



LEGISLATIVE COMMITTEE MEETING

AGENDA

California Board of Registered Nursing
1747 N. Market Boulevard- Hearing Room
Sacramento, California 95834
(916) 574-7600

March 8, 2017

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

Wednesday, March 8, 2017:

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

- 8.01 Review and Vote on Whether to Approve Previous Meeting Minutes:
- October 6, 2016
 - January 11, 2017

8.1 Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills Introduced During the 2017-2018 Legislative Session

<u>Assembly Bills</u>		<u>Senate Bills</u>
AB 12	AB 508	SB 27
AB 40	AB 882	SB 227
AB 44	AB 1110	SB 247
AB 77	AB 1190	SB 496
AB 208	AB 1612	SB 554
AB 402		SB 746
AB 422		SB 799

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, 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
Agenda Item Summary

AGENDA ITEM: 8.01

DATE: March 8, 2017

ACTION REQUESTED: Review and Vote on Whether to Approve the Minutes of October 6, 2016, and January 11, 2017

REQUESTED BY: Kay Weinkam, Nursing Education Consultant and Legislative Liaison

NEXT STEPS: None

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: Kay Weinkam
Phone: (916) 574-7600



BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: October 5, 2016

TIME: 12:27 p.m.-12:30 p.m.

LOCATION: DoubleTree by Hilton
2233 Ventura Street
Fresno, California 93721

MEMBERS PRESENT: Michael Jackson, acting Chair
Trande Phillips, RN
Elizabeth Woods, RN

MEMBERS ABSENT: Donna Gerber
Imelda Ceja-Butkiewicz

STAFF PRESENT: Dr. Joseph Morris, Executive Officer
Stacie Berumen, Assistant Executive Officer

8.0 President Michael Jackson called the meeting to order at 12:27 p.m. following the adjournment of the Nursing Practice Committee. President Jackson appointed himself and Ms. Woods to the Committee for today's meeting in order that a quorum be present.

8.0.01 Review and Approve Minutes

- May 12, 2016
- August 5, 2016

Approval deferred until the January 2017 meeting.

8.1 Discuss Bills of Interest to the Board and Provide an Update on Status of the Bills Introduced during the 2015-2016 Legislative Session

This meeting occurred after the deadline for the Governor to Approve or Veto legislation. Status of the following bills was reported without members taking any action:

AB 840 (Ridley-Thomas)	Nurses and Nursing Assistants: overtime	Chapter 217
AB 1386 (Low)	Emergency medical care: epinephrine autoinjectors	Chapter 374
AB 1748 (Mayes)	Pupils: pupil health: opiod antagonist	Chapter 557
AB 2105 (Rodriguez)	Workforce development: allied health professions	Chapter 410

AB 2272 (Thurmond)
AB 2744 (Gordon)
AB 2859 (Low)

Occupational safety and health standards: plume Vetoed
Healing arts: referrals Chapter 360
Professions and vocations: retired category: licenses
Chapter 473

SB 482 (Lara)
SB 1039 (Hill)
SB 1076 (Hernandez)

Controlled substances: CURES database Chapter 708
Professions and vocations Chapter 799
General acute care hospitals: observation services
Chapter 723

SB 1139 (Lara) Health Professions: medical school programs: healing arts
residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans,
and loan repayments Chapter 786

The Committee directed staff to send a letter to Senator Hill in appreciation of his sponsorship of SB 1039.

8.2 Public Comment for Items Not on the Agenda

There were no public comments.

8.3 The meeting adjourned at 12:30 p.m.

Submitted by: _____
Stacie Berumen, Assistant Executive Officer

Approved by: _____
Michael D. Jackson, President



BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: January 11, 2017

TIME: 11:55 a.m.-12:20 p.m.

LOCATION: Embassy Suites Anaheim- South
 11767 Harbor Boulevard
 Garden Grove, California 92840

MEMBERS PRESENT: Imelda Ceja-Butkiewicz, Acting Chair
 Elizabeth Woods, RN
 Barbara Yaroslavsky

MEMBERS ABSENT: Donna Gerber
 Trande Phillips, RN

STAFF PRESENT: Dr. Joseph Morris, Executive Officer
 Stacie Berumen, Assistant Executive Officer

8.0 Imelda Ceja-Butkiewicz called the meeting to order at 11:55 a.m. following the adjournment of the Nursing Practice Committee. President Jackson appointed Ms. Woods to the Committee for today's meeting in order that a quorum be present.

8.0.01 Review and Approve Minutes

- May 12, 2016
- August 11, 2016
- October 6, 2016

Motion: Approve the Minutes of May 12, 2016, and August 11, 2016, by Imelda Ceja-Butkiewicz			
Second: Barbara Yaroslavsky			
IC-B: Yes	EW: Yes	BY: Yes	

Approval of the October 6 minutes was deferred until the March 2017 meeting.

8.1 2015-2016 Goals and Objectives: Summary of Accomplishments

Information only item.

8.2 2015-2016 Legislative Session Summary

Information only item.

**8.3 2017-2018 Suggested Goals and Objectives for the Current Legislative Session;
Recommendation to Full Board**

Motion: Approve recommending the goals and objectives to the full board, by Imelda Ceja-Butkiewicz			
Second: Barbara Yaroslavsky			
IC-B: Yes	EW: Yes	BY: Yes	

8.4 Public Comment for Items Not on the Agenda

Ms.Saskia Kim introduced herself to the Committee as the Regulatory Policy Specialist for the California Nurses Association.

