification pursuant  
11 to Section 7059 shall be one hundred fifty dollars (\$150) and may  
12 be increased to not more than one hundred seventy-five dollars  
13 (\$175).  
14 (4) The application fee to replace a responsible managing officer,  
15 responsible managing manager, responsible managing member,  
16 or responsible managing employee pursuant to Section 7068.2  
17 shall be one hundred fifty dollars (\$150) and may be increased to  
18 not more than one hundred seventy-five dollars (\$175).  
19 (5) The application fee to add personnel, other than a qualifying  
20 individual, to an existing license shall be one hundred dollars  
21 (\$100) and may be increased to not more than one hundred fifteen  
22 dollars (\$115).  
23 (b) The fee for rescheduling an examination for an applicant  
24 who has applied for an original license, additional classification,  
25 a change of responsible managing officer, responsible managing  
26 manager, responsible managing member, or responsible managing  
27 employee, or for an asbestos certification or hazardous substance  
28 removal certification, shall not be more than seventy dollars (\$70).  
29 (c) The fee for scheduling or rescheduling an examination for  
30 a licensee who is required to take the examination as a condition  
31 of probation shall not be more than seventy dollars (\$70).  
32 (d) The initial license fee for an active or inactive license shall  
33 be two hundred dollars (\$200) and may be increased to not more  
34 than two hundred twenty-five dollars (\$225).  
35 (e) (1) The renewal fee for an active license shall be four  
36 hundred dollars (\$400) and may be increased to not more than four  
37 hundred fifty dollars (\$450).  
38 (2) The renewal fee for an inactive license shall be two hundred  
39 dollars (\$200) and may be increased to not more than two hundred  
40 twenty-five dollars (\$225).

1 (f) The delinquency fee is an amount equal to 50 percent of the  
2 renewal fee, if the license is renewed after its expiration.

3 (g) The registration fee for a home improvement salesperson  
4 shall be eighty-three dollars (\$83) and may be increased to not  
5 more than ninety-five dollars (\$95).

6 (h) The renewal fee for a home improvement salesperson  
7 registration shall be eighty-three dollars (\$83) and may be increased  
8 to not more than ninety-five dollars (\$95).

9 (i) The application fee for an asbestos certification examination  
10 shall be eighty-three dollars (\$83) and may be increased to not  
11 more than ninety-five dollars (\$95).

12 (j) The application fee for a hazardous substance removal or  
13 remedial action certification examination shall be eighty-three  
14 dollars (\$83) and may be increased to not more than ninety-five  
15 dollars (\$95).

16 (k) In addition to any other fees charged to C-10 and C-7  
17 contractors, the board may charge a fee not to exceed twenty dollars  
18 (\$20), which shall be used by the board to enforce provisions of  
19 the Labor Code related to electrician certification.

20 (l) The board shall, by regulation, establish criteria for the  
21 approval of expedited processing of applications. Approved  
22 expedited processing of applications for licensure or registration,  
23 as required by other provisions of law, shall not be subject to this  
24 subdivision.

25 (m) This section shall become operative on July 1, 2017.

26 ~~SEC. 38:~~

27 *SEC. 36.* Section 7153.3 of the Business and Professions Code  
28 is amended to read:

29 7153.3. (a) To renew a home improvement salesperson  
30 registration, which has not expired, the registrant shall before the  
31 time at which the registration would otherwise expire, apply for  
32 renewal on a form prescribed by the registrar and pay a renewal  
33 fee prescribed by this chapter. Renewal of an unexpired registration  
34 shall continue the registration in effect for the two-year period  
35 following the expiration date of the registration, when it shall  
36 expire if it is not again renewed.

37 (b) An application for renewal of registration is delinquent if  
38 the application is not postmarked or received via electronic  
39 transmission as authorized by Section 7156.6 by the date on which  
40 the registration would otherwise expire. A registration may,

1 however, still be renewed at any time within three years after its  
 2 expiration upon the filing of an application for renewal on a form  
 3 prescribed by the registrar and the payment of the renewal fee  
 4 prescribed by this chapter and a delinquent renewal penalty in the  
 5 amount of twenty-five dollars (\$25). If a registration is not renewed  
 6 within three years, the person shall make a new application for  
 7 registration pursuant to Section 7153.1.

8 (c) The registrar may refuse to renew a registration for failure  
 9 by the registrant to complete the application for renewal of  
 10 registration. If a registrant fails to return the application rejected  
 11 for insufficiency or incompleteness within 90 days from the  
 12 original date of rejection, the application and fee shall be deemed  
 13 abandoned. Any application abandoned may not be reinstated.  
 14 However, the person may file a new application for registration  
 15 pursuant to Section 7153.1.

16 The registrar may review and accept the petition of a person who  
 17 disputes the abandonment of his or her renewal application upon  
 18 a showing of good cause. This petition shall be received within 90  
 19 days of the date the application for renewal is deemed abandoned.

20 (d) This section shall become inoperative on July 1, 2017, and  
 21 as of January 1, 2018, is repealed.

22 ~~SEC. 39.~~

23 *SEC. 37.* Section 7153.3 is added to the Business and  
 24 Professions Code, to read:

25 7153.3. (a) To renew a home improvement salesperson  
 26 registration, which has not expired, the registrant shall before the  
 27 time at which the registration would otherwise expire, apply for  
 28 renewal on a form prescribed by the registrar and pay a renewal  
 29 fee prescribed by this chapter. Renewal of an unexpired registration  
 30 shall continue the registration in effect for the two-year period  
 31 following the expiration date of the registration, when it shall  
 32 expire if it is not again renewed.

33 (b) An application for renewal of registration is delinquent if  
 34 the application is not postmarked or received via electronic  
 35 transmission as authorized by Section 7156.6 by the date on which  
 36 the registration would otherwise expire. A registration may,  
 37 however, still be renewed at any time within three years after its  
 38 expiration upon the filing of an application for renewal on a form  
 39 prescribed by the registrar and the payment of the renewal fee  
 40 prescribed by this chapter and a delinquent renewal penalty equal

1 to 50 percent of the renewal fee. If a registration is not renewed  
2 within three years, the person shall make a new application for  
3 registration pursuant to Section 7153.1.

4 (c) (1) The registrar may refuse to renew a registration for  
5 failure by the registrant to complete the application for renewal of  
6 registration. If a registrant fails to return the application rejected  
7 for insufficiency or incompleteness within 90 days from the  
8 original date of rejection, the application and fee shall be deemed  
9 abandoned. Any application abandoned may not be reinstated.  
10 However, the person may file a new application for registration  
11 pursuant to Section 7153.1.

12 (2) The registrar may review and accept the petition of a person  
13 who disputes the abandonment of his or her renewal application  
14 upon a showing of good cause. This petition shall be received  
15 within 90 days of the date the application for renewal is deemed  
16 abandoned.

17 (d) This section shall become operative on July 1, 2017.

18 ~~SEC. 40.~~

19 *SEC. 38.* Section 8516 of the Business and Professions Code  
20 is amended to read:

21 8516. (a) This section, and Section 8519, apply only to wood  
22 destroying pests or organisms.

23 (b) A registered company or licensee shall not commence work  
24 on a contract, or sign, issue, or deliver any documents expressing  
25 an opinion or statement relating to the absence or presence of wood  
26 destroying pests or organisms until an inspection has been made  
27 by a licensed Branch 3 field representative or operator employed  
28 by a registered company, except as provided in Section 8519.5.  
29 The address of each property inspected or upon which work is  
30 completed shall be reported on a form prescribed by the board and  
31 shall be filed with the board no later than 10 business days after  
32 the commencement of an inspection or upon completed work.

33 Every property inspected pursuant to this subdivision or Section  
34 8518 shall be assessed a filing fee pursuant to Section 8674.

35 Failure of a registered company to report and file with the board  
36 the address of any property inspected or work completed pursuant  
37 to Section 8518 or this section is grounds for disciplinary action  
38 and shall subject the registered company to a fine of not more than  
39 two thousand five hundred dollars (\$2,500). The address of an  
40 inspection report prepared for use by an attorney for litigation

1 purposes shall not be required to be reported to the board and shall  
2 not be assessed a filing fee.

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

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

20 (1) The start date of the inspection and the name of the licensed  
21 field representative or operator making the inspection.

22 (2) The name and address of the person or firm ordering the  
23 report.

24 (3) The name and address of the property owner and any person  
25 who is a party in interest.

26 (4) The address or location of the property.

27 (5) A general description of the building or premises inspected.

28 (6) A foundation diagram or sketch of the structure or structures  
29 or portions of the structure or structures inspected, including the  
30 approximate location of any infested or infected areas evident, and  
31 the parts of the structure where conditions that would ordinarily  
32 subject those parts to attack by wood destroying pests or organisms  
33 exist. Reporting of the infested or infected wood members, or parts  
34 of the structure identified, shall be listed in the inspection report  
35 to clearly identify them, as is typical in standard construction  
36 components, including, but not limited to, siding, studs, rafters,  
37 floor joists, fascia, subfloor, sheathing, and trim boards.

38 (7) Information regarding the substructure, foundation walls  
39 and footings, porches, patios and steps, air vents, abutments, attic  
40 spaces, roof framing that includes the eaves, rafters, fascias,

1 exposed timbers, exposed sheathing, ceiling joists, and attic walls,  
2 or other parts subject to attack by wood destroying pests or  
3 organisms. Conditions usually deemed likely to lead to infestation  
4 or infection, such as earth-wood contacts, excessive cellulose  
5 debris, faulty grade levels, excessive moisture conditions, evidence  
6 of roof leaks, and insufficient ventilation are to be reported.

7 (8) One of the following statements, as appropriate, printed in  
8 bold type:

9 (A) The exterior surface of the roof was not inspected. If you  
10 want the water tightness of the roof determined, you should contact  
11 a roofing contractor who is licensed by the Contractors' State  
12 License Board.

13 (B) The exterior surface of the roof was inspected to determine  
14 whether or not wood destroying pests or organisms are present.

15 (9) Indication or description of any areas that are inaccessible  
16 or not inspected with recommendation for further inspection if  
17 practicable. If, after the report has been made in compliance with  
18 this section, authority is given later to open inaccessible areas, a  
19 supplemental report on conditions in these areas shall be made.

20 (10) Recommendations for corrective measures.

21 (11) Information regarding the pesticide or pesticides to be used  
22 for their control or prevention as set forth in subdivision (a) of  
23 Section 8538.

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

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

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

37 A reinspection shall be an inspection of those items previously  
38 listed on an original report to determine if the recommendations  
39 have been completed. Each reinspection shall be reported on an

1 original inspection report form and shall be labeled “Reinspection.”

2 Each reinspection shall also identify the original report by date.

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

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

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

11  
12 “NOTICE: Reports on this structure prepared by various  
13 registered companies should list the same findings (i.e. termite  
14 infestations, termite damage, fungus damage, etc.). However,  
15 recommendations to correct these findings may vary from company  
16 to company. You have a right to seek a second opinion from  
17 another company.”

18  
19 (c) At the time a report is ordered, the registered company or  
20 licensee shall inform the person or entity ordering the report, that  
21 a separate report is available pursuant to this subdivision. If a  
22 separate report is requested at the time the inspection report is  
23 ordered, the registered company or licensee shall separately identify  
24 on the report each recommendation for corrective measures as  
25 follows:

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

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

35 (d) When a corrective condition is identified, either as paragraph  
36 (1) or (2) of subdivision (c), and the property owner or the property  
37 owner’s designated agent chooses not to correct those conditions,  
38 the registered company or licensee shall not be liable for damages  
39 resulting from a failure to correct those conditions or subject to  
40 any disciplinary action by the board. Nothing in this subdivision,

1 however, shall relieve a registered company or a licensee of any  
2 liability resulting from negligence, fraud, dishonest dealing, other  
3 violations pursuant to this chapter, or contractual obligations  
4 between the registered company or licensee and the responsible  
5 parties.

6 (e) The inspection report form prescribed by the board shall  
7 separately identify the infestation or infection that is evident and  
8 the conditions that are present that are deemed likely to lead to  
9 infestation or infection. If a separate form is requested, the form  
10 shall explain the infestation or infection that is evident and the  
11 conditions that are present that are deemed likely to lead to  
12 infestation or infection and the difference between those conditions.  
13 In no event, however, shall conditions deemed likely to lead to  
14 infestation or infection be characterized as actual “defects” or as  
15 actual “active” infestations or infections or in need of correction  
16 as a precondition to issuing a certification pursuant to Section  
17 8519.

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

26 (g) For purposes of this section, “control service agreement”  
27 means an agreement, including extended warranties, to have a  
28 licensee conduct over a period of time regular inspections and  
29 other activities related to the control or eradication of wood  
30 destroying pests and organisms. Under a control service agreement  
31 a registered company shall refer to the original report and contract  
32 in a manner as to identify them clearly, and the report shall be  
33 assumed to be a true report of conditions as originally issued,  
34 except it may be modified after a control service inspection. A  
35 registered company is not required to issue a report as outlined in  
36 paragraphs (1) to (11), inclusive, of subdivision (b) after each  
37 control service inspection. If after control service inspection, no  
38 modification of the original report is made in writing, then it will  
39 be assumed that conditions are as originally reported. A control  
40 service contract shall state specifically the particular wood

1 destroying pests or organisms and the portions of the buildings or  
2 structures covered by the contract.

3 (h) A registered company or licensee may enter into and  
4 maintain a control service agreement provided the following  
5 requirements are met:

6 (1) The control service agreement shall be in writing, signed by  
7 both parties, and shall specifically include the following:

8 (A) The wood destroying pests and organisms covered by the  
9 control service agreement.

10 (B) Any wood destroying pest or organism that is not covered  
11 must be specifically listed.

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

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

19 (E) A reference to the original inspection report.

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

22 (G) Whether the fee includes structural repairs.

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

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

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

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

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

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

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

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

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

9 (D) Correction of the infestation or infection takes place within  
10 45 days of its discovery.

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

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

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

23 ~~SEC. 41.~~

24 *SEC. 39.* Section 8518 of the Business and Professions Code  
25 is amended to read:

26 8518. (a) When a registered company completes work under  
27 a contract, it shall prepare, on a form prescribed by the board, a  
28 notice of work completed and not completed, and shall furnish  
29 that notice to the owner of the property or the owner's agent within  
30 10 business days after completing the work. The notice shall  
31 include a statement of the cost of the completed work and estimated  
32 cost of work not completed.

33 (b) The address of each property inspected or upon which work  
34 was completed shall be reported on a form prescribed by the board  
35 and shall be filed with the board no later than 10 business days  
36 after completed work.

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

39 (d) Failure of a registered company to report and file with the  
40 board the address of any property upon which work was completed

1 pursuant to subdivision (b) of Section 8516 or this section is  
2 grounds for disciplinary action and shall subject the registered  
3 company to a fine of not more than two thousand five hundred  
4 dollars (\$2,500).

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

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

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

16 ~~SEC. 42.~~

17 *SEC. 40.* Section 1348.8 of the Health and Safety Code is  
18 amended to read:

19 1348.8. (a) A health care service plan that provides, operates,  
20 or contracts for telephone medical advice services to its enrollees  
21 and subscribers shall do all of the following:

22 (1) Ensure that the in-state or out-of-state telephone medical  
23 advice service complies with the requirements of Chapter 15  
24 (commencing with Section 4999) of Division 2 of the Business  
25 and Professions Code.

26 (2) Ensure that the staff providing telephone medical advice  
27 services for the in-state or out-of-state telephone medical advice  
28 service are licensed as follows:

29 (A) For full service health care service plans, the staff hold a  
30 valid California license as a registered nurse or a valid license in  
31 the state within which they provide telephone medical advice  
32 services as a physician and surgeon or physician assistant, and are  
33 operating in compliance with the laws governing their respective  
34 scopes of practice.

35 (B) (i) For specialized health care service plans providing,  
36 operating, or contracting with a telephone medical advice service  
37 in California, the staff shall be appropriately licensed, registered,  
38 or certified as a dentist pursuant to Chapter 4 (commencing with  
39 Section 1600) of Division 2 of the Business and Professions Code,  
40 as a dental hygienist pursuant to Article 7 (commencing with

1 Section 1740) of Chapter 4 of Division 2 of the Business and  
2 Professions Code, as a physician and surgeon pursuant to Chapter  
3 5 (commencing with Section 2000) of Division 2 of the Business  
4 and Professions Code or the Osteopathic Initiative Act, as a  
5 registered nurse pursuant to Chapter 6 (commencing with Section  
6 2700) of Division 2 of the Business and Professions Code, as a  
7 psychologist pursuant to Chapter 6.6 (commencing with Section  
8 2900) of Division 2 of the Business and Professions Code, as an  
9 optometrist pursuant to Chapter 7 (commencing with Section 3000)  
10 of Division 2 of the Business and Professions Code, as a marriage  
11 and family therapist pursuant to Chapter 13 (commencing with  
12 Section 4980) of Division 2 of the Business and Professions Code,  
13 as a licensed clinical social worker pursuant to Chapter 14  
14 (commencing with Section 4991) of Division 2 of the Business  
15 and Professions Code, as a professional clinical counselor pursuant  
16 to Chapter 16 (commencing with Section 4999.10) of Division 2  
17 of the Business and Professions Code, or as a chiropractor pursuant  
18 to the Chiropractic Initiative Act, and operating in compliance  
19 with the laws governing their respective scopes of practice.

20 (ii) For specialized health care service plans providing,  
21 operating, or contracting with an out-of-state telephone medical  
22 advice service, the staff shall be health care professionals, as  
23 identified in clause (i), who are licensed, registered, or certified  
24 in the state within which they are providing the telephone medical  
25 advice services and are operating in compliance with the laws  
26 governing their respective scopes of practice. All registered nurses  
27 providing telephone medical advice services to both in-state and  
28 out-of-state business entities registered pursuant to this chapter  
29 shall be licensed pursuant to Chapter 6 (commencing with Section  
30 2700) of Division 2 of the Business and Professions Code.

31 (3) Ensure that every full service health care service plan  
32 provides for a physician and surgeon who is available on an on-call  
33 basis at all times the service is advertised to be available to  
34 enrollees and subscribers.

35 (4) Ensure that staff members handling enrollee or subscriber  
36 calls, who are not licensed, certified, or registered as required by  
37 paragraph (2), do not provide telephone medical advice. Those  
38 staff members may ask questions on behalf of a staff member who  
39 is licensed, certified, or registered as required by paragraph (2),  
40 in order to help ascertain the condition of an enrollee or subscriber

1 so that the enrollee or subscriber can be referred to licensed staff.  
2 However, under no circumstances shall those staff members use  
3 the answers to those questions in an attempt to assess, evaluate,  
4 advise, or make any decision regarding the condition of an enrollee  
5 or subscriber or determine when an enrollee or subscriber needs  
6 to be seen by a licensed medical professional.

7 (5) Ensure that no staff member uses a title or designation when  
8 speaking to an enrollee or subscriber that may cause a reasonable  
9 person to believe that the staff member is a licensed, certified, or  
10 registered professional described in Section 4999.2 of the Business  
11 and Professions Code unless the staff member is a licensed,  
12 certified, or registered professional.

13 (6) Ensure that the in-state or out-of-state telephone medical  
14 advice service designates an agent for service of process in  
15 California and files this designation with the director.

16 (7) Require that the in-state or out-of-state telephone medical  
17 advice service makes and maintains records for a period of five  
18 years after the telephone medical advice services are provided,  
19 including, but not limited to, oral or written transcripts of all  
20 medical advice conversations with the health care service plan's  
21 enrollees or subscribers in California and copies of all complaints.  
22 If the records of telephone medical advice services are kept out of  
23 state, the health care service plan shall, upon the request of the  
24 director, provide the records to the director within 10 days of the  
25 request.

26 (8) Ensure that the telephone medical advice services are  
27 provided consistent with good professional practice.

28 (b) The director shall forward to the Department of Consumer  
29 Affairs, within 30 days of the end of each calendar quarter, data  
30 regarding complaints filed with the department concerning  
31 telephone medical advice services.

32 (c) For purposes of this section, "telephone medical advice"  
33 means a telephonic communication between a patient and a health  
34 care professional in which the health care professional's primary  
35 function is to provide to the patient a telephonic response to the  
36 patient's questions regarding his or her or a family member's  
37 medical care or treatment. "Telephone medical advice" includes  
38 assessment, evaluation, or advice provided to patients or their  
39 family members.

1     ~~SEC. 43.~~

2     *SEC. 41.* Section 10279 of the Insurance Code is amended to  
3 read:

4     10279. (a) Every disability insurer that provides group or  
5 individual policies of disability, or both, that provides, operates,  
6 or contracts for, telephone medical advice services to its insureds  
7 shall do all of the following:

8     (1) Ensure that the in-state or out-of-state telephone medical  
9 advice service complies with the requirements of Chapter 15  
10 (commencing with Section 4999) of Division 2 of the Business  
11 and Professions Code.

12     (2) Ensure that the staff providing telephone medical advice  
13 services for the in-state or out-of-state telephone medical advice  
14 service hold a valid California license as a registered nurse or a  
15 valid license in the state within which they provide telephone  
16 medical advice services as a physician and surgeon or physician  
17 assistant and are operating consistent with the laws governing their  
18 respective scopes of practice.

19     (3) Ensure that a physician and surgeon is available on an on-call  
20 basis at all times the service is advertised to be available to  
21 enrollees and subscribers.

22     (4) Ensure that the in-state or out-of-state telephone medical  
23 advice service designates an agent for service of process in  
24 California and files this designation with the commissioner.

25     (5) Require that the in-state or out-of-state telephone medical  
26 advice service makes and maintains records for a period of five  
27 years after the telephone medical advice services are provided,  
28 including, but not limited to, oral or written transcripts of all  
29 medical advice conversations with the disability insurer's insureds  
30 in California and copies of all complaints. If the records of  
31 telephone medical advice services are kept out of state, the insurer  
32 shall, upon the request of the director, provide the records to the  
33 director within 10 days of the request.

34     (6) Ensure that the telephone medical advice services are  
35 provided consistent with good professional practice.

36     (b) The commissioner shall forward to the Department of  
37 Consumer Affairs, within 30 days of the end of each calendar  
38 quarter, data regarding complaints filed with the department  
39 concerning telephone medical advice services.

1     ~~SEC. 44.~~  
2     *SEC. 42.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section 17556 of  
8 the Government Code, or changes the definition of a crime within  
9 the meaning of Section 6 of Article XIII B of the California  
10 Constitution.

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

---

<b>AUTHOR:</b>	Hernandez	<b>BILL NUMBER:</b>	SB 1076
<b>SPONSOR:</b>	California Nurses Association	<b>BILL STATUS:</b>	Assembly 2 <sup>nd</sup> Reading
<b>SUBJECT:</b>	General acute care hospitals: observation services	<b>DATE LAST AMENDED:</b>	April 18, 2016

**SUMMARY:**

This bill was introduced on February 16, 2016.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

(2) Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of every calendar quarter.

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

**ANALYSIS:**

**Amended analysis as of 4/18:**

(1) This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) This bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

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

**Amended summary and analysis as of 8/1:**

This bill would substitute the following language for Section (2), above:

Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD) specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.

This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.

**BOARD POSITION:** Watch (6/16/16)

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Not previously considered

**SUPPORT:** (as of 5/4/16)

California Nurses Association (source)

California Labor Federation

California School Employees Association

**OPPOSE:**

Tenet Healthcare

Marin Healthcare District

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE APRIL 18, 2016

**SENATE BILL**

**No. 1076**

---

---

**Introduced by Senator Hernandez**

February 16, 2016

---

---

An act to amend Section ~~128740~~ 128765 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Hernandez. General acute care hospitals: observation services.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to

be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

~~(2) Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of every calendar quarter.~~

~~This bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.~~

~~(2) Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD) specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.~~

~~This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.~~

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

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

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

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

- 1 SECTION 1. Section 1253.7 is added to the Health and Safety
- 2 Code, to read:
- 3 1253.7. (a) For purposes of this chapter, “observation services”
- 4 means outpatient services provided by a general acute care hospital
- 5 and that have been ordered by a provider, to those patients who

1 have unstable or uncertain conditions potentially serious enough  
2 to warrant close observation, but not so serious as to warrant  
3 inpatient admission to the hospital. Observation services may  
4 include the use of a bed, monitoring by nursing and other staff,  
5 and any other services that are reasonable and necessary to safely  
6 evaluate a patient's condition or determine the need for a possible  
7 inpatient admission to the hospital.

8 (b) When a patient in an inpatient unit of a hospital or in an  
9 observation unit, as defined in subdivision (c), is receiving  
10 observation services, or following a change in a patient's status  
11 from inpatient to observation, the patient shall receive written  
12 notice, as soon as practicable, that he or she is on observation  
13 status. The notice shall state that while on observation status, the  
14 patient's care is being provided on an outpatient basis, which may  
15 affect his or her health care coverage reimbursement.

16 (c) For purposes of this chapter, "observation unit" means an  
17 area in which observation services are provided in a setting outside  
18 of any inpatient unit and that is not part of an emergency  
19 department of a general acute care hospital. A hospital may  
20 establish one or more observation units that shall be marked with  
21 signage identifying the observation unit area as an outpatient area.  
22 The signage shall use the term "outpatient" in the title of the  
23 designated area to indicate clearly to all patients and family  
24 members that the observation services provided in the center are  
25 not inpatient services. Identifying an observation unit by a name  
26 or term other than that used in this subdivision does not exempt  
27 the general acute care hospital from compliance with the  
28 requirements of this section.

29 (d) Notwithstanding subdivisions (d) and (e) of Section 1275,  
30 an observation unit shall comply with the same licensed  
31 nurse-to-patient ratios as supplemental emergency services. This  
32 subdivision is not intended to alter or amend the effect of any  
33 regulation adopted pursuant to Section 1276.4 as of the effective  
34 date of the act that added this subdivision.

35 ~~SEC. 2. Section 128740 of the Health and Safety Code is~~  
36 ~~amended to read:~~

37 ~~128740. (a) Commencing with the first calendar quarter of~~  
38 ~~1992, the following summary financial and utilization data shall~~  
39 ~~be reported to the office by each hospital within 45 days of the~~  
40 ~~end of every calendar quarter. Adjusted reports reflecting changes~~

1 as a result of audited financial statements may be filed within four  
2 months of the close of the hospital's fiscal or calendar year. The  
3 quarterly summary financial and utilization data shall conform to  
4 the uniform description of accounts as contained in the Accounting  
5 and Reporting Manual for California Hospitals and shall include  
6 all of the following:

- 7 (1) ~~Number of licensed beds.~~
- 8 (2) ~~Average number of available beds.~~
- 9 (3) ~~Average number of staffed beds.~~
- 10 (4) ~~Number of discharges.~~
- 11 (5) ~~Number of inpatient days.~~
- 12 (6) ~~Number of outpatient visits, excluding observation service~~  
13 ~~visits.~~
- 14 (7) ~~Number of observation service visits and number of hours~~  
15 ~~of services provided.~~
- 16 (8) ~~Total operating expenses.~~
- 17 (9) ~~Total inpatient gross revenues by payer, including Medicare,~~  
18 ~~Medi-Cal, county indigent programs, other third parties, and other~~  
19 ~~payers.~~
- 20 (10) ~~Total outpatient gross revenues by payer, including~~  
21 ~~Medicare, Medi-Cal, county indigent programs, other third parties,~~  
22 ~~and other payers.~~
- 23 (11) ~~Total observation service gross revenues by payer,~~  
24 ~~including Medicare, Medi-Cal, county indigent programs, other~~  
25 ~~third parties, and other payers.~~
- 26 (12) ~~Deductions from revenue in total and by component,~~  
27 ~~including the following: Medicare contractual adjustments,~~  
28 ~~Medi-Cal contractual adjustments, and county indigent program~~  
29 ~~contractual adjustments, other contractual adjustments, bad debts,~~  
30 ~~charity care, restricted donations and subsidies for indigents,~~  
31 ~~support for clinical teaching, teaching allowances, and other~~  
32 ~~deductions.~~
- 33 (13) ~~Total capital expenditures.~~
- 34 (14) ~~Total net fixed assets.~~
- 35 (15) ~~Total number of inpatient days, outpatient visits excluding~~  
36 ~~observation services, observation services, and discharges by payer,~~  
37 ~~including Medicare, Medi-Cal, county indigent programs, other~~  
38 ~~third parties, self-pay, charity, and other payers.~~

1 ~~(16) Total net patient revenues by payer including Medicare,~~  
2 ~~Medi-Cal, county indigent programs, other third parties, and other~~  
3 ~~payers.~~

4 ~~(17) Other operating revenue.~~

5 ~~(18) Nonoperating revenue net of nonoperating expenses.~~

6 ~~(b) Hospitals reporting pursuant to subdivision (d) of Section~~  
7 ~~128760 may provide the items in paragraphs (8), (9), (10), (12),~~  
8 ~~(16), and (18) of subdivision (a) on a group basis, as described in~~  
9 ~~subdivision (f) of Section 128760.~~

10 ~~(c) The office shall make available to any person, at cost, a hard~~  
11 ~~copy of any hospital report made pursuant to this section and in~~  
12 ~~addition to hard copies, shall make available at cost, a computer~~  
13 ~~tape of all reports made pursuant to this section within 105 days~~  
14 ~~of the end of every calendar quarter.~~

15 ~~(d) The office shall adopt guidelines, by regulation, for the~~  
16 ~~identification, assessment, and reporting of charity care services.~~  
17 ~~In establishing the guidelines, the office shall consider the~~  
18 ~~principles and practices recommended by professional health care~~  
19 ~~industry accounting associations for differentiating between charity~~  
20 ~~services and bad debts. The office shall further conduct the onsite~~  
21 ~~validations of health facility accounting and reporting procedures~~  
22 ~~and records as are necessary to ensure that reported data are~~  
23 ~~consistent with regulatory guidelines.~~

24 *SEC. 2. Section 128765 of the Health and Safety Code is*  
25 *amended to read:*

26 128765. (a) The office shall maintain a file of all the reports  
27 filed under this chapter at its Sacramento office. Subject to any  
28 rules the office may prescribe, these reports shall be produced and  
29 made available for inspection upon the demand of any person, and  
30 shall also be posted on its Web site, with the exception of discharge  
31 and encounter data that shall be available for public inspection  
32 unless the office determines, pursuant to applicable law, that an  
33 individual patient's rights of confidentiality would be violated.