8.5 The meeting adjourned at 12:20 p.m.

Submitted by: _____
Kay Weinkam, Nursing Education Consultant and Legislative Liaison

Approved by: _____
Imelda Ceja-Butkiewicz, Acting Chair

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: March 8, 2016

ACTION REQUESTED: Discuss Bills of Interest to the Board and Adopt or Modify Positions on the Bills Introduced during the 2017-2018 Legislative Session

REQUESTED BY: Donna Gerber, Chair

BACKGROUND:

Assembly Bills

Senate Bills

AB 12	AB 1612	AB	SB 27	SB
AB 40	AB	AB	SB 227	SB
AB 44	AB	AB	SB 247	SB
AB 77	AB	AB	SB 554	SB
AB 402	AB	AB	SB 746	SB
AB 422	AB	AB	SB	SB
AB 508	AB	AB	SB	SB
AB 882	AB		SB	SB
AB 1100	AB		SB	SB
			SB	SB

NEXT STEP: Place on Board agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:**

As reflected by proposed legislation

PERSON TO CONTACT: Kay Weinkam, M.S., RN, CNS
(916) 574-7600

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2017-2018
March 8, 2017**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review		Watch (2/8/17)	Assembly A&AR
AB 40	Santiago	CURES database: health information technology system		Watch (2/8/17)	Assembly B&P
AB 44	Reyes	Workers' compensation: medical treatment: terrorist attacks: workplace violence.		Watch (2/18/17)	Assembly Insurance
AB 77	Fong	Regulations: effective dates and legislative review		Watch (2/8/17)	Assembly A&AR
HR 6	Burke	Relative to women's reproductive health			Adopted
AB 208	Eggman	Deferred entry of judgment: pretrial diversion			Assembly Public Safety
AB 402	Thurmond	Occupational safety and health standards: plume			Assembly L&E
AB 422	Arambula	California State University: Doctor of Nursing Practice Degree Program			Assembly Higher Ed
AB 508	Santiago	Health care practitioners: student loans			Assembly B&P
AB 882	Arambula	Pupil health care services: school nurses			Introduced
AB 1110	Burke	Pupil health: vision exams			Introduced
AB 1190	Obernolte	Department of Consumer Affairs: BreEZe system: annual report			Introduced
AB 1612	Burke	Nursing: nurse-midwives			Introduced

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.

House Resolution

No. 6

Introduced by Assembly Members Burke and Cristina Garcia
(Coauthors: Assembly Members Aguiar-Curry, Arambula, Baker, Berman, Bloom, Bocanegra, Bonta, Caballero, Calderon, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Dababneh, Daly, Eggman, Frazier, Friedman, Eduardo Garcia, Gipson, Gloria, Gomez, Gonzalez Fletcher, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Rendon, Reyes, Ridley-Thomas, Rodriguez, Rubio, Santiago, Mark Stone, Thurmond, Ting, Weber, and Wood)

January 9, 2017

House Resolution No. 6—Relative to women’s reproductive health.

1 WHEREAS, January 22, 2017, marks the 44th anniversary of
2 the United States Supreme Court’s landmark decision in *Roe v.*
3 *Wade*, which affirmed that every woman has a fundamental right
4 to control her own reproductive decisions and to decide whether
5 to end or to continue pregnancy, and is an occasion deserving of
6 celebration; and
7 WHEREAS, *Roe v. Wade* has been the cornerstone of women’s
8 ability to control their reproductive lives, allowing every woman
9 in America the right to decide when, if, and with whom to have
10 children, and how many children to have; and
11 WHEREAS, Women’s ability to control their reproductive lives
12 has helped and facilitated their participation in the economic and
13 social life of our nation; and
14 WHEREAS, *Roe v. Wade* has drastically reduced the maternal
15 mortality rate for women terminating their pregnancies in the

1 United States. In the years prior to the decision, illegal abortion
2 accounted for approximately 17 percent of all reported deaths
3 attributable to pregnancy and childbirth, and many women were
4 severely injured as a result of “back alley” abortion procedures;
5 and

6 WHEREAS, Interference with a woman’s right to choose causes
7 women to be forced into illegal and dangerous abortions, as they
8 often were in the United States before the Roe v. Wade decision.
9 Many women are forced to make these decisions today in countries
10 where abortion is illegal and where the unsafe methods of illegal
11 abortion lead to 13 percent of global maternal deaths annually, or
12 8 maternal deaths every hour. Many survivors of an illegal abortion
13 suffer serious and often permanent injuries; and

14 WHEREAS, Roe v. Wade continues to protect the health and
15 freedom of women throughout the United States; and

16 WHEREAS, The State of California stands in strong support of
17 every woman’s fundamental right, as confirmed in Roe v. Wade,
18 to make her own decisions regarding her pregnancy; now, therefore,
19 be it

20 *Resolved by the Assembly of the State of California,* That the
21 Assembly urges the President of the United States and the United
22 States Congress to express their support for a woman’s fundamental
23 right to control her own reproductive decisions, as well as their
24 support for access to comprehensive reproductive health care,
25 including the services provided by Planned Parenthood; and be it
26 further

27 *Resolved,* That the Chief Clerk of the Assembly transmit copies
28 of this resolution to the President and Vice President of the United
29 States, to the Speaker of the House of Representatives, to the
30 Majority Leader of the Senate, to each Senator and Representative
31 from California in the Congress of the United States, and to the
32 author for appropriate distribution.

33

34 _____

35 REVISIONS:
36 **Heading—Line 2.**

37 _____

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Fong	BILL NUMBER:	AB 77
SPONSOR:		BILL STATUS:	Assembly Committee on Accountability and Administrative Review
SUBJECT:	Regulations: effective dates and legislative review.	DATE LAST AMENDED:	February 7, 2017

SUMMARY:

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 an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures.

The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals estimated to exceed \$50,000,000. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days.

The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the Fish and Game Commission requires a different effective date to conform with federal law.

ANALYSIS:

Legislator's summary: AB 77 provides the process and mechanism needed for greater checks and balances to ensure elected representatives can more effectively referee state agency regulations that have significant cost implications for families and businesses in their district.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State.

The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order

of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions.

The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature passes a statute to override the regulation.

Amended analysis as of 2/7:

The bill now deletes the language that appears in the third paragraph, above under Analysis, related to the schedule of when regulations and orders of repeal become effective.

BOARD POSITION: Watch (2/8/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

Fresno Chamber of Commerce

OPPOSE:

None on file.

AMENDED IN ASSEMBLY FEBRUARY 7, 2017

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 77

**Introduced by Assembly Member Fong
(Principal coauthor: Assembly Member Gallagher)**

January 4, 2017

An act to amend Sections 11343.4 and 11349.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 77, as amended, Fong. Regulations: effective dates and legislative review.

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 an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals estimated to exceed \$50,000,000. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the Fish and Game Commission requires a different effective date to conform with federal law.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. ~~The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature passes *enacts* a statute to override the regulation.~~

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 11343.4 of the Government Code, as~~
2 ~~amended by Section 26 of Chapter 546 of the Statutes of 2016, is~~
3 ~~amended to read:~~

4 ~~11343.4. A regulation or an order of repeal required to be filed~~
5 ~~with the Secretary of State shall become effective on the 90th day~~
6 ~~after the date of filing unless any of the following occur:~~

7 ~~(a) The statute pursuant to which the regulation or order of~~
8 ~~repeal was adopted specifically provides otherwise, in which event~~
9 ~~it becomes effective on the day prescribed by the statute.~~

10 ~~(b) A later date is prescribed by the state agency in a written~~
11 ~~instrument filed with, or as part of, the regulation or order of repeal.~~

12 ~~(c) The agency makes a written request to the office~~
13 ~~demonstrating good cause for an earlier effective date, in which~~
14 ~~case the office may prescribe an earlier date.~~

15 ~~(d) The Legislature passes a statute to override the regulation.~~

16 ~~SECTION 1. Section 11343.4 of the Government Code is~~
17 ~~amended to read:~~

18 ~~11343.4. (a) Except as otherwise provided in subdivision (b),~~
19 ~~a regulation or an order of repeal required to be filed with the~~
20 ~~Secretary of State shall become effective on a quarterly basis as~~
21 ~~follows:~~

22 ~~(1) January 1 if the regulation or order of repeal is filed on~~
23 ~~September 1 to November 30, inclusive.~~

1 (2) April 1 if the regulation or order of repeal is filed on
2 December 1 to February 29, inclusive.

3 (3) July 1 if the regulation or order of repeal is filed on March
4 1 to May 31, inclusive.

5 (4) October 1 if the regulation or order of repeal is filed on June
6 1 to August 31, inclusive.

7 (b) The effective dates in subdivision (a) shall not apply in all
8 of the following:

9 (1) The effective date is specifically provided by the statute
10 pursuant to which the regulation or order of repeal was adopted,
11 in which event it becomes effective on the day prescribed by the
12 statute.

13 (2) A later date is prescribed by the state agency in a written
14 instrument filed with, or as part of, the regulation or order of repeal.

15 (3) The agency makes a written request to the office
16 demonstrating good cause for an earlier effective date, in which
17 case the office may prescribe an earlier date.

18 (4) (A) A regulation adopted by the Fish and Game Commission
19 that is governed by Article 2 (commencing with Section 250) of
20 Chapter 2 of Division 1 of the Fish and Game Code.

21 (B) A regulation adopted by the Fish and Game Commission
22 that requires a different effective date in order to conform to a
23 federal regulation.

24 (5) *When the Legislature enacts a statute to override the*
25 *regulation.*

26 SEC. 2. Section 11349.3 of the Government Code is amended
27 to read:

28 11349.3. (a) (1) The office shall either approve a regulation
29 submitted to it for review and transmit it to the Secretary of State
30 for filing or disapprove it within 30 working days after the
31 regulation has been submitted to the office for review. If the office
32 fails to act within 30 days, the regulation shall be deemed to have
33 been approved and the office shall transmit it to the Secretary of
34 State for filing.

35 (2) The office shall submit a copy of each major regulation
36 submitted to the Secretary of State pursuant to paragraph (1) to
37 each house of the Legislature for review.

38 (b) If the office disapproves a regulation, it shall return it to the
39 adopting agency within the 30-day period specified in subdivision
40 (a) accompanied by a notice specifying the reasons for disapproval.

1 Within seven calendar days of the issuance of the notice, the office
2 shall provide the adopting agency with a written decision detailing
3 the reasons for disapproval. No regulation shall be disapproved
4 except for failure to comply with the standards set forth in Section
5 11349.1 or for failure to comply with this chapter.