34 (b) The reports published pursuant to Section 128745 shall  
35 include an executive summary, written in plain English to the  
36 maximum extent practicable, that shall include, but not be limited  
37 to, a discussion of findings, conclusions, and trends concerning  
38 the overall quality of medical outcomes, including a comparison  
39 to reports from prior years, for the procedure or condition studied  
40 by the report. The office shall disseminate the reports as widely

1 as practical to interested parties, including, but not limited to,  
2 hospitals, providers, the media, purchasers of health care, consumer  
3 or patient advocacy groups, and individual consumers. The reports  
4 shall be posted on the office's Internet Web site.

5 (c) Copies certified by the office as being true and correct copies  
6 of reports properly filed with the office pursuant to this chapter,  
7 together with summaries, compilations, or supplementary reports  
8 prepared by the office, shall be introduced as evidence, where  
9 relevant, at any hearing, investigation, or other proceeding held,  
10 made, or taken by any state, county, or local governmental agency,  
11 board, or commission that participates as a purchaser of health  
12 facility services pursuant to the provisions of a publicly financed  
13 state or federal health care program. Each of these state, county,  
14 or local governmental agencies, boards, and commissions shall  
15 weigh and consider the reports made available to it pursuant to the  
16 provisions of this subdivision in its formulation and implementation  
17 of policies, regulations, or procedures regarding reimbursement  
18 methods and rates in the administration of these publicly financed  
19 programs.

20 (d) The office shall compile and publish summaries of individual  
21 facility and aggregate data that do not contain patient-specific  
22 information for the purpose of public disclosure. *Upon request,*  
23 *these shall include summaries of observation services data.* The  
24 summaries shall be posted on the office's Internet Web site. The  
25 office may initiate and conduct studies as it determines will  
26 advance the purposes of this chapter.

27 (e) In order to assure that accurate and timely data are available  
28 to the public in useful formats, the office shall establish a public  
29 liaison function. The public liaison shall provide technical  
30 assistance to the general public on the uses and applications of  
31 individual and aggregate health facility data and shall provide the  
32 director with an annual report on changes that can be made to  
33 improve the public's access to data.

34 SEC. 3. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

---

<b>AUTHOR:</b>	Lara	<b>BILL NUMBER:</b>	SB 1139
<b>SPONSOR:</b>	California Pan-Ethnic Health Network Pre-Health Dreamers	<b>BILL STATUS:</b>	Assembly 2 <sup>nd</sup> Reading
<b>SUBJECT:</b>	Health Professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayments	<b>DATE LAST AMENDED:</b>	August 1, 2016

**SUMMARY:**

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

**ANALYSIS:**

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

**Amended analysis as of 4/4:**

The bill as amended adds “medical residency programs” to its subject. The bill adds as Section (1) a section related to the Medical Practice Act regarding applicants, including those without lawful immigration status, to medical school programs and medical residency training programs. Please refer to the attached bill for the new language.

Section (2) refers to the Health Professions Education Foundation; no changes.

**Amended summary and analysis as of 4/19:**

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

**Amended analysis as of 8/1:**

This bill amends the title from *Health professions: medical residency programs: undocumented immigrants: scholarships, loans and loan repayments* to *Health professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans and loan repayments*.

This bill would make further changes related to medical school admissions.

**BOARD POSITION:** Watch (4/14/16) position continued 6/16/16

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Watch (3/10/16) position continued 5/11/16

**SUPPORT:**

California Pan-Ethnic Health Network (sponsor)  
Pre-Health Dreamers (sponsor)  
ACCESS Women's Health Justice  
ACT for Women and Girls  
Alianza  
American Academy of Pediatrics  
American Civil Liberties Union of California  
Asian Americans Advancing Justice  
Asian and Pacific Islander Obesity Prevention Alliance  
Black Women for Wellness  
California Academy of Family Physicians  
CaliforniaHealth+Advocates  
California Immigrant Policy Center  
California Latinas for Reproductive Justice  
California Mental Health Connection  
California Nurses Association  
California Partnership  
California Primary Care Association  
California Psychological Association  
California State Council of the Service Employees  
International Union (SEIU)  
Cambodian Family Community Center  
Central Valley Partnership for Citizenship  
Coalition for Humane Immigrant Rights of Los Angeles  
Community Health Partnership of Santa Clara  
Council of Mexican Foundations  
Courage Campaign  
Doctors for America  
Educators for Fair Consideration  
El Centro Binacional para el Desarrollo Indigena Oaxaqueño  
(Fresno, Greenfield)  
El Quinto Sol de America  
Fathers and Families of San Joaquin Valley  
Fresno Center for New Americans

Greenlining Institute  
Having Our Say  
Health Access California  
Inland Empire Immigrant Youth Coalition  
Korean Community Center of the East Bay  
Korean Resource Center  
Latino Coalition for a health California  
Latino Medical Student Association  
Madera Coalition  
Mexican American Legal Defense and Educational Fund  
Mid-City CAN  
National Association of Social Workers  
Nile Sisters Development Initiative  
PALS for Health  
Roots Community Health Center  
Services, Immigrant Rights, and Education Network  
South Asian Network  
Southeast Asia Resource Action Center  
Stanford University Latino Medical Student Association  
Street Level Health Project  
United Farm Workers  
Venice Family Clinic  
Village Connect, Inc.  
Vision y Compromiso  
Western Center on Law & Poverty  
Two individuals

**OPPOSE:** None on file

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN SENATE APRIL 19, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1139**

---

---

**Introduced by Senator Lara**  
**(Coauthors: Senators Block, Hall, and Hertzberg)**  
(Coauthor: Assembly Member Gipson)

February 18, 2016

---

---

An act to add ~~Section 2064.3~~ *Sections 2064.3 and 2064.4* to the Business and Professions Code, and to add Section 128371 to the Health and Safety Code, relating to health professionals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, as amended, Lara. Health professionals: medical *school programs: healing arts* residency *training* programs: undocumented immigrants: *nonimmigrant aliens*: scholarships, loans, and loan repayment.

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

medicine whenever and wherever required as part of a clinical service program, subject to certain conditions.

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

~~This bill would provide that any *prohibit* a student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to a specified statute, or a person who fits into both of those categories, who meets the requirements for admission is eligible to participate in to a medical school program and a medical residency training program at any public or private postsecondary educational institution that offers such a program. The bill would prohibit the denial of participation in one of these programs program from being denied admission to that program based on the his or her citizenship status or immigration status of the applicant. status. The bill would also prohibit such a student from being denied admission, based on his or her citizenship status or immigration status, to a healing arts residency training program whose participants are not paid. These provisions would not apply to a nonimmigrant alien, as defined in a specified provision of federal law.~~

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

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

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

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

1 2064.3. (a) Notwithstanding any other law, ~~any except as~~  
2 *specified in subdivision (b), no student, including a person without*  
3 *lawful immigration status, a person who is exempt from*  
4 *nonresident tuition pursuant to Section 68130.5 of the Education*  
5 *Code, or a person who is both without lawful immigration status*  
6 *and exempt from nonresident tuition pursuant to Section 68130.5*  
7 *of the Education Code, who meets the requirements for admission*  
8 *is eligible to participate in a medical school program and a medical*  
9 *residency training program at any public or private postsecondary*  
10 *educational institution that offers such a program and shall not to*  
11 *a medical school program at any public or private postsecondary*  
12 *educational institution that offers that program shall be denied*  
13 *participation admission to that program based on the his or her*  
14 *citizenship status or immigration status of the applicant. status.*

15 (b) *This section shall not apply to a nonimmigrant alien within*  
16 *the meaning of paragraph (15) of subdivision (a) of Section 1101*  
17 *of Title 8 of the United States Code, as that paragraph exists on*  
18 *January 1, 2017.*

19 SEC. 2. Section 2064.4 is added to the Business and Professions  
20 Code, to read:

21 2064.4. (a) *Notwithstanding any other law, except as specified*  
22 *in subdivision (b), no student, including a person without lawful*  
23 *immigration status, a person who is exempt from nonresident*  
24 *tuition pursuant to Section 68130.5 of the Education Code, or a*  
25 *person who is both without lawful immigration status and exempt*  
26 *from nonresident tuition pursuant to Section 68130.5 of the*  
27 *Education Code, who meets the requirements for admission to a*  
28 *healing arts residency training program whose participants are*  
29 *not paid shall be denied admission to that program based on his*  
30 *or her citizenship status or immigration status.*

31 (b) *This section shall not apply to a nonimmigrant alien within*  
32 *the meaning of paragraph (15) of subdivision (a) of Section 1101*  
33 *of Title 8 of the United States Code, as that paragraph exists on*  
34 *January 1, 2017.*

35 ~~SEC. 2.~~

36 SEC. 3. Section 128371 is added to the Health and Safety Code,  
37 to read:

38 128371. (a) The Legislature finds and declares that it is in the  
39 best interest of the State of California to provide persons who are  
40 not lawfully present in the United States with the state benefits

1 provided by those programs listed in subdivision (d), and therefore,  
2 enacts this section pursuant to Section 1621(d) of Title 8 of the  
3 United States Code.

4 (b) A program listed in subdivision (d) shall not deny an  
5 application based on the citizenship status or immigration status  
6 of the applicant.

7 (c) For any program listed in subdivision (d), when mandatory  
8 disclosure of a social security number is required, an applicant  
9 shall provide his or her social security number, if one has been  
10 issued, or an individual tax identification number that has been or  
11 will be submitted.

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

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

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

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

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

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

23 (6) Loan forgiveness and scholarship programs created pursuant  
24 to Section 5820 of the Welfare and Institutions Code.

25 (7) The Song-Brown Health Care Workforce Training Act  
26 created pursuant to Article 1 (commencing with Section 128200)  
27 of Chapter 4.

28 (8) To the extent permitted under federal law, the program  
29 administered by the office pursuant to the federal National Health  
30 Service Corps State Loan Repayment Program (42 U.S.C. Sec.  
31 254q-1), commonly known as the California State Loan Repayment  
32 Program.

33 (9) The programs administered by the office pursuant to the  
34 Health Professions Career Opportunity Program (Section 127885),  
35 commonly known ~~at as the Mini Grants Program and the Program,~~  
36 ~~and California’s Student/Resident Experiences and Rotations in~~  
37 ~~Community Health, or CalSEARCH, Program.~~ *Health, commonly*  
38 *known as the Cal-SEARCH program.*

O

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Morrell	<b>BILL NUMBER:</b>	SB 1155
<b>SPONSOR:</b>	Morrell	<b>BILL STATUS:</b>	Assembly Committee on Appropriations
<b>SUBJECT:</b>	Professions and vocations: licenses: military service	<b>DATE LAST AMENDED:</b>	June 23, 2016

**SUMMARY:**

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure process for an applicant who has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

**ANALYSIS:**

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

**Amended analysis as of 3/28:**

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

**Amended analysis as of 5/31:**

This bill, on and after January 1, 2018, would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license

to an individual who is an honorably discharged veteran. The bill would require that a veteran be granted only one fee waiver, except as specified.

**Amended analysis as of 6/23:**

This bill, on and after January 1, 2018, would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except as specified.

**BOARD POSITION:** Watch (4/14/16) position continued 6/16/16

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

**SUPPORT:**

American G.I. Forum of California  
AMVETS-Department of California  
California Association of County Veterans Service Officers  
California Dental Association  
Goodwill Southern California  
Military Officers Association of America, California Council of Chapters  
Veterans of Foreign Wars, California Department

**OPPOSE:** None to date.

AMENDED IN ASSEMBLY JUNE 23, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1155**

---

---

**Introduced by Senator Morrell**

February 18, 2016

---

---

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1155, as amended, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure

process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill, on and after January 1, 2018, would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to ~~an individual who is an honorably discharged veteran~~. *an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged.* The bill would require that a veteran be granted only one fee waiver, except as specified.

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

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

1 SECTION 1. Section 114.6 is added to the Business and  
 2 Professions Code, to read:  
 3 114.6. (a) (1) Notwithstanding any other provision of law,  
 4 every board within the department shall grant a fee waiver for the  
 5 application for and issuance of an initial license to ~~an individual~~  
 6 ~~who is an honorably discharged veteran who served as an active~~  
 7 ~~duty member of the California National Guard or the United States~~  
 8 ~~Armed Forces. Under this program, all of the following apply: an~~  
 9 ~~applicant who supplies satisfactory evidence to the board that the~~  
 10 ~~applicant has served as an active duty member of the California~~  
 11 ~~National Guard or the United States Armed Forces and was~~  
 12 ~~honorably discharged.~~  
 13 (2) For purposes of this section, “satisfactory evidence” means  
 14 a completed “Certificate of Release or Discharge from Active  
 15 Duty” (DD Form 214).  
 16 (b) Under this program, all of the following apply:  
 17 (a)  
 18 (1) A veteran shall be granted only one fee waiver, except as  
 19 specified in ~~subdivision (b)~~. *paragraph (2).* After a fee waiver has  
 20 been issued by any board within the department pursuant to this  
 21 section, the veteran is no longer eligible for a waiver.  
 22 (b)

1 (2) If a board charges a fee for the application for a license and  
2 another fee for the issuance of a license, the veteran shall be granted  
3 fee waivers for both the application for and issuance of a license.

4 ~~(e)~~

5 (3) The fee waiver shall apply only to an application of and a  
6 license issued to an individual veteran and not to an application  
7 of or a license issued to an individual veteran on behalf of a  
8 business or other entity.

9 ~~(d)~~

10 (4) A waiver shall not be issued for any of the following:

11 ~~(1)~~

12 (A) Renewal of a license.

13 ~~(2)~~

14 (B) The application for and issuance of an additional license, a  
15 certificate, a registration, or a permit associated with the initial  
16 license.

17 ~~(3)~~

18 (C) The application for an examination.