6 (c) If an agency determines, on its own initiative, that a
7 regulation submitted pursuant to subdivision (a) should be returned
8 by the office prior to completion of the office's review, it may
9 request the return of the regulation. All requests for the return of
10 a regulation shall be memorialized in writing by the submitting
11 agency no later than one week following the request. Any
12 regulation returned pursuant to this subdivision shall be resubmitted
13 to the office for review within the one-year period specified in
14 subdivision (b) of Section 11346.4 or shall comply with Article 5
15 (commencing with Section 11346) prior to resubmission.

16 (d) The office shall not initiate the return of a regulation pursuant
17 to subdivision (c) as an alternative to disapproval pursuant to
18 subdivision (b).

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Eggman	BILL NUMBER:	AB 208
SPONSOR:		BILL STATUS:	Referred to Assembly Committee on Public Safety
SUBJECT:	Deferred entry of judgment: pretrial diversion	DATE LAST AMENDED:	Introduced January 23, 2017

SUMMARY:

Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable for deferred entry of judgment, the defendant's guilty plea is entered and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

ANALYSIS:

A similar bill, AB 1351 (Eggman), was presented during the 2015-2016 session but was subsequently vetoed by the Governor. The Board had taken an Oppose position on that bill.

This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make that a defendant qualify for the pretrial diversion program if he or she has no prior conviction within 5 years prior to the alleged commission of the charged offense for any offense involving controlled substances other than the offense that qualifies him or her for diversion, the

charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense.

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

American Civil Liberties Union (ACLU), Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), Drug Policy Alliance, Immigrant Legal Resource Center, Mexican American Legal Defense and Education Fund (MALDEF)

OPPOSE:

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Eggman

January 23, 2017

An act to amend Sections 1000, 1000.1, 1000.2, 1000.3, 1000.4, 1000.5, and 1000.6 of, and to add Section 1000.65 to, the Penal Code, relating to deferred entry of judgment.

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as introduced, Eggman. Deferred entry of judgment: pretrial diversion.

Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable for deferred entry of judgment, the defendant's guilty plea is entered

and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make that a defendant qualify for the pretrial diversion program if he or she has no prior conviction within 5 years prior to the alleged commission of the charged offense for any offense involving controlled substances other than the offense that qualifies him or her for diversion, the charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense.

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

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 1000 of the Penal Code is amended to
2 read:
3 1000. (a) This chapter shall apply whenever a case is before
4 any court upon an accusatory pleading for a violation of Section
5 11350, 11357, 11364, or 11365, paragraph (2) of subdivision (b)
6 of Section 11375, Section 11377, or Section 11550 of the Health
7 and Safety Code, or subdivision (b) of Section 23222 of the Vehicle
8 Code, or Section 11358 of the Health and Safety Code if the
9 marijuana planted, cultivated, harvested, dried, or processed is for
10 personal use, or Section 11368 of the Health and Safety Code if

1 the narcotic drug was secured by a fictitious prescription and is
2 for the personal use of the defendant and was not sold or furnished
3 to another, or subdivision (d) of Section 653f if the solicitation
4 was for acts directed to personal use only, or Section 381 or
5 subdivision (f) of Section 647 of the Penal Code, if for being under
6 the influence of a controlled substance, or Section 4060 of the
7 Business and Professions Code, and it appears to the prosecuting
8 attorney that, except as provided in subdivision (b) of Section
9 11357 of the Health and Safety Code, all of the following apply
10 to the defendant:

11 ~~(1) The defendant has no conviction for any offense involving~~
12 ~~controlled substances. Within five years prior to the alleged~~
13 ~~commission of the charged offense, the defendant has not~~
14 ~~suffered a conviction for any offense involving controlled~~
15 ~~substances other than the offenses listed in this subdivision.~~

16 (2) The offense charged did not involve a crime of violence or
17 threatened violence.

18 (3) *Within five years prior to the determination of eligibility of*
19 *this chapter, there is no evidence of a violation relating to narcotics*
20 *or restricted dangerous drugs other than a violation of the sections*
21 *offenses listed in this subdivision.*

22 ~~(4) The defendant's record does not indicate that probation or~~
23 ~~parole has ever been revoked without thereafter being completed.~~

24 ~~(5) The defendant's record does not indicate that he or she has~~
25 ~~successfully completed or been terminated from diversion or~~
26 ~~deferred entry of judgment pursuant to this chapter within five~~
27 ~~years prior to the alleged commission of the charged offense.~~

28 ~~(6) The defendant has no prior felony conviction within~~

29 (4) *Within five years prior to the alleged commission of the*
30 *charged offense, the defendant has no prior conviction*
31 *for a serious felony, as defined in subdivision (c) of Section 1192.7,*
32 *or a violent felony, as defined in subdivision (c) of Section 667.5.*

33 (b) The prosecuting attorney shall review his or her file to
34 determine whether or not paragraphs (1) to ~~(6)~~; (4), inclusive, of
35 subdivision (a) apply to the defendant. ~~Upon the agreement of the~~
36 ~~prosecuting attorney, law enforcement, the public defender, and~~
37 ~~the presiding judge of the criminal division of the superior court,~~
38 ~~or a judge designated by the presiding judge, this procedure shall~~
39 ~~be completed as soon as possible after the initial filing of the~~
40 ~~charges. If the defendant is found eligible, the prosecuting attorney~~

1 shall file with the court a declaration in writing or state for the
2 record the grounds upon which the determination is based, and
3 shall make this information available to the defendant and his or
4 her attorney. This procedure is intended to allow the court to set
5 the hearing for ~~deferred entry of judgment~~ *pretrial diversion* at the
6 arraignment. If the defendant is found ineligible for ~~deferred entry~~
7 ~~of judgment~~, *pretrial diversion*, the prosecuting attorney shall file
8 with the court a declaration in writing or state for the record the
9 grounds upon which the determination is based, and shall make
10 this information available to the defendant and his or her attorney.
11 The sole remedy of a defendant who is found ineligible for ~~deferred~~
12 ~~entry of judgment~~ *pretrial diversion* is a postconviction appeal.

13 (c) All referrals for ~~deferred entry of judgment~~ *pretrial diversion*
14 granted by the court pursuant to this chapter shall be made only
15 to programs that have been certified by the county drug program
16 administrator pursuant to Chapter 1.5 (commencing with Section
17 1211) of Title 8, or to programs that provide services at no cost to
18 the participant and have been deemed by the court and the county
19 drug program administrator to be credible and effective. The
20 defendant may request to be referred to a program in any county,
21 as long as that program meets the criteria set forth in this
22 subdivision.

23 (d) ~~Deferred entry of judgment~~ *Pretrial diversion* for ~~a an~~
24 *alleged* violation of Section 11368 of the Health and Safety Code
25 shall not prohibit any administrative agency from taking
26 disciplinary action against a licensee or from denying a license.
27 ~~Nothing in this~~ *This* subdivision ~~shall be construed to~~ *does not*
28 expand or restrict the provisions of Section 1000.4.

29 (e) Any defendant who is participating in a program ~~referred to~~
30 *authorized* in this section may be required to undergo analysis of
31 his or her urine for the purpose of testing for the presence of any
32 drug as part of the program. However, ~~urine analysis~~ *urinalysis*
33 results shall not be admissible as a basis for any new criminal
34 prosecution or proceeding.

35 SEC. 2. Section 1000.1 of the Penal Code is amended to read:

36 1000.1. (a) If the prosecuting attorney determines that this
37 chapter may be applicable to the defendant, he or she shall advise
38 the defendant and his or her attorney in writing of that
39 determination. This notification shall include all of the following:

- 1 (1) A full description of the procedures for ~~deferred entry of~~
2 ~~judgment.~~ *pretrial diversion.*
- 3 (2) A general explanation of the roles and authorities of the
4 probation department, the prosecuting attorney, the program, and
5 the court in the process.
- 6 (3) A clear statement that ~~in lieu of trial,~~ the court may grant
7 ~~deferred entry of judgment~~ *pretrial diversion* with respect to any
8 ~~crime offense~~ specified in subdivision (a) of Section 1000 that is
9 charged, provided that the defendant pleads *not guilty to each of*
10 ~~these charges the charge or charges, waives the right to a speedy~~
11 ~~trial and waives time for the pronouncement of judgment, to a~~
12 ~~speedy preliminary hearing, if applicable,~~ and that upon the
13 defendant's successful completion of a program, as specified in
14 subdivision (c) of Section 1000, the positive recommendation of
15 the program authority and the motion of the *defendant*, prosecuting
16 attorney, the court, or the probation department, but no sooner than
17 ~~18 six months and no later than three years~~ *one year* from the date
18 of the defendant's referral to the program, the court shall dismiss
19 the charge or charges against the defendant.
- 20 (4) A clear statement that upon any failure of treatment or
21 condition under the program, or any circumstance specified in
22 Section 1000.3, the prosecuting attorney or the probation
23 department or the court on its own may make a motion to the court
24 ~~for entry of judgment and the court shall render a finding of guilt~~
25 ~~to the charge or charges pled, enter judgment, to terminate pretrial~~
26 ~~diversion and schedule a sentencing hearing further proceedings~~
27 as otherwise provided in this code.
- 28 (5) An explanation of criminal record retention and disposition
29 resulting from participation in the ~~deferred entry of judgment~~
30 *pretrial diversion* program and the defendant's rights relative to
31 answering questions about his or her arrest and ~~deferred entry of~~
32 ~~judgment~~ *pretrial diversion* following successful completion of
33 the program.
- 34 (b) If the defendant consents and waives his or her right to a
35 speedy trial ~~or~~ *and a speedy preliminary hearing, if applicable,* the
36 court may refer the case to the probation department or the court
37 may summarily grant ~~deferred entry of judgment if the defendant~~
38 ~~pleads guilty to the charge or charges and waives time for the~~
39 ~~pronouncement of judgment.~~ *pretrial diversion.* When directed by
40 the court, the probation department shall make an investigation

1 and take into consideration the defendant’s age, employment and
 2 service records, educational background, community and family
 3 ties, prior controlled substance use, treatment history, if any,
 4 demonstrable motivation, and other mitigating factors in
 5 determining whether the defendant is a person who would be
 6 benefited by education, treatment, or rehabilitation. The probation
 7 department shall also determine which programs the defendant
 8 would benefit from and which programs would accept the
 9 defendant. The probation department shall report its findings and
 10 recommendations to the court. The court shall make the final
 11 determination regarding education, treatment, or rehabilitation for
 12 the defendant. If the court determines that it is appropriate, the
 13 court shall grant ~~deferred entry of judgment~~ *pretrial diversion* if
 14 the defendant pleads *not* guilty to the charge or charges and waives
 15 ~~time for the pronouncement of judgment.~~ *right to a speedy trial*
 16 *and to a speedy preliminary hearing, if applicable.*

17 (c) (1) No statement, or any information procured therefrom,
 18 made by the defendant to any probation officer or drug treatment
 19 worker, that is made during the course of any investigation
 20 conducted by the probation department or treatment program
 21 pursuant to subdivision (b), and prior to the reporting of the
 22 probation department’s findings and recommendations to the court,
 23 shall be admissible in any action or proceeding brought subsequent
 24 to the investigation.