19 ~~(e)~~

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

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Hill	<b>BILL NUMBER:</b>	SB 1195
<b>SPONSOR:</b>	Hill	<b>BILL STATUS:</b>	Senate Inactive file
<b>SUBJECT:</b>	Professions and vocations: board actions	<b>DATE LAST AMENDED:</b>	June 1, 2016

**SUMMARY:**

This bill was introduced on February 18, 2016, under a different title. It was amended on April 6.

Section 1. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

Section 2. Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

Section 3. Refers to the Veterinary Medical Practice Act; please refer to the bill.

Section 4. Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.

Section 5. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

Section 6. Please refer to the bill.

**ANALYSIS:**

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

Section 2. This bill would instead prohibit the executive officer from being a licensee of the board.

Section 3. Please refer to the bill.

Section 4. This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

Section 5. This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decision makers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the

proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decision makers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

Section 6. Please refer to the bill.

**Amended analysis as of 6/1:**

This bill changes the subject from *Professions and vocations: board actions: competitive impact* to *Professions and vocations: board actions*.

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive decision or other action, except as specified, of a board within the department to determine whether it furthers state law and to approve, disapprove, request further information, or modify the board decision or action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request for review or the director's decision to review the board decision.

The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.

The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified.

The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.

Section 4. Analysis: The Government Claims Act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.

Section 5. This bill would delete language related to competitive impact. The bill would require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.

**BOARD POSITION:** Oppose (4/14/16) position continued 6/16/16

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION:** Oppose (5/12/16)

**SUPPORT:**

Center for Public Interest Law

**OPPOSE:**

California Nurses Association

California Pharmacists Association

California Psychiatric Association

California Society of Certified Public Accountants

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1195**

---

---

**Introduced by Senator Hill**

February 18, 2016

---

---

An act to amend Sections 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, ~~4825.1~~, 4830, ~~and 4846.5~~ 4846.5, 4904, and 4905 of, and to add Sections ~~4826.3, 4826.5, 4826.7,~~ 109.5, 4826.5, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections ~~825, 11346.5, 11349, and 11349.1~~ 825 and 11346.5 of the Government Code, relating to professional regulation, and making an appropriation therefor: *regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. Professions and vocations: board ~~actions:~~ ~~competitive impact.~~ *actions.*

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or

monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of ~~a consumer or licensee~~, *the board making the decision or the Legislature*, to review ~~a~~ *any nonministerial market-sensitive decision or other action*, except as specified, of a board within the department to determine whether it ~~unreasonably restrains trade furthers state law~~ and to approve, disapprove, *request further information*, or modify the board decision or action, as specified. The bill would require the director to *issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee: request for review or the director's decision to review the board decision. The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.* The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. ~~The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law.~~ The

bill would prohibit any rule or regulation from having any force or effect if the director does not approve the ~~regulation because it has an impermissible anticompetitive effect.~~ *rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.*

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

(3) The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. The bill would authorize a veterinarian ~~and or~~ registered veterinary technician who is under the direct supervision of a *licensed* veterinarian ~~with a current and active license~~ to compound a drug for ~~anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified.~~ *animal use pursuant to federal law and regulations promulgated by the board and would require those regulations to, at*

*a minimum, address the storage of drugs, the level and type of supervision required for compounding drugs by a registered veterinary technician, and the equipment necessary for safe compounding of drugs.* The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences—~~while and~~ engaged in the performance of specified duties to be licensed as a veterinarian in the state or ~~hold be issued a university license issued by the board. license,~~ *as specified.* The bill would ~~require an applicant~~ *authorize an individual to apply for and be issued a university license to meet if he or she meets certain requirements, including that the applicant passes a specified exam, paying an application and license fee.* The bill would require a university license, among other things, to automatically cease to be valid upon termination or cessation of employment by the University of California or the Western University of Health Sciences. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. ~~By requiring additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation.~~ *This bill would provide that the Veterinary Medical Board Contingent Fund is available for expenditure only upon an appropriation by the Legislature.* By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) ~~Existing law,~~ *The Government Claims Act*, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. *That act prohibits*

*the payment of punitive or exemplary damages by a public entity, except as specified.*

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. *The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.*

(5) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. ~~That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.~~

~~This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy. also require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.~~

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

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

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

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

1 SECTION 1. Section 109 of the Business and Professions Code  
2 is amended to read:

3 109. (a) ~~The director~~ *decisions of any of the boards comprising*  
4 *the department with respect to passing candidates and revoking*  
5 *or otherwise imposing discipline on licenses shall not be subject*  
6 *to review by the director and are final within the limits provided*  
7 *by this code that are applicable to the particular board.*

8 (b) *The director may initiate an investigation of any allegations*  
9 *of misconduct in the preparation, administration, or scoring of an*  
10 *examination which is administered by a board, or in the review of*  
11 *qualifications which are a part of the licensing process of any*  
12 *board. A request for investigation shall be made by the director to*  
13 *the Division of Investigation through the chief of the division or*  
14 *to any law enforcement agency in the jurisdiction where the alleged*  
15 *misconduct occurred.*

16 ~~(b)-(1)-~~

17 (1) *The director may intervene in any matter of any board where*  
18 *an investigation by the Division of Investigation discloses probable*  
19 *cause to believe that the conduct or activity of a board, or its*  
20 *members or ~~employees~~ employees, constitutes a violation of*  
21 *criminal law.*

22 (2) *The term “intervene,” as used in paragraph (1) of this section*  
23 *may include, but is not limited to, an application for a restraining*  
24 *order or injunctive relief as specified in Section 123.5, or a referral*  
25 *or request for criminal prosecution. For purposes of this section,*  
26 *the director shall be deemed to have standing under Section 123.5*  
27 *and shall seek representation of the Attorney General, or other*  
28 *appropriate counsel in the event of a conflict in pursuing that*  
29 *action.*

30 (c) *The director may, upon his or her own initiative, and shall,*  
31 *upon request by ~~a consumer or licensee,~~ the board making the*  
32 *decision or the Legislature, review any nonministerial*  
33 *market-sensitive board action or decision ~~or other action to~~*

1 ~~determine whether it unreasonably restrains trade. Such a review~~  
2 ~~shall proceed as follows: by the board to determine whether it~~  
3 ~~further state law. Market-sensitive actions or decisions are those~~  
4 ~~that create barriers to market participation and restrict competition~~  
5 ~~including, but not limited to, examination passage scores,~~  
6 ~~advertising restrictions, price regulation, enlarging or restricting~~  
7 ~~scope of practice qualifications for licensure, and a pattern or~~  
8 ~~program of disciplinary actions affecting multiple individuals that~~  
9 ~~creates barriers to market participation. If the board action or~~  
10 ~~decision is determined to be a market-sensitive action or decision,~~  
11 ~~the director shall review the board action or decision to determine~~  
12 ~~whether that action or decision furthers a clearly articulated and~~  
13 ~~affirmatively expressed state policy. Review under this subdivision~~  
14 ~~shall serve to cease implementation of the market-sensitive action~~  
15 ~~or decision until the review is finalized and the action or decision~~  
16 ~~is found to further state law.~~

17 ~~(1) The director shall assess whether the action or decision~~  
18 ~~reflects a clearly articulated and affirmatively expressed state law.~~  
19 ~~If the director determines that the action or decision does not reflect~~  
20 ~~a clearly articulated and affirmatively expressed state law, the~~  
21 ~~director shall disapprove the board action or decision and it shall~~  
22 ~~not go into effect.~~

23 ~~(2) If the action or decision is a reflection of clearly articulated~~  
24 ~~and affirmatively expressed state law, the director shall assess~~  
25 ~~whether the action or decision was the result of the board's exercise~~  
26 ~~of ministerial or discretionary judgment. If the director finds no~~  
27 ~~exercise of discretionary judgment, but merely the direct~~  
28 ~~application of statutory or constitutional provisions, the director~~  
29 ~~shall close the investigation and review of the board action or~~  
30 ~~decision.~~

31 ~~(3) If the director concludes under paragraph (2) that the board~~  
32 ~~exercised discretionary judgment, the director shall review the~~  
33 ~~board action or decision as follows:~~

34 ~~(A) The~~

35 ~~(1) Any review by the director under this subdivision shall~~  
36 ~~conduct include a full substantive review of the board action or~~  
37 ~~decision using based upon all the relevant facts, data, market~~  
38 ~~conditions, facts in the record provided by the board and any~~  
39 ~~additional information provided by the director, which may include~~  
40 ~~data, public comment, studies, or other documentary evidence~~

1 pertaining to the market impacted by the board's action or decision  
2 and determine whether the anticompetitive effects of the action or  
3 decision are clearly outweighed by the benefit to the public. The  
4 director may seek, designate, employ, or contract for the services  
5 of independent antitrust or economic experts pursuant to Section  
6 307. These experts shall not be active participants in the market  
7 affected by the board action or decision. *decision.*

8 (B) If the board action or decision was not previously subject  
9 to a public comment period, the director shall release the subject  
10 matter of his or her investigation for a 30-day public comment  
11 period and shall consider all comments received.

12 (C) If the director determines that the action or decision furthers  
13 the public protection mission of the board and the impact on  
14 competition is justified, the director may approve the action or  
15 decision.

16 (D) If the director determines that the action furthers the public  
17 protection mission of the board and the impact on competition is  
18 justified, the director may approve the action or decision. If the  
19 director finds the action or decision does not further the public  
20 protection mission of the board or finds that the action or decision  
21 is not justified, the director shall either refuse to approve it or shall  
22 modify the action or decision to ensure that any restraints of trade  
23 are related to, and advance, clearly articulated state law or public  
24 policy.

25 (2) *The director shall take one of the following actions:*

26 (A) *Approve the action or decision upon determination that it*  
27 *further state law.*

28 (B) *Disapprove the action or decision if it does not further state*  
29 *law. If the director disapproves the board action or decision, the*  
30 *director may recommend modifications to the board action or*  
31 *decision, which, if adopted, shall not become effective until final*  
32 *approval by the director pursuant to this subdivision.*

33 (C) *Modify the action or decision to ensure that it furthers state*  
34 *law.*

35 (D) *Request further information from the board if the record*  
36 *provided is insufficient to make a determination that the action or*  
37 *decision furthers state law. Upon submission of further information*  
38 *from the board and any information provided by the director, the*  
39 *director shall make a final determination to approve, disapprove,*  
40 *or modify the board's action or decision.*

1     ~~(4)~~  
 2     (d) The director shall issue, and post on the department’s Internet  
 3 Web site, his or her final written decision ~~approving, modifying,~~  
 4 ~~or disapproving~~ on the *board* action or decision with an explanation  
 5 of the reasons *that action or decision does or does not further state*  
 6 *law and the rationale behind the director’s decision within 90 days*  
 7 ~~from receipt of the request from a consumer or licensee. board’s~~  
 8 ~~or Legislature’s request for review or the director’s decision to~~  
 9 ~~review the board action or decision.~~ Notwithstanding any other  
 10 law, the decision of the director shall be final, except if the state  
 11 or federal constitution requires an appeal of the director’s decision.

12     ~~(d)~~  
 13     (e) The review set forth in ~~paragraph (3) of subdivision (c)~~ shall  
 14 not apply ~~when an individual seeks to the review of any~~  
 15 ~~disciplinary action or other action pertaining solely to that~~  
 16 ~~individual. any other sanction or citation imposed by a board upon~~  
 17 ~~a licensee.~~

18     ~~(e)~~  
 19     (f) The director shall report to the Chairs of the Senate Business,  
 20 Professions, and Economic Development Committee and the  
 21 Assembly Business and Professions Committee annually,  
 22 commencing March 1, 2017, regarding his or her disapprovals,  
 23 modifications, or findings from any audit, review, or monitoring  
 24 and evaluation conducted pursuant to this section. That report shall  
 25 be submitted in compliance with Section 9795 of the Government  
 26 Code.

27     ~~(f) If the director has already reviewed a board action or decision~~  
 28 ~~pursuant to this section or Section 313.1, the director shall not~~  
 29 ~~review that action or decision again.~~

30     (g) This section shall not be construed to affect, impede, or  
 31 delay any disciplinary actions of any board.

32     SEC. 2. Section 109.5 is added to the Business and Professions  
 33 Code, to read:

34     109.5. The executive officer of any board, committee, or  
 35 commission within the department shall not be an active licensee  
 36 of any profession that board, committee, or commission regulates.

37     ~~SEC. 2.~~

38     SEC. 3. Section 116 of the Business and Professions Code is  
 39 amended to read:

1 116. (a) The director may audit and review, upon his or her  
2 own initiative, or upon the request of a consumer or licensee,  
3 inquiries and complaints regarding licensees, dismissals of  
4 disciplinary cases, the opening, conduct, or closure of  
5 investigations, informal conferences, and discipline short of formal  
6 accusation by any board or bureau within the department.

7 (b) The director shall report to the Chairs of the Senate Business,  
8 Professions, and Economic Development Committee and the  
9 Assembly Business and Professions Committee annually,  
10 commencing March 1, 2017, regarding his or her findings from  
11 any audit, review, or monitoring and evaluation conducted pursuant  
12 to this section. This report shall be submitted in compliance with  
13 Section 9795 of the Government Code.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 153 of the Business and Professions Code is  
16 amended to read:

17 153. The director may investigate the work of the several  
18 boards in his *or her* department and may obtain a copy of all  
19 records and full and complete data in all official matters in  
20 possession of the boards, their members, officers, or employees.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 307 of the Business and Professions Code is  
23 amended to read:

24 307. The director may contract for the services of experts and  
25 consultants where necessary to carry out this chapter and may  
26 provide compensation and reimbursement of expenses for those  
27 experts and consultants in accordance with state law.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 313.1 of the Business and Professions Code  
30 is amended to read:

31 313.1. (a) Notwithstanding any other law to the contrary, no  
32 rule or regulation and no fee change proposed or promulgated by  
33 any of the boards, commissions, or committees within the  
34 department, shall take effect pending compliance with this section.

35 (b) The director shall be formally notified of and shall review,  
36 in accordance with the requirements of Article 5 (commencing  
37 with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title  
38 2 of the Government Code, the requirements in subdivision (c) of  
39 Section 109, and this section, all of the following:

1 (1) All notices of proposed action, any modifications and  
2 supplements thereto, and the text of proposed regulations.

3 (2) Any notices of sufficiently related changes to regulations  
4 previously noticed to the public, and the text of proposed  
5 regulations showing modifications to the text.

6 (3) Final rulemaking records.

7 (4) All relevant ~~facts,~~ *facts in the rulemaking record, which may*  
8 *include* data, public comments, ~~market conditions, studies,~~ or other  
9 documentary evidence pertaining to the ~~market impacted by the~~  
10 ~~proposed regulation. This information shall be included in the~~  
11 ~~written decision of the director required under paragraph (4) of~~  
12 ~~subdivision (c) of Section 109. proposed regulation to determine~~  
13 *whether it furthers state law. If the regulation does not further*  
14 *state law, it shall not be approved.*

15 (c) The submission of all notices and final rulemaking records  
16 to the director and the director's approval, as authorized by this  
17 section, shall be a precondition to the filing of any rule or  
18 regulation with the Office of Administrative Law. The Office of  
19 Administrative Law shall have no jurisdiction to review a rule or  
20 regulation subject to this section until after the director's review  
21 and approval. The filing of any document with the Office of  
22 Administrative Law shall be accompanied by a certification that  
23 the board, commission, or committee has complied with the  
24 requirements of this section.

25 (d) Following the receipt of any final rulemaking record subject  
26 to subdivision (a), the director shall have the authority for a period  
27 of 30 days to ~~approve~~ *approve, disapprove, or require modification*  
28 *of* a proposed rule or regulation ~~or disapprove a proposed rule or~~  
29 ~~regulation~~ on the ground that it is injurious to the public health,  
30 safety, or ~~welfare,~~ *welfare* or ~~has an impermissible anticompetitive~~  
31 ~~effect. The director may modify a rule or regulation as a condition~~  
32 ~~of approval. Any modifications to regulations by the director shall~~  
33 ~~be subject to a 30-day public comment period before the director~~  
34 ~~issues a final decision regarding the modified regulation. If the~~  
35 ~~director does not approve the rule or regulation within the 30-day~~  
36 ~~period, the rule or regulation shall not be submitted to the Office~~  
37 ~~of Administrative Law and the rule or regulation shall have no~~  
38 ~~effect.~~ *does not further state law. If the director does not approve*  
39 *the rule or regulation within the 30-day period, the rule or*

1 *regulation shall not be submitted to the Office of Administrative*  
2 *Law and the rule or regulation shall have no effect.*

3 (e) Final rulemaking records shall be filed with the director  
4 within the one-year notice period specified in Section 11346.4 of  
5 the Government Code. If necessary for compliance with this  
6 section, the one-year notice period may be extended, as specified  
7 by this subdivision.

8 (1) In the event that the one-year notice period lapses during  
9 the director's 30-day review period, or within 60 days following  
10 the notice of the director's disapproval, it may be extended for a  
11 maximum of 90 days.

12 (2) If the director approves the final rulemaking record, the  
13 board, commission, or committee shall have five days from the  
14 receipt of the record from the director within which to file it with  
15 the Office of Administrative Law.

16 (3) If the director disapproves a rule or regulation, it shall have  
17 no force or effect unless, within 60 days of the notice of  
18 disapproval, (A) the disapproval is overridden by a unanimous  
19 vote of the members of the board, commission, or committee, and  
20 (B) the board, commission, or committee files the final rulemaking  
21 record with the Office of Administrative Law in compliance with  
22 this section and the procedures required by Chapter 3.5  
23 (commencing with Section 11340) of Part 1 of Division 3 of Title  
24 2 of the Government Code. This paragraph shall not apply to any  
25 decision disapproved by the director under subdivision (e) of  
26 Section 109: *effect.*

27 (f) This section shall not be construed to prohibit the director  
28 from affirmatively approving a proposed rule, regulation, or fee  
29 change at any time within the 30-day period after it has been  
30 submitted to him or her, in which event it shall become effective  
31 upon compliance with this section and the procedures required by  
32 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
33 3 of Title 2 of the Government Code.

34 ~~SEC. 6.~~

35 *SEC. 7.* Section 2708 of the Business and Professions Code is  
36 amended to read:

37 2708. (a) The board shall appoint an executive officer who  
38 shall perform the duties delegated by the board and who shall be  
39 responsible to it for the accomplishment of those duties.

1 (b) The executive officer shall not be a licensee under this  
2 chapter and shall possess other qualifications as determined by the  
3 board.

4 (c) The executive officer shall not be a member of the board.

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

8 ~~SEC. 7:~~

9 *SEC. 8.* Section 4800 of the Business and Professions Code is  
10 amended to read:

11 4800. (a) There is in the Department of Consumer Affairs a  
12 Veterinary Medical Board in which the administration of this  
13 chapter is vested. The board consists of the following members:

- 14 (1) Four licensed veterinarians.
- 15 (2) One registered veterinary technician.
- 16 (3) Three public members.

17 (b) This section shall remain in effect only until January 1, 2021,  
18 and as of that date is repealed.

19 (c) Notwithstanding any other law, the repeal of this section  
20 renders the board subject to review by the appropriate policy  
21 committees of the Legislature. However, the review of the board  
22 shall be limited to those issues identified by the appropriate policy  
23 committees of the Legislature and shall not involve the preparation  
24 or submission of a sunset review document or evaluative  
25 questionnaire.

26 ~~SEC. 8:~~

27 *SEC. 9.* Section 4804.5 of the Business and Professions Code  
28 is amended to read:

29 4804.5. (a) The board may appoint a person exempt from civil  
30 service who shall be designated as an executive officer and who  
31 shall exercise the powers and perform the duties delegated by the  
32 board and vested in him or her by this chapter.

33 (b) This section shall remain in effect only until January 1, 2021,  
34 and as of that date is repealed.

35 ~~SEC. 9. Section 4825.1 of the Business and Professions Code~~  
36 ~~is amended to read:~~

37 ~~4825.1. These definitions shall govern the construction of this~~  
38 ~~chapter as it applies to veterinary medicine.~~

1 (a) “Diagnosis” means the act or process of identifying or  
2 determining the health status of an animal through examination  
3 and the opinion derived from that examination.

4 (b) “Animal” means any member of the animal kingdom other  
5 than humans, and includes fowl, fish, and reptiles, wild or  
6 domestic, whether living or dead.

7 (c) “Food animal” means any animal that is raised for the  
8 production of an edible product intended for consumption by  
9 humans. The edible product includes, but is not limited to, milk,  
10 meat, and eggs. Food animal includes, but is not limited to, cattle  
11 (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

12 (d) “Livestock” includes all animals, poultry, aquatic and  
13 amphibian species that are raised, kept, or used for profit. It does  
14 not include those species that are usually kept as pets such as dogs,  
15 cats, and pet birds, or companion animals, including equines.

16 (e) “Compounding,” for the purposes of veterinary medicine,  
17 shall have the same meaning given in Section 1735 of Title 16 of  
18 the California Code of Regulations, except that every reference  
19 therein to “pharmacy” and “pharmacist” shall be replaced with  
20 “veterinary premises” and “veterinarian,” and except that only a  
21 licensed veterinarian or a licensed registered veterinarian technician  
22 under direct supervision of a veterinarian may perform  
23 compounding and shall not delegate to or supervise any part of  
24 the performance of compounding by any other person.

25 SEC. 10. Section 4826.3 is added to the Business and  
26 Professions Code, to read:

27 4826.3. (a) Notwithstanding Section 4051, a veterinarian or  
28 registered veterinarian technician under the direct supervision of  
29 a veterinarian with a current and active license may compound a  
30 drug for anesthesia, the prevention, cure, or relief of a wound,  
31 fracture, bodily injury, or disease of an animal in a premises  
32 currently and actively registered with the board and only under  
33 the following conditions:

34 (1) Where there is no FDA-approved animal or human drug that  
35 can be used as labeled or in an appropriate extralabel manner to  
36 properly treat the disease, symptom, or condition for which the  
37 drug is being prescribed.

38 (2) Where the compounded drug is not available from a  
39 compounding pharmacy, outsourcing facility, or other  
40 compounding supplier in a dosage form and concentration to

1 appropriately treat the disease, symptom, or condition for which  
2 the drug is being prescribed.

3 ~~(3) Where the need and prescription for the compounded~~  
4 ~~medication has arisen within an established~~  
5 ~~veterinarian-client-patient relationship as a means to treat a specific~~  
6 ~~occurrence of a disease, symptom, or condition observed and~~  
7 ~~diagnosed by the veterinarian in a specific animal that threatens~~  
8 ~~the health of the animal or will cause suffering or death if left~~  
9 ~~untreated.~~

10 ~~(4) Where the quantity compounded does not exceed a quantity~~  
11 ~~demonstrably needed to treat a patient with which the veterinarian~~  
12 ~~has a current veterinarian-client-patient relationship.~~

13 ~~(5) Except as specified in subdivision (c), where the compound~~  
14 ~~is prepared only with commercially available FDA-approved~~  
15 ~~animal or human drugs as active ingredients.~~

16 ~~(b) A compounded veterinary drug may be prepared from an~~  
17 ~~FDA-approved animal or human drug for extralabel use only when~~  
18 ~~there is no approved animal or human drug that, when used as~~  
19 ~~labeled or in an appropriate extralabel manner will, in the available~~  
20 ~~dosage form and concentration, treat the disease, symptom, or~~  
21 ~~condition. Compounding from an approved human drug for use~~  
22 ~~in food-producing animals is not permitted if an approved animal~~  
23 ~~drug can be used for compounding.~~

24 ~~(c) A compounded veterinary drug may be prepared from bulk~~  
25 ~~drug substances only when:~~

26 ~~(1) The drug is compounded and dispensed by the veterinarian~~  
27 ~~to treat an individually identified animal patient under his or her~~  
28 ~~care.~~

29 ~~(2) The drug is not intended for use in food-producing animals.~~

30 ~~(3) If the drug contains a bulk drug substance that is a~~  
31 ~~component of any marketed FDA-approved animal or human drug,~~  
32 ~~there is a change between the compounded drug and the~~  
33 ~~comparable marketed drug made for an individually identified~~  
34 ~~animal patient that produces a clinical difference for that~~  
35 ~~individually identified animal patient, as determined by the~~  
36 ~~veterinarian prescribing the compounded drug for his or her patient.~~

37 ~~(4) There are no FDA-approved animal or human drugs that~~  
38 ~~can be used as labeled or in an appropriate extralabel manner to~~  
39 ~~properly treat the disease, symptom, or condition for which the~~  
40 ~~drug is being prescribed.~~

1 ~~(5) All bulk drug substances used in compounding are~~  
2 ~~manufactured by an establishment registered under Section 360~~  
3 ~~of Title 21 of the United States Code and are accompanied by a~~  
4 ~~valid certificate of analysis.~~

5 ~~(6) The drug is not sold or transferred by the veterinarian~~  
6 ~~compounding the drug, except that the veterinarian shall be~~  
7 ~~permitted to administer the drug to a patient under his or her care~~  
8 ~~or dispense it to the owner or caretaker of an animal under his or~~  
9 ~~her care.~~

10 ~~(7) Within 15 days of becoming aware of any product defect or~~  
11 ~~serious adverse event associated with any drug compounded by~~  
12 ~~the veterinarian from bulk drug substances, the veterinarian shall~~  
13 ~~report it to the federal Food and Drug Administration on Form~~  
14 ~~FDA 1932a.~~

15 ~~(8) In addition to any other requirements, the label of any~~  
16 ~~veterinary drug compounded from bulk drug substances shall~~  
17 ~~indicate the species of the intended animal patient, the name of~~  
18 ~~the animal patient, and the name of the owner or caretaker of the~~  
19 ~~patient.~~

20 ~~(d) Each compounded veterinary drug preparation shall meet~~  
21 ~~the labeling requirements of Section 4076 and Sections 1707.5~~  
22 ~~and 1735.4 of Title 16 of the California Code of Regulations,~~  
23 ~~except that every reference therein to “pharmacy” and “pharmacist”~~  
24 ~~shall be replaced by “veterinary premises” and “veterinarian,” and~~  
25 ~~any reference to “patient” shall be understood to refer to the animal~~  
26 ~~patient. In addition, each label on a compounded veterinary drug~~  
27 ~~preparation shall include withdrawal and holding times, if needed,~~  
28 ~~and the disease, symptom, or condition for which the drug is being~~  
29 ~~prescribed. Any compounded veterinary drug preparation that is~~  
30 ~~intended to be sterile, including for injection, administration into~~  
31 ~~the eye, or inhalation, shall in addition meet the labeling~~  
32 ~~requirements of Section 1751.2 of Title 16 of the California Code~~  
33 ~~of Regulations, except that every reference therein to “pharmacy”~~  
34 ~~and “pharmacist” shall be replaced by “veterinary premises” and~~  
35 ~~“veterinarian,” and any reference to “patient” shall be understood~~  
36 ~~to refer to the animal patient.~~

37 ~~(e) Any veterinarian, registered veterinarian technician who is~~  
38 ~~under the direct supervision of a veterinarian, and veterinary~~  
39 ~~premises engaged in compounding shall meet the compounding~~  
40 ~~requirements for pharmacies and pharmacists stated by the~~

1 provisions of Article 4.5 (commencing with Section 1735) of Title  
2 16 of the California Code of Regulations, except that every  
3 reference therein to “pharmacy” and “pharmacist” shall be replaced  
4 by “veterinary premises” and “veterinarian,” and any reference to  
5 “patient” shall be understood to refer to the animal patient:

6 (1) Section 1735.1 of Title 16 of the California Code of  
7 Regulations.

8 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of  
9 Section 1735.2 of Title 16 of the California Code of Regulations.

10 (3) Section 1735.3 of Title 16 of the California Code of  
11 Regulations, except that only a licensed veterinarian or registered  
12 veterinarian technician may perform compounding and shall not  
13 delegate to or supervise any part of the performance of  
14 compounding by any other person.

15 (4) Section 1735.4 of Title 16 of the California Code of  
16 Regulations.

17 (5) Section 1735.5 of Title 16 of the California Code of  
18 Regulations.

19 (6) Section 1735.6 of Title 16 of the California Code of  
20 Regulations.

21 (7) Section 1735.7 of Title 16 of the California Code of  
22 Regulations.

23 (8) Section 1735.8 of Title 16 of the California Code of  
24 Regulations.

25 (f) Any veterinarian, registered veterinarian technician under  
26 the direct supervision of a veterinarian, and veterinary premises  
27 engaged in sterile compounding shall meet the sterile compounding  
28 requirements for pharmacies and pharmacists under Article 7  
29 (commencing with Section 1751) of Title 16 of the California Code  
30 of Regulations, except that every reference therein to “pharmacy”  
31 and “pharmacist” shall be replaced by “veterinary premises” and  
32 “veterinarian,” and any reference to “patient” shall be understood  
33 to refer to the animal patient.

34 (g) The California State Board of Pharmacy shall have authority  
35 with the board to ensure compliance with this section and shall  
36 have the right to inspect any veterinary premises engaged in  
37 compounding, along with or separate from the board, to ensure  
38 compliance with this section. The board is specifically charged  
39 with enforcing this section with regard to its licensees.