25 ~~No~~
 26 (2) *No* statement, or any information procured therefrom, with
 27 respect to the specific offense with which the defendant is charged,
 28 that is made to any probation officer or drug program worker
 29 subsequent to the granting of ~~deferred entry of judgment,~~ *pretrial*
 30 *diversion* shall be admissible in any action or ~~proceeding, including~~
 31 ~~a sentencing hearing.~~ *proceeding.*

32 (d) A defendant’s ~~plea of guilty participation in pretrial~~
 33 *diversion* pursuant to this chapter shall not constitute a conviction
 34 for any purpose unless a judgment of guilty is entered pursuant to
 35 ~~Section 1000.3.~~ *or an admission of guilt for any purpose.*

36 SEC. 3. Section 1000.2 of the Penal Code is amended to read:
 37 1000.2. (a) The court shall hold a hearing and, after
 38 consideration of any information relevant to its decision, shall
 39 determine if the defendant consents to further proceedings under
 40 this chapter and if the defendant should be granted ~~deferred entry~~

1 ~~of judgment.~~ *pretrial diversion*. If the court does not deem the
2 defendant a person who would be benefited by deferred entry of
3 judgment, or if the defendant does not consent to participate,
4 *participate in pretrial diversion*, the proceedings shall continue as
5 in any other case.

6 ~~At~~

7 ~~(b) At the time that deferred entry of judgment~~ *pretrial diversion*
8 is granted, any bail bond or undertaking, or deposit in lieu thereof,
9 on file by or on behalf of the defendant shall be exonerated, and
10 the court shall enter an order so directing.

11 ~~The~~

12 ~~(c) The period during which deferred entry of judgment~~ *pretrial*
13 *diversion* is granted shall be for no less than ~~18~~ *six* months nor
14 longer than ~~three years.~~ *one year*. However, the defendant may
15 request, and the court shall grant, for good cause shown, an
16 extension of time to complete a program specified in subdivision
17 (c) of Section 1000. Progress reports shall be filed by the probation
18 department with the court as directed by the court.

19 SEC. 4. Section 1000.3 of the Penal Code is amended to read:

20 1000.3. (a) If it appears to the prosecuting attorney, the court,
21 or the probation department that the defendant is performing
22 unsatisfactorily in the assigned program, ~~or that the defendant is~~
23 ~~not benefiting from education, treatment, or rehabilitation, or that~~
24 ~~the defendant is convicted of a misdemeanor or an offense that reflects~~
25 the defendant's propensity for violence, or *that* the defendant is
26 convicted of a felony, ~~or the defendant has engaged in criminal~~
27 ~~conduct rendering him or her unsuitable for deferred entry of~~
28 ~~judgment,~~ the prosecuting attorney, the court on its own, or the
29 probation department may make a motion for entry of judgment.
30 *termination from pretrial diversion.*

31 ~~After~~

32 ~~(b) After notice to the defendant, the court shall hold a hearing~~
33 to determine whether judgment ~~should~~ *pretrial diversion shall be*
34 ~~entered.~~ *terminated.*

35 ~~If~~

36 ~~(c) If the court finds that the defendant is not performing~~
37 satisfactorily in the assigned program, ~~or that the defendant is not~~
38 ~~benefiting from education, treatment, or rehabilitation, or the court~~
39 finds that the defendant has been convicted of a crime as indicated
40 above, ~~or that the defendant has engaged in criminal conduct~~

1 rendering him or her unsuitable for deferred entry of judgment, in
2 subdivision (a), the court shall render a finding of guilt to schedule
3 the charge or charges pled, enter judgment, and schedule a
4 sentencing hearing matter for further proceedings as otherwise
5 provided in this code.

6 If
7 (d) If the defendant has performed satisfactorily during the
8 period in which deferred entry of judgment was granted, completed
9 pretrial diversion, at the end of that period, the criminal charge or
10 charges shall be dismissed.

11 Prior
12 (e) Prior to dismissing the charge or charges or rendering a
13 finding of guilt and entering judgment, terminating pretrial
14 diversion, the court shall consider the defendant’s ability to pay
15 and whether the defendant has paid a diversion restitution fee
16 pursuant to Section 1001.90, if ordered, and has met his or her
17 financial obligation to the program, if any. As provided in Section
18 1203.1b, the defendant shall reimburse the probation department
19 for the reasonable cost of any program investigation or progress
20 report filed with the court as directed pursuant to Sections 1000.1
21 and 1000.2.