1 ~~SEC. 11. Section 4826.5 is added to the Business and~~  
2 ~~Professions Code, to read:~~

3 ~~4826.5. Failure by a licensed veterinarian, registered~~  
4 ~~veterinarian technician, or veterinary premises to comply with the~~  
5 ~~provisions of this article shall be deemed unprofessional conduct~~  
6 ~~and constitute grounds for discipline.~~

7 ~~SEC. 12. Section 4826.7 is added to the Business and~~  
8 ~~Professions Code, to read:~~

9 ~~4826.7. The board may adopt regulations to implement the~~  
10 ~~provisions of this article.~~

11 *SEC. 10. Section 4826.5 is added to the Business and*  
12 *Professions Code, to read:*

13 *4826.5. Notwithstanding any other law, a licensed veterinarian*  
14 *or a registered veterinary technician under the supervision of a*  
15 *licensed veterinarian may compound drugs for animal use pursuant*  
16 *to Section 530 of Title 21 of the Code of Federal Regulations and*  
17 *in accordance with regulations promulgated by the board. The*  
18 *regulations promulgated by the board shall, at a minimum, address*  
19 *the storage of drugs, the level and type of supervision required for*  
20 *compounding drugs by a registered veterinary technician, and the*  
21 *equipment necessary for the safe compounding of drugs. Any*  
22 *violation of the regulations adopted by the board pursuant to this*  
23 *section shall constitute grounds for an enforcement or disciplinary*  
24 *action.*

25 ~~SEC. 13.~~

26 *SEC. 11. Section 4830 of the Business and Professions Code*  
27 *is amended to read:*

28 4830. (a) This chapter does not apply to:

29 (1) Veterinarians while serving in any armed branch of the  
30 military service of the United States or the United States  
31 Department of Agriculture while actually engaged and employed  
32 in their official capacity.

33 (2) Regularly licensed veterinarians in actual consultation from  
34 other states.

35 (3) Regularly licensed veterinarians actually called from other  
36 states to attend cases in this state, but who do not open an office  
37 or appoint a place to do business within this state.

38 (4) Students in the School of Veterinary Medicine of the  
39 University of California or the College of Veterinary Medicine of  
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,  
2 including those in off-campus educational programs under the  
3 direct supervision of a licensed veterinarian in good standing, as  
4 defined in paragraph (1) of subdivision (b) of Section 4848,  
5 appointed by the University of California, Davis, or the Western  
6 University of Health Sciences.

7 (5) A veterinarian who is employed by the Meat and Poultry  
8 Inspection Branch of the California Department of Food and  
9 Agriculture while actually engaged and employed in his or her  
10 official capacity. A person exempt under this paragraph shall not  
11 otherwise engage in the practice of veterinary medicine unless he  
12 or she is issued a license by the board.

13 (6) Unlicensed personnel employed by the Department of Food  
14 and Agriculture or the United States Department of Agriculture  
15 when in the course of their duties they are directed by a veterinarian  
16 supervisor to conduct an examination, obtain biological specimens,  
17 apply biological tests, or administer medications or biological  
18 products as part of government disease or condition monitoring,  
19 investigation, control, or eradication activities.

20 (b) (1) For purposes of paragraph (3) of subdivision (a), a  
21 regularly licensed veterinarian in good standing who is called from  
22 another state by a law enforcement agency or animal control  
23 agency, as defined in Section 31606 of the Food and Agricultural  
24 Code, to attend to cases that are a part of an investigation of an  
25 alleged violation of federal or state animal fighting or animal  
26 cruelty laws within a single geographic location shall be exempt  
27 from the licensing requirements of this chapter if the law  
28 enforcement agency or animal control agency determines that it  
29 is necessary to call the veterinarian in order for the agency or  
30 officer to conduct the investigation in a timely, efficient, and  
31 effective manner. In determining whether it is necessary to call a  
32 veterinarian from another state, consideration shall be given to the  
33 availability of veterinarians in this state to attend to these cases.  
34 An agency, department, or officer that calls a veterinarian pursuant  
35 to this subdivision shall notify the board of the investigation.

36 (2) Notwithstanding any other provision of this chapter, a  
37 regularly licensed veterinarian in good standing who is called from  
38 another state to attend to cases that are a part of an investigation  
39 described in paragraph (1) may provide veterinary medical care  
40 for animals that are affected by the investigation with a temporary

1 shelter facility, and the temporary shelter facility shall be exempt  
2 from the registration requirement of Section 4853 if all of the  
3 following conditions are met:

4 (A) The temporary shelter facility is established only for the  
5 purpose of the investigation.

6 (B) The temporary shelter facility provides veterinary medical  
7 care, shelter, food, and water only to animals that are affected by  
8 the investigation.

9 (C) The temporary shelter facility complies with Section 4854.

10 (D) The temporary shelter facility exists for not more than 60  
11 days, unless the law enforcement agency or animal control agency  
12 determines that a longer period of time is necessary to complete  
13 the investigation.

14 (E) Within 30 calendar days upon completion of the provision  
15 of veterinary health care services at a temporary shelter facility  
16 established pursuant to this section, the veterinarian called from  
17 another state by a law enforcement agency or animal control agency  
18 to attend to a case shall file a report with the board. The report  
19 shall contain the date, place, type, and general description of the  
20 care provided, along with a listing of the veterinary health care  
21 practitioners who participated in providing that care.

22 (c) For purposes of paragraph (3) of subdivision (a), the board  
23 may inspect temporary facilities established pursuant to this  
24 section.

25 ~~SEC. 14.~~

26 *SEC. 12.* Section 4846.5 of the Business and Professions Code  
27 is amended to read:

28 4846.5. (a) Except as provided in this section, the board shall  
29 issue renewal licenses only to those applicants that have completed  
30 a minimum of 36 hours of continuing education in the preceding  
31 two years.

32 (b) (1) Notwithstanding any other law, continuing education  
33 hours shall be earned by attending courses relevant to veterinary  
34 medicine and sponsored or cosponsored by any of the following:

35 (A) American Veterinary Medical Association (AVMA)  
36 accredited veterinary medical colleges.

37 (B) Accredited colleges or universities offering programs  
38 relevant to veterinary medicine.

39 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized  
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association's affiliated state  
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction  
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American  
8 Veterinary Medical Association or its state affiliated veterinary  
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the  
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for  
14 Continuing Medical Education (ACCME) or approved by the  
15 American Medical Association (AMA), providers recognized by  
16 the American Dental Association Continuing Education  
17 Recognition Program (ADA CERP), and AMA or ADA affiliated  
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those  
20 veterinarians taking self-study courses, which may include, but  
21 are not limited to, reading journals, viewing video recordings, or  
22 listening to audio recordings. The taking of these courses shall be  
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical  
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing  
27 education approval bodies for the purpose of approving continuing  
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval  
30 shall have the option of applying to the board or to a  
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,  
33 on a prospective basis, that a provider of continuing veterinary  
34 medical education authorized pursuant to paragraph (1) or (3) is  
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses  
37 sponsored or cosponsored by those entities listed in paragraph (1)  
38 between January 1, 2000, and January 1, 2001, shall be credited  
39 toward a veterinarian's continuing education requirement under  
40 this section.

1 (c) Every person renewing his or her license issued pursuant to  
2 Section 4846.4, or any person applying for relicensure or for  
3 reinstatement of his or her license to active status, shall submit  
4 proof of compliance with this section to the board certifying that  
5 he or she is in compliance with this section. Any false statement  
6 submitted pursuant to this section shall be a violation subject to  
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license  
9 renewal. This section shall apply only to second and subsequent  
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all  
12 applicants to verify the completion of the continuing education  
13 requirement. Applicants shall maintain records of completion of  
14 required continuing education coursework for a period of four  
15 years and shall make these records available to the board for  
16 auditing purposes upon request. If the board, during this audit,  
17 questions whether any course reported by the veterinarian satisfies  
18 the continuing education requirement, the veterinarian shall provide  
19 information to the board concerning the content of the course; the  
20 name of its sponsor and cosponsor, if any; and specify the specific  
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an  
23 inactive license under Section 701 shall submit an application on  
24 a form provided by the board. In order to restore an inactive license  
25 to active status, the veterinarian shall have completed a minimum  
26 of 36 hours of continuing education within the last two years  
27 preceding application. The inactive license status of a veterinarian  
28 shall not deprive the board of its authority to institute or continue  
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article  
31 by a veterinarian constitutes unprofessional conduct and grounds  
32 for disciplinary action or for the issuance of a citation and the  
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing  
35 education requirement any veterinarian who for reasons of health,  
36 military service, or undue hardship cannot meet those requirements.  
37 Applications for waivers shall be submitted on a form provided  
38 by the board.

39 (i) The administration of this section may be funded through  
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed  
2 the costs of administering the corresponding provisions of this  
3 section.

4 (j) For those continuing education providers not listed in  
5 paragraph (1) of subdivision (b), the board or its recognized  
6 national approval agent shall establish criteria by which a provider  
7 of continuing education shall be approved. The board shall initially  
8 review and approve these criteria and may review the criteria as  
9 needed. The board or its recognized agent shall monitor, maintain,  
10 and manage related records and data. The board may impose an  
11 application fee, not to exceed two hundred dollars (\$200)  
12 biennially, for continuing education providers not listed in  
13 paragraph (1) of subdivision (b).

14 (k) (1) Beginning January 1, 2018, a licensed veterinarian who  
15 renews his or her license shall complete a minimum of one credit  
16 hour of continuing education on the judicious use of medically  
17 important antimicrobial drugs every four years as part of his or  
18 her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important  
20 antimicrobial drug” means an antimicrobial drug listed in Appendix  
21 A of the federal Food and Drug Administration’s Guidance for  
22 Industry #152, including critically important, highly important,  
23 and important antimicrobial drugs, as that appendix may be  
24 amended.

25 ~~SEC. 15.~~

26 *SEC. 13.* Section 4848.1 is added to the Business and  
27 Professions Code, to read:

28 4848.1. (a) A veterinarian engaged in the practice of veterinary  
29 medicine, as defined in Section 4826, employed by the University  
30 of California ~~while and~~ engaged in the performance of duties in  
31 connection with the School of Veterinary Medicine or employed  
32 by the Western University of Health Sciences ~~while and~~ engaged  
33 in the performance of duties in connection with the College of  
34 Veterinary Medicine shall be ~~licensed in California or shall hold~~  
35 *issued* a university license ~~issued by the board. pursuant to this~~  
36 *section or hold a license to practice veterinary medicine in this*  
37 *state.*

38 (b) ~~An applicant is eligible to hold~~ *individual may apply for and*  
39 *be issued* a university license if all of the following are satisfied:

1 (1) ~~The applicant~~ *He or she* is currently employed by the  
2 University of California or Western University of Health Sciences  
3 *Sciences*, as defined in subdivision (a).

4 (2) ~~Passes~~ *He or she passes* an examination concerning the  
5 statutes and regulations of the Veterinary Medicine Practice Act,  
6 administered by the board, pursuant to subparagraph (C) of  
7 paragraph (2) of subdivision (a) of Section 4848.

8 (3) ~~Successfully~~ *He or she successfully* completes the approved  
9 educational curriculum described in paragraph (5) of subdivision  
10 (b) of Section 4848 on regionally specific and important diseases  
11 and conditions.

12 (4) *He or she completes and submits the application specified*  
13 *by the board and pays the application fee, pursuant to subdivision*  
14 *(g) of Section 4905, and the initial license fee, pursuant to*  
15 *subdivision (h) of Section 4905.*

16 (c) A university license:

17 (1) Shall be numbered as described in Section 4847.

18 (2) Shall *automatically* cease to be valid upon termination *or*  
19 *cessation* of employment by the University of California or by the  
20 Western University of Health Sciences.

21 (3) Shall be subject to the license renewal provisions in Section  
22 ~~4846.4.~~ *4846.4 and the payment of the renewal fee pursuant to*  
23 *subdivision (i) of Section 4905.*

24 (4) Shall be subject to denial, revocation, or suspension pursuant  
25 to Sections ~~4875 and 4883.~~ *480, 4875, and 4883.*

26 (5) *Authorizes the holder to practice veterinary medicine only*  
27 *at the educational institution described in subdivision (a) and any*  
28 *locations formally affiliated with those institutions.*

29 (d) An individual who holds a university license is exempt from  
30 satisfying the license renewal requirements of Section 4846.5.

31 ~~SEC. 16.~~

32 *SEC. 14.* Section 4853.7 is added to the Business and  
33 Professions Code, to read:

34 4853.7. A premise registration that is not renewed within five  
35 years after its expiration may not be renewed and shall not be  
36 restored, reissued, or reinstated thereafter. However, an application  
37 for a new premise registration may be submitted and obtained if  
38 both of the following conditions are met:

39 (a) No fact, circumstance, or condition exists that, if the premise  
40 registration was issued, would justify its revocation or suspension.

1 (b) All of the fees that would be required for the initial premise  
2 registration are paid at the time of application.

3 *SEC. 15. Section 4904 of the Business and Professions Code*  
4 *is amended to read:*

5 4904. All fees collected on behalf of the board and all receipts  
6 of every kind and nature shall be reported each month for the month  
7 preceding to the State Controller and at the same time the entire  
8 amount shall be paid into the State Treasury and shall be credited  
9 to the Veterinary Medical Board Contingent Fund. This contingent  
10 fund shall be *available, upon appropriation by the Legislature,*  
11 *for the use of the Veterinary Medical Board and out of it and not*  
12 ~~otherwise shall be paid all expenses of the board.~~ *Board.*

13 *SEC. 16. Section 4905 of the Business and Professions Code*  
14 *is amended to read:*

15 4905. The following fees shall be collected by the board and  
16 shall be credited to the Veterinary Medical Board Contingent Fund:

17 (a) The fee for filing an application for examination shall be set  
18 by the board in an amount it determines is reasonably necessary  
19 to provide sufficient funds to carry out the purpose of this chapter,  
20 not to exceed three hundred fifty dollars (\$350).

21 (b) The fee for the California state board examination shall be  
22 set by the board in an amount it determines is reasonably necessary  
23 to provide sufficient funds to carry out the purpose of this chapter,  
24 not to exceed three hundred fifty dollars (\$350).

25 (c) The fee for the Veterinary Medicine Practice Act  
26 examination shall be set by the board in an amount it determines  
27 reasonably necessary to provide sufficient funds to carry out the  
28 purpose of this chapter, not to exceed one hundred dollars (\$100).

29 (d) The initial license fee shall be set by the board not to exceed  
30 five hundred dollars (\$500) except that, if the license is issued less  
31 than one year before the date on which it will expire, then the fee  
32 shall be set by the board at not to exceed two hundred fifty dollars  
33 (\$250). The board may, by appropriate regulation, provide for the  
34 waiver or refund of the initial license fee where the license is issued  
35 less than 45 days before the date on which it will expire.

36 (e) The renewal fee shall be set by the board for each biennial  
37 renewal period in an amount it determines is reasonably necessary  
38 to provide sufficient funds to carry out the purpose of this chapter,  
39 not to exceed five hundred dollars (\$500).

1 (f) The temporary license fee shall be set by the board in an  
2 amount it determines is reasonably necessary to provide sufficient  
3 funds to carry out the purpose of this chapter, not to exceed two  
4 hundred fifty dollars (\$250).

5 (g) *The fee for filing an application for a university license shall*  
6 *be one hundred twenty-five dollars (\$125), which may be revised*  
7 *by the board in regulation but shall not exceed three hundred fifty*  
8 *dollars (\$350).*

9 (h) *The initial license fee for a university license shall be two*  
10 *hundred ninety dollars (\$290), which may be revised by the board*  
11 *in regulation but shall not exceed five hundred dollars (\$500).*

12 (i) *The biennial renewal fee for a university license shall be two*  
13 *hundred ninety dollars (\$290), which may be revised by the board*  
14 *in regulation but shall not exceed five hundred dollars (\$500).*

15 ~~(g)~~

16 (j) The delinquency fee shall be set by the board, not to exceed  
17 fifty dollars (\$50).

18 ~~(h)~~

19 (k) The fee for issuance of a duplicate license is twenty-five  
20 dollars (\$25).

21 ~~(i)~~

22 (l) Any charge made for duplication or other services shall be  
23 set at the cost of rendering the service, except as specified in  
24 subdivision~~(h)~~: (k).

25 ~~(j)~~

26 (m) The fee for failure to report a change in the mailing address  
27 is twenty-five dollars (\$25).

28 ~~(k)~~

29 (n) The initial and annual renewal fees for registration of  
30 veterinary premises shall be set by the board in an amount not to  
31 exceed four hundred dollars (\$400) annually.

32 ~~(l)~~

33 (o) If the money transferred from the Veterinary Medical Board  
34 Contingent Fund to the General Fund pursuant to the Budget Act  
35 of 1991 is redeposited into the Veterinary Medical Board  
36 Contingent Fund, the fees assessed by the board shall be reduced  
37 correspondingly. However, the reduction shall not be so great as  
38 to cause the Veterinary Medical Board Contingent Fund to have  
39 a reserve of less than three months of annual authorized board  
40 expenditures. The fees set by the board shall not result in a

1 Veterinary Medical Board Contingent Fund reserve of more than  
2 10 months of annual authorized board expenditures.

3 SEC. 17. Section 825 of the Government Code is amended to  
4 read:

5 825. (a) Except as otherwise provided in this section, if an  
6 employee or former employee of a public entity requests the public  
7 entity to defend him or her against any claim or action against him  
8 or her for an injury arising out of an act or omission occurring  
9 within the scope of his or her employment as an employee of the  
10 public entity and the request is made in writing not less than 10  
11 days before the day of trial, and the employee or former employee  
12 reasonably cooperates in good faith in the defense of the claim or  
13 action, the public entity shall pay any judgment based thereon or  
14 any compromise or settlement of the claim or action to which the  
15 public entity has agreed.

16 If the public entity conducts the defense of an employee or  
17 former employee against any claim or action with his or her  
18 reasonable good-faith cooperation, the public entity shall pay any  
19 judgment based thereon or any compromise or settlement of the  
20 claim or action to which the public entity has agreed. However,  
21 where the public entity conducted the defense pursuant to an  
22 agreement with the employee or former employee reserving the  
23 rights of the public entity not to pay the judgment, compromise,  
24 or settlement until it is established that the injury arose out of an  
25 act or omission occurring within the scope of his or her  
26 employment as an employee of the public entity, the public entity  
27 is required to pay the judgment, compromise, or settlement only  
28 if it is established that the injury arose out of an act or omission  
29 occurring in the scope of his or her employment as an employee  
30 of the public entity.

31 Nothing in this section authorizes a public entity to pay that part  
32 of a claim or judgment that is for punitive or exemplary damages.

33 (b) Notwithstanding subdivision (a) or any other provision of  
34 law, a public entity is authorized to pay that part of a judgment  
35 that is for punitive or exemplary damages if the governing body  
36 of that public entity, acting in its sole discretion except in cases  
37 involving an entity of the state government, finds all of the  
38 following:

1 (1) The judgment is based on an act or omission of an employee  
2 or former employee acting within the course and scope of his or  
3 her employment as an employee of the public entity.

4 (2) At the time of the act giving rise to the liability, the employee  
5 or former employee acted, or failed to act, in good faith, without  
6 actual malice and in the apparent best interests of the public entity.

7 (3) Payment of the claim or judgment would be in the best  
8 interests of the public entity.

9 As used in this subdivision with respect to an entity of state  
10 government, “a decision of the governing body” means the  
11 approval of the Legislature for payment of that part of a judgment  
12 that is for punitive damages or exemplary damages, upon  
13 recommendation of the appointing power of the employee or  
14 former employee, based upon the finding by the Legislature and  
15 the appointing authority of the existence of the three conditions  
16 for payment of a punitive or exemplary damages claim. The  
17 provisions of subdivision (a) of Section 965.6 shall apply to the  
18 payment of any claim pursuant to this subdivision.

19 The discovery of the assets of a public entity and the introduction  
20 of evidence of the assets of a public entity shall not be permitted  
21 in an action in which it is alleged that a public employee is liable  
22 for punitive or exemplary damages.

23 The possibility that a public entity may pay that part of a  
24 judgment that is for punitive damages shall not be disclosed in any  
25 trial in which it is alleged that a public employee is liable for  
26 punitive or exemplary damages, and that disclosure shall be  
27 grounds for a mistrial.

28 (c) Except as provided in subdivision (d), if the provisions of  
29 this section are in conflict with the provisions of a memorandum  
30 of understanding reached pursuant to Chapter 10 (commencing  
31 with Section 3500) of Division 4 of Title 1, the memorandum of  
32 understanding shall be controlling without further legislative action,  
33 except that if those provisions of a memorandum of understanding  
34 require the expenditure of funds, the provisions shall not become  
35 effective unless approved by the Legislature in the annual Budget  
36 Act.

37 (d) The subject of payment of punitive damages pursuant to this  
38 section or any other provision of law shall not be a subject of meet  
39 and confer under the provisions of Chapter 10 (commencing with

1 Section 3500) of Division 4 of Title 1, or pursuant to any other  
2 law or authority.

3 (e) Nothing in this section shall affect the provisions of Section  
4 818 prohibiting the award of punitive damages against a public  
5 entity. This section shall not be construed as a waiver of a public  
6 entity's immunity from liability for punitive damages under Section  
7 1981, 1983, or 1985 of Title 42 of the United States Code.

8 (f) (1) Except as provided in paragraph (2), a public entity shall  
9 not pay a judgment, compromise, or settlement arising from a  
10 claim or action against an elected official, if the claim or action is  
11 based on conduct by the elected official by way of tortiously  
12 intervening or attempting to intervene in, or by way of tortiously  
13 influencing or attempting to influence the outcome of, any judicial  
14 action or proceeding for the benefit of a particular party by  
15 contacting the trial judge or any commissioner, court-appointed  
16 arbitrator, court-appointed mediator, or court-appointed special  
17 referee assigned to the matter, or the court clerk, bailiff, or marshal  
18 after an action has been filed, unless he or she was counsel of  
19 record acting lawfully within the scope of his or her employment  
20 on behalf of that party. Notwithstanding Section 825.6, if a public  
21 entity conducted the defense of an elected official against such a  
22 claim or action and the elected official is found liable by the trier  
23 of fact, the court shall order the elected official to pay to the public  
24 entity the cost of that defense.

25 (2) If an elected official is held liable for monetary damages in  
26 the action, the plaintiff shall first seek recovery of the judgment  
27 against the assets of the elected official. If the elected official's  
28 assets are insufficient to satisfy the total judgment, as determined  
29 by the court, the public entity may pay the deficiency if the public  
30 entity is authorized by law to pay that judgment.

31 (3) To the extent the public entity pays any portion of the  
32 judgment or is entitled to reimbursement of defense costs pursuant  
33 to paragraph (1), the public entity shall pursue all available  
34 creditor's remedies against the elected official, including  
35 garnishment, until that party has fully reimbursed the public entity.

36 (4) This subdivision shall not apply to any criminal or civil  
37 enforcement action brought in the name of the people of the State  
38 of California by an elected district attorney, city attorney, or  
39 attorney general.

1 (g) Notwithstanding subdivision (a), a public entity shall pay  
2 for a judgment or settlement for treble damage antitrust awards  
3 against a member of a regulatory board for an act or omission  
4 occurring within the scope of his or her employment as a member  
5 of a regulatory board.

6 (h) *Treble damages awarded pursuant to the federal Clayton*  
7 *Act (Sections 12 to 27 of Title 15 of, and Sections 52 to 53 of Title*  
8 *29 of, the United States Code) for a violation of the federal*  
9 *Sherman Act (Sections 1 to 6, 6a, and 7 of Title 15 of the United*  
10 *States Code) are not punitive or exemplary damages under the*  
11 *Government Claims Act (Division 3.6 (commencing with Section*  
12 *810) of Title 1 of the Government Code) for purposes of this*  
13 *section.*

14 SEC. 18. Section 11346.5 of the Government Code is amended  
15 to read:

16 11346.5. (a) The notice of proposed adoption, amendment, or  
17 repeal of a regulation shall include the following:

18 (1) A statement of the time, place, and nature of proceedings  
19 for adoption, amendment, or repeal of the regulation.

20 (2) Reference to the authority under which the regulation is  
21 proposed and a reference to the particular code sections or other  
22 provisions of law that are being implemented, interpreted, or made  
23 specific.

24 (3) An informative digest drafted in plain English in a format  
25 similar to the Legislative Counsel's digest on legislative bills. The  
26 informative digest shall include the following:

27 (A) A concise and clear summary of existing laws and  
28 regulations, if any, related directly to the proposed action and of  
29 the effect of the proposed action.

30 (B) If the proposed action differs substantially from an existing  
31 comparable federal regulation or statute, a brief description of the  
32 significant differences and the full citation of the federal regulations  
33 or statutes.

34 (C) A policy statement overview explaining the broad objectives  
35 of the regulation and the specific benefits anticipated by the  
36 proposed adoption, amendment, or repeal of a regulation, including,  
37 to the extent applicable, nonmonetary benefits such as the  
38 protection of public health and safety, worker safety, or the  
39 environment, the prevention of discrimination, the promotion of

1 fairness or social equity, and the increase in openness and  
2 transparency in business and government, among other things.

3 (D) An evaluation of whether the proposed regulation is  
4 inconsistent or incompatible with existing state regulations.

5 (4) Any other matters as are prescribed by statute applicable to  
6 the specific state agency or to any specific regulation or class of  
7 regulations.

8 (5) A determination as to whether the regulation imposes a  
9 mandate on local agencies or school districts and, if so, whether  
10 the mandate requires state reimbursement pursuant to Part 7  
11 (commencing with Section 17500) of Division 4.

12 (6) An estimate, prepared in accordance with instructions  
13 adopted by the Department of Finance, of the cost or savings to  
14 any state agency, the cost to any local agency or school district  
15 that is required to be reimbursed under Part 7 (commencing with  
16 Section 17500) of Division 4, other nondiscretionary cost or  
17 savings imposed on local agencies, and the cost or savings in  
18 federal funding to the state.

19 For purposes of this paragraph, “cost or savings” means  
20 additional costs or savings, both direct and indirect, that a public  
21 agency necessarily incurs in reasonable compliance with  
22 regulations.

23 (7) If a state agency, in proposing to adopt, amend, or repeal  
24 any administrative regulation, makes an initial determination that  
25 the action may have a significant, statewide adverse economic  
26 impact directly affecting business, including the ability of  
27 California businesses to compete with businesses in other states,  
28 it shall include the following information in the notice of proposed  
29 action:

30 (A) Identification of the types of businesses that would be  
31 affected.

32 (B) A description of the projected reporting, recordkeeping, and  
33 other compliance requirements that would result from the proposed  
34 action.

35 (C) The following statement: “The (name of agency) has made  
36 an initial determination that the (adoption/amendment/repeal) of  
37 this regulation may have a significant, statewide adverse economic  
38 impact directly affecting business, including the ability of  
39 California businesses to compete with businesses in other states.  
40 The (name of agency) (has/has not) considered proposed

1 alternatives that would lessen any adverse economic impact on  
2 business and invites you to submit proposals. Submissions may  
3 include the following considerations:

4 (i) The establishment of differing compliance or reporting  
5 requirements or timetables that take into account the resources  
6 available to businesses.

7 (ii) Consolidation or simplification of compliance and reporting  
8 requirements for businesses.

9 (iii) The use of performance standards rather than prescriptive  
10 standards.

11 (iv) Exemption or partial exemption from the regulatory  
12 requirements for businesses.”

13 (8) If a state agency, in adopting, amending, or repealing any  
14 administrative regulation, makes an initial determination that the  
15 action will not have a significant, statewide adverse economic  
16 impact directly affecting business, including the ability of  
17 California businesses to compete with businesses in other states,  
18 it shall make a declaration to that effect in the notice of proposed  
19 action. In making this declaration, the agency shall provide in the  
20 record facts, evidence, documents, testimony, or other evidence  
21 upon which the agency relies to support its initial determination.

22 An agency’s initial determination and declaration that a proposed  
23 adoption, amendment, or repeal of a regulation may have or will  
24 not have a significant, adverse impact on businesses, including the  
25 ability of California businesses to compete with businesses in other  
26 states, shall not be grounds for the office to refuse to publish the  
27 notice of proposed action.

28 (9) A description of all cost impacts, known to the agency at  
29 the time the notice of proposed action is submitted to the office,  
30 that a representative private person or business would necessarily  
31 incur in reasonable compliance with the proposed action.

32 If no cost impacts are known to the agency, it shall state the  
33 following:

34 “The agency is not aware of any cost impacts that a  
35 representative private person or business would necessarily incur  
36 in reasonable compliance with the proposed action.”

37 (10) A statement of the results of the economic impact  
38 assessment required by subdivision (b) of Section 11346.3 or the  
39 standardized regulatory impact analysis if required by subdivision  
40 (c) of Section 11346.3, a summary of any comments submitted to

1 the agency pursuant to subdivision (f) of Section 11346.3 and the  
2 agency's response to those comments.

3 (11) The finding prescribed by subdivision (d) of Section  
4 11346.3, if required.

5 (12) (A) A statement that the action would have a significant  
6 effect on housing costs, if a state agency, in adopting, amending,  
7 or repealing any administrative regulation, makes an initial  
8 determination that the action would have that effect.

9 (B) The agency officer designated in paragraph (15) shall make  
10 available to the public, upon request, the agency's evaluation, if  
11 any, of the effect of the proposed regulatory action on housing  
12 costs.

13 (C) The statement described in subparagraph (A) shall also  
14 include the estimated costs of compliance and potential benefits  
15 of a building standard, if any, that were included in the initial  
16 statement of reasons.