22 SEC. 5. Section 1000.4 of the Penal Code is amended to read:

23 1000.4. (a) Any record filed with the Department of Justice
24 shall indicate the disposition in those cases ~~deferred~~ referred to
25 pretrial diversion pursuant to this chapter. Upon successful
26 completion of a ~~deferred entry of judgment~~ pretrial diversion
27 program, the arrest upon which the ~~judgment~~ defendant was
28 ~~deferred~~ diverted shall be deemed to have never occurred. The
29 defendant may indicate in response to any question concerning his
30 or her prior criminal record that he or she was not arrested or
31 granted ~~deferred entry of judgment~~ pretrial diversion for the
32 offense, except as specified in subdivision (b). A record pertaining
33 to an arrest resulting in successful completion of a ~~deferred entry~~
34 ~~of judgment~~ pretrial diversion program shall not, without the
35 defendant’s consent, be used in any way that could result in the
36 denial of any employment, benefit, license, or certificate.

37 (b) The defendant shall be advised that, regardless of his or her
38 successful completion of the ~~deferred entry of judgment~~ pretrial
39 diversion program, the arrest upon which the ~~judgment~~ pretrial
40 diversion was ~~deferred~~ based may be disclosed by the Department

1 of Justice in response to any peace officer application request and
2 that, notwithstanding subdivision (a), this section does not relieve
3 him or her of the obligation to disclose the arrest in response to
4 any direct question contained in any questionnaire or application
5 for a position as a peace officer, as defined in Section 830.

6 SEC. 6. Section 1000.5 of the Penal Code is amended to read:

7 1000.5. (a) (1) The presiding judge of the superior court, or
8 a judge designated by the presiding judge, together with the district
9 attorney and the public defender, may agree in writing to establish
10 and conduct a preguilty plea drug court program pursuant to the
11 provisions of this chapter, wherein criminal proceedings are
12 suspended without a plea of guilty for designated defendants. The
13 drug court program shall include a regimen of graduated sanctions
14 and rewards, individual and group therapy, ~~urine analysis~~ *urinalysis*
15 testing commensurate with treatment needs, close court monitoring
16 and supervision of progress, educational or vocational counseling
17 as appropriate, and other requirements as agreed to by the presiding
18 judge or his or her designee, the district attorney, and the public
19 defender. If there is no agreement in writing for a preguilty plea
20 program by the presiding judge or his or her designee, the district
21 attorney, and the public defender, the program shall be operated
22 as a ~~deferred entry of judgment~~ *pretrial diversion* program as
23 provided in this chapter.

24 (2) A person charged with a misdemeanor under paragraph (3)
25 of subdivision (b) of Section 11357.5 or paragraph (3) of
26 subdivision (b) of 11375.5 of the Health and Safety Code shall be
27 eligible to participate in a preguilty plea drug court program
28 established pursuant to this chapter, as set forth in Section 11375.7
29 of the Health and Safety Code.

30 (b) The provisions of Section 1000.3 and Section 1000.4
31 regarding satisfactory and unsatisfactory performance in a program
32 shall apply to preguilty plea programs, except as provided in
33 Section 11375.7 of the Health and Safety Code. If the court finds
34 that (1) the defendant is not performing satisfactorily in the
35 assigned program, (2) the defendant is not benefiting from
36 education, treatment, or rehabilitation, (3) the defendant has been
37 convicted of a crime specified in Section 1000.3, or (4) the
38 defendant has engaged in criminal conduct rendering him or her
39 unsuitable for the preguilty plea program, the court shall reinstate
40 the criminal charge or charges. If the defendant has performed

1 satisfactorily during the period of the preguilty plea program, at
2 the end of that period, the criminal charge or charges shall be
3 dismissed and the provisions of Section 1000.4 shall apply.

4 SEC. 7. Section 1000.6 of the Penal Code is amended to read:

5 ~~1000.6. (a) Where a person is participating in a deferred entry
6 of judgment program or a preguilty plea program pursuant to this
7 chapter, the person may also participate in a licensed methadone
8 or levoalphacetylmethadol (LAAM) program if the following
9 conditions are met:~~

10 ~~(1) The sheriff allows a methadone program to operate in the
11 county jail.~~

12 ~~(2) The~~

13 *1000.6. (a) A person who is participating in a pretrial
14 diversion program or a preguilty plea program pursuant to this
15 chapter is authorized under the direction of a licensed health care
16 practitioner, to use medications including, but not limited to,
17 methadone, buprenorphine, or levoalphacetylmethadol (LAAM)
18 to treat substance use disorders if the participant allows release
19 of his or her medical records to the court presiding over the
20 participant's preguilty plea or ~~deferred entry pretrial diversion~~
21 program for the limited purpose of determining whether or not the
22 participant is ~~duly enrolled in using such medications under the~~
23 ~~direction of a licensed methadone or LAAM program health care~~
24 ~~practitioner and is in compliance with ~~deferred entry the pretrial~~~~
25 ~~diversion or preguilty plea program rules.~~*

26 (b) If the conditions specified in ~~paragraphs (1) and (2) of~~
27 ~~subdivision (a) are met, participation in a methadone or LAAM~~
28 ~~treatment program the use by a participant of medications to treat~~
29 ~~substance use disorders shall not be the sole reason for exclusion~~
30 ~~from a ~~deferred entry pretrial diversion or preguilty plea program.~~~~
31 ~~A methadone or LAAM patient who patient who uses medications~~
32 ~~to treat substance use disorders and participates in a preguilty~~
33 ~~plea or ~~deferred entry pretrial diversion~~ program shall comply~~
34 ~~with all court program rules.~~