17 (D) For purposes of model codes adopted pursuant to Section  
18 18928 of the Health and Safety Code, the agency shall comply  
19 with the requirements of this paragraph only if an interested party  
20 has made a request to the agency to examine a specific section for  
21 purposes of estimating the costs of compliance and potential  
22 benefits for that section, as described in Section 11346.2.

23 (13) ~~If the regulatory action is submitted by a state board on  
24 which a controlling number of decisionmakers are active market  
25 participants in the market the board regulates, a statement that the  
26 adopting agency has evaluated the impact of the proposed  
27 regulation on competition, and that the proposed regulation furthers  
28 a clearly articulated and affirmatively expressed state law to restrain  
29 competition.~~ *board within the Department of Consumer Affairs,  
30 a statement that the Director of Consumer Affairs has reviewed  
31 the proposed regulation and determined that the proposed  
32 regulation furthers state law.*

33 (14) A statement that the adopting agency must determine that  
34 no reasonable alternative considered by the agency or that has  
35 otherwise been identified and brought to the attention of the agency  
36 would be more effective in carrying out the purpose for which the  
37 action is proposed, would be as effective and less burdensome to  
38 affected private persons than the proposed action, or would be  
39 more cost effective to affected private persons and equally effective  
40 in implementing the statutory policy or other provision of law. For

1 a major regulation, as defined by Section 11342.548, proposed on  
2 or after November 1, 2013, the statement shall be based, in part,  
3 upon the standardized regulatory impact analysis of the proposed  
4 regulation, as required by Section 11346.3, as well as upon the  
5 benefits of the proposed regulation identified pursuant to  
6 subparagraph (C) of paragraph (3).

7 (15) The name and telephone number of the agency  
8 representative and designated backup contact person to whom  
9 inquiries concerning the proposed administrative action may be  
10 directed.

11 (16) The date by which comments submitted in writing must  
12 be received to present statements, arguments, or contentions in  
13 writing relating to the proposed action in order for them to be  
14 considered by the state agency before it adopts, amends, or repeals  
15 a regulation.

16 (17) Reference to the fact that the agency proposing the action  
17 has prepared a statement of the reasons for the proposed action,  
18 has available all the information upon which its proposal is based,  
19 and has available the express terms of the proposed action, pursuant  
20 to subdivision (b).

21 (18) A statement that if a public hearing is not scheduled, any  
22 interested person or his or her duly authorized representative may  
23 request, no later than 15 days prior to the close of the written  
24 comment period, a public hearing pursuant to Section 11346.8.

25 (19) A statement indicating that the full text of a regulation  
26 changed pursuant to Section 11346.8 will be available for at least  
27 15 days prior to the date on which the agency adopts, amends, or  
28 repeals the resulting regulation.

29 (20) A statement explaining how to obtain a copy of the final  
30 statement of reasons once it has been prepared pursuant to  
31 subdivision (a) of Section 11346.9.

32 (21) If the agency maintains an Internet Web site or other similar  
33 forum for the electronic publication or distribution of written  
34 material, a statement explaining how materials published or  
35 distributed through that forum can be accessed.

36 (22) If the proposed regulation is subject to Section 11346.6, a  
37 statement that the agency shall provide, upon request, a description  
38 of the proposed changes included in the proposed action, in the  
39 manner provided by Section 11346.6, to accommodate a person  
40 with a visual or other disability for which effective communication

1 is required under state or federal law and that providing the  
2 description of proposed changes may require extending the period  
3 of public comment for the proposed action.

4 (b) The agency representative designated in paragraph (15) of  
5 subdivision (a) shall make available to the public upon request the  
6 express terms of the proposed action. The representative shall also  
7 make available to the public upon request the location of public  
8 records, including reports, documentation, and other materials,  
9 related to the proposed action. If the representative receives an  
10 inquiry regarding the proposed action that the representative cannot  
11 answer, the representative shall refer the inquiry to another person  
12 in the agency for a prompt response.

13 (c) This section shall not be construed in any manner that results  
14 in the invalidation of a regulation because of the alleged inadequacy  
15 of the notice content or the summary or cost estimates, or the  
16 alleged inadequacy or inaccuracy of the housing cost estimates, if  
17 there has been substantial compliance with those requirements.

18 ~~SEC. 19. Section 11349 of the Government Code is amended~~  
19 ~~to read:~~

20 ~~11349. The following definitions govern the interpretation of~~  
21 ~~this chapter:~~

22 (a) ~~“Necessity” means the record of the rulemaking proceeding~~  
23 ~~demonstrates by substantial evidence the need for a regulation to~~  
24 ~~effectuate the purpose of the statute, court decision, or other~~  
25 ~~provision of law that the regulation implements, interprets, or~~  
26 ~~makes specific, taking into account the totality of the record. For~~  
27 ~~purposes of this standard, evidence includes, but is not limited to,~~  
28 ~~facts, studies, and expert opinion.~~

29 (b) ~~“Authority” means the provision of law which permits or~~  
30 ~~obligates the agency to adopt, amend, or repeal a regulation.~~

31 (c) ~~“Clarity” means written or displayed so that the meaning of~~  
32 ~~regulations will be easily understood by those persons directly~~  
33 ~~affected by them.~~

34 (d) ~~“Consistency” means being in harmony with, and not in~~  
35 ~~conflict with or contradictory to, existing statutes, court decisions,~~  
36 ~~or other provisions of law.~~

37 (e) ~~“Reference” means the statute, court decision, or other~~  
38 ~~provision of law which the agency implements, interprets, or makes~~  
39 ~~specific by adopting, amending, or repealing a regulation.~~

1 (f) “Nonduplication” means that a regulation does not serve the  
2 same purpose as a state or federal statute or another regulation.  
3 This standard requires that an agency proposing to amend or adopt  
4 a regulation must identify any state or federal statute or regulation  
5 which is overlapped or duplicated by the proposed regulation and  
6 justify any overlap or duplication. This standard is not intended  
7 to prohibit state agencies from printing relevant portions of  
8 enabling legislation in regulations when the duplication is necessary  
9 to satisfy the clarity standard in paragraph (3) of subdivision (a)  
10 of Section 11349.1. This standard is intended to prevent the  
11 indiscriminate incorporation of statutory language in a regulation.

12 (g) “Competitive impact” means that the record of the  
13 rulemaking proceeding or other documentation demonstrates that  
14 the regulation is authorized by a clearly articulated and  
15 affirmatively expressed state law, that the regulation furthers the  
16 public protection mission of the state agency, and that the impact  
17 on competition is justified in light of the applicable regulatory  
18 rationale for the regulation.

19 SEC. 20. Section 11349.1 of the Government Code is amended  
20 to read:

21 11349.1. (a) The office shall review all regulations adopted,  
22 amended, or repealed pursuant to the procedure specified in Article  
23 5 (commencing with Section 11346) and submitted to it for  
24 publication in the California Code of Regulations Supplement and  
25 for transmittal to the Secretary of State and make determinations  
26 using all of the following standards:

27 (1) Necessity.

28 (2) Authority.

29 (3) Clarity.

30 (4) Consistency.

31 (5) Reference.

32 (6) Nonduplication.

33 (7) For those regulations submitted by a state board on which  
34 a controlling number of decisionmakers are active market  
35 participants in the market the board regulates, the office shall  
36 review for competitive impact.

37 In reviewing regulations pursuant to this section, the office shall  
38 restrict its review to the regulation and the record of the rulemaking  
39 except as directed in subdivision (h). The office shall approve the

1 regulation or order of repeal if it complies with the standards set  
2 forth in this section and with this chapter.

3 (b) In reviewing proposed regulations for the criteria in  
4 subdivision (a), the office may consider the clarity of the proposed  
5 regulation in the context of related regulations already in existence.

6 (c) The office shall adopt regulations governing the procedures  
7 it uses in reviewing regulations submitted to it. The regulations  
8 shall provide for an orderly review and shall specify the methods,  
9 standards, presumptions, and principles the office uses, and the  
10 limitations it observes, in reviewing regulations to establish  
11 compliance with the standards specified in subdivision (a). The  
12 regulations adopted by the office shall ensure that it does not  
13 substitute its judgment for that of the rulemaking agency as  
14 expressed in the substantive content of adopted regulations.

15 (d) The office shall return any regulation subject to this chapter  
16 to the adopting agency if any of the following occur:

17 (1) The adopting agency has not prepared the estimate required  
18 by paragraph (6) of subdivision (a) of Section 11346.5 and has not  
19 included the data used and calculations made and the summary  
20 report of the estimate in the file of the rulemaking.

21 (2) The agency has not complied with Section 11346.3.  
22 “Noncompliance” means that the agency failed to complete the  
23 economic impact assessment or standardized regulatory impact  
24 analysis required by Section 11346.3 or failed to include the  
25 assessment or analysis in the file of the rulemaking proceeding as  
26 required by Section 11347.3.

27 (3) The adopting agency has prepared the estimate required by  
28 paragraph (6) of subdivision (a) of Section 11346.5, the estimate  
29 indicates that the regulation will result in a cost to local agencies  
30 or school districts that is required to be reimbursed under Part 7  
31 (commencing with Section 17500) of Division 4, and the adopting  
32 agency fails to do any of the following:

33 (A) Cite an item in the Budget Act for the fiscal year in which  
34 the regulation will go into effect as the source from which the  
35 Controller may pay the claims of local agencies or school districts.

36 (B) Cite an accompanying bill appropriating funds as the source  
37 from which the Controller may pay the claims of local agencies  
38 or school districts.

39 (C) Attach a letter or other documentation from the Department  
40 of Finance which states that the Department of Finance has

1 approved a request by the agency that funds be included in the  
2 Budget Bill for the next following fiscal year to reimburse local  
3 agencies or school districts for the costs mandated by the  
4 regulation.

5 (D) Attach a letter or other documentation from the Department  
6 of Finance which states that the Department of Finance has  
7 authorized the augmentation of the amount available for  
8 expenditure under the agency's appropriation in the Budget Act  
9 which is for reimbursement pursuant to Part 7 (commencing with  
10 Section 17500) of Division 4 to local agencies or school districts  
11 from the unencumbered balances of other appropriations in the  
12 Budget Act and that this augmentation is sufficient to reimburse  
13 local agencies or school districts for their costs mandated by the  
14 regulation.

15 (4) The proposed regulation conflicts with an existing state  
16 regulation and the agency has not identified the manner in which  
17 the conflict may be resolved.

18 (5) The agency did not make the alternatives determination as  
19 required by paragraph (4) of subdivision (a) of Section 11346.9.

20 (6) The office decides that the record of the rulemaking  
21 proceeding or other documentation for the proposed regulation  
22 does not demonstrate that the regulation is authorized by a clearly  
23 articulated and affirmatively expressed state law, that the regulation  
24 does not further the public protection mission of the state agency,  
25 or that the impact on competition is not justified in light of the  
26 applicable regulatory rationale for the regulation.

27 (e) The office shall notify the Department of Finance of all  
28 regulations returned pursuant to subdivision (d).

29 (f) The office shall return a rulemaking file to the submitting  
30 agency if the file does not comply with subdivisions (a) and (b)  
31 of Section 11347.3. Within three state working days of the receipt  
32 of a rulemaking file, the office shall notify the submitting agency  
33 of any deficiency identified. If no notice of deficiency is mailed  
34 to the adopting agency within that time, a rulemaking file shall be  
35 deemed submitted as of the date of its original receipt by the office.  
36 A rulemaking file shall not be deemed submitted until each  
37 deficiency identified under this subdivision has been corrected.

38 (g) Notwithstanding any other law, return of the regulation to  
39 the adopting agency by the office pursuant to this section is the  
40 exclusive remedy for a failure to comply with subdivision (c) of

1 ~~Section 11346.3 or paragraph (10) of subdivision (a) of Section~~  
2 ~~11346.5.~~

3 ~~(h) The office may designate, employ, or contract for the~~  
4 ~~services of independent antitrust or applicable economic experts~~  
5 ~~when reviewing proposed regulations for competitive impact.~~  
6 ~~When reviewing a regulation for competitive impact, the office~~  
7 ~~shall do all of the following:~~

8 ~~(1) If the Director of Consumer Affairs issued a written decision~~  
9 ~~pursuant to subdivision (e) of Section 109 of the Business and~~  
10 ~~Professions Code, the office shall review and consider the decision~~  
11 ~~and all supporting documentation in the rulemaking file.~~

12 ~~(2) Consider whether the anticompetitive effects of the proposed~~  
13 ~~regulation are clearly outweighed by the public policy merits.~~

14 ~~(3) Provide a written opinion setting forth the office's findings~~  
15 ~~and substantive conclusions under paragraph (2), including, but~~  
16 ~~not limited to, whether rejection or modification of the proposed~~  
17 ~~regulation is necessary to ensure that restraints of trade are related~~  
18 ~~to and advance the public policy underlying the applicable~~  
19 ~~regulatory rationale.~~

20 ~~SEC. 21:~~

21 *SEC. 19.* No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.

**BOARD OF REGISTERED NURSING  
LEGISLATIVE COMMITTEE  
August 11, 2016**

**BILL ANALYSIS**

---

<b>AUTHOR:</b>	Cannella	<b>BILL NUMBER:</b>	SB 1348
<b>SPONSOR:</b>	Cannella	<b>BILL STATUS:</b>	Assembly Consent Calendar
<b>SUBJECT:</b>	Licensure applications: military experience	<b>DATE LAST AMENDED:</b>	May 31, 2016

**SUMMARY:**

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

**ANALYSIS:**

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

**Amended analysis as of 5/31:**

This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to post information on the board's Internet Web site about the ability of veteran applicants to apply their military experience and training towards licensure requirements.

**BOARD POSITION:** Watch (4/14/16) position continued 6/16/16

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

**SUPPORT:** California Board of Accountancy

**OPPOSE:** None on file

AMENDED IN SENATE MAY 31, 2016

**SENATE BILL**

**No. 1348**

---

---

**Introduced by Senator Cannella**

February 19, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1348, as amended, Cannella. Licensure applications: military experience.

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

This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to ~~modify their application for licensure to advise veteran applicants~~ *post information on the board's Internet Web site about their the ability of veteran applicants to apply that their military* experience and training towards licensure requirements.

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

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

- 1 SECTION 1. Section 114.5 of the Business and Professions
- 2 Code is amended to read:

1 114.5. (a) Each board shall inquire in every application for  
2 licensure if the individual applying for licensure is serving in, or  
3 has previously served in, the military.

4 (b) If a board's governing law authorizes veterans to apply  
5 military experience and training towards licensure requirements,  
6 that board shall ~~modify their application for licensure to advise~~  
7 ~~veteran applicants~~ *post information on the board's Internet Web*  
8 *site about their the ability of veteran applicants to apply military*  
9 *experience and training towards licensure requirements.*