35 (c) A person who is participating in a ~~deferred entry of judgment~~
36 ~~pretrial diversion~~ program or preguilty plea program pursuant to
37 this chapter who ~~participates in a licensed methadone or LAAM~~
38 ~~program uses medications to treat substance use disorders shall~~
39 ~~present to the court a declaration from the director of the methadone~~
40 ~~his or LAAM program, her health care practitioner, or the~~

1 ~~director's his or her health care practitioner's~~ authorized
2 representative, that the person is currently ~~enrolled and in good~~
3 ~~standing in the program.~~ *under their care.*

4 (d) Urinalysis results that only establish that a person described
5 in this section has ingested *medication duly prescribed to that*
6 *person by his or* ~~taken the methadone administered her physician~~
7 ~~or prescribed by a licensed methadone or LAAM program~~
8 *psychiatrist, or medications used to treat substance use disorders,*
9 shall not be considered a violation of the terms of the ~~deferred~~
10 ~~entry of judgment pretrial diversion~~ or preguilty plea program
11 under this chapter.

12 (e) Except as provided in subdivisions (a) to (d), inclusive, this
13 section ~~shall does not be interpreted to amend affect~~ any provisions
14 *other law* governing ~~deferred entry and~~ diversion programs.

15 SEC. 8. Section 1000.65 is added to the Penal Code,
16 immediately following Section 1000.6, to read:

17 1000.65. This chapter does not affect a pretrial diversion
18 program provided pursuant to Chapter 2.7 (commencing with
19 Section 1001).

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Thurmond	BILL NUMBER:	AB 402
SPONSOR:		BILL STATUS:	
SUBJECT:	Occupational safety and health standards: plume	DATE LAST AMENDED:	Assembly Committee on Labor and Employment

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. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

ANALYSIS:

A similar bill, AB 2272 (Thurmond) related to plume, was presented during the 2015-2016 session. The Legislative Committee had taken a Support position. The Governor returned the bill without his signature.

This bill would, by June 1, 2018, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties.

The bill would require the division, in developing regulations to do certain things, including evaluating the use of certain standards adopted by specified organizations as a benchmark. The bill would also require the division, when developing the proposed regulations, to take into consideration recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health. The bill would, by June 1, 2019, require the division to submit to the board a proposed regulation. The bill would, by July 1, 2020, require the board to adopt a proposed regulation.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. 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.

The bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 402

Introduced by Assembly Member Thurmond

February 9, 2017

An act to add Section 144.9 to the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, as introduced, 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. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would, by June 1, 2018, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties. The bill would require the division, in developing regulations to do certain things, including evaluating the use of certain standards adopted by specified organizations as a benchmark. The bill would also require the division, when developing the proposed regulations, to take into consideration

recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health. The bill would, by June 1, 2019, require the division to submit to the board a proposed regulation. The bill would, by July 1, 2020, require the board to adopt a proposed regulation.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. 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.

The bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.

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) "Division" means the Division of Occupational Safety and
- 5 Health.
- 6 (2) "Electrocautery device" means a device that is electrically
- 7 heated to cut, ablate, or coagulate human tissue for therapeutic
- 8 purposes.

1 (3) “Electrosurgical device” means a device that uses a radio
2 frequency electric current passing through the patient to cut, ablate,
3 or coagulate human tissue for therapeutic purposes.

4 (4) “Energy-based device” means a device that uses energy to
5 ablate, cauterize, or mechanically manipulate target human tissue
6 including lasers, electrosurgical generators, broadband light
7 sources, ultrasonic instruments, plasma generators, bone saws, and
8 drills.

9 (5) “Health facility” means a health facility as defined in
10 subdivision (a) of Section 1250 of the Health and Safety Code.

11 (6) “Plume” means noxious airborne contaminants generated
12 as byproducts of the use of energy-based devices, electrosurgical
13 devices, electrocautery devices, or mechanical tools during surgical,
14 diagnostic, or therapeutic procedures.

15 (7) “Plume scavenging system” means smoke evacuators, laser
16 plume evacuators, plume scavengers, and local exhaust ventilators
17 that capture and neutralize plume at the site of origin and before
18 plume can make ocular contact or contact with the respiratory tract
19 of employees.

20 (b) (1) The division, by June 1, 2018, shall convene an advisory
21 committee to develop a regulation that requires a health facility to
22 evacuate or remove plume through the use of a plume scavenging
23 system in all settings that employ techniques that involve the
24 creation of plume. The advisory committee may include health
25 facilities, practicing physicians and surgeons from affected
26 specialties, registered nurses and other affected health care
27 personnel, labor and specialty organizations representing affected
28 registered nurses, labor and specialty organizations representing
29 other affected health care personnel, and other stakeholders.

30 (2) By June 1, 2019, the division shall submit to the board a
31 proposed regulation requiring a health facility to evacuate or
32 remove plume through the use of a plume scavenging system in
33 all settings that employ techniques that involve the creation of
34 plume.

35 (3) In developing regulations, the division shall do all of the
36 following:

37 (A) Evaluate using as a benchmark the standards titled “Systems
38 for evacuation of plume generated by medical devices” (ISO
39 16571) adopted by the International Organization for
40 Standardization and the standards titled “Plume scavenging in

1 surgical, diagnostic, therapeutic, and aesthetic settings” (CSA
2 Z305.13-13) adopted by the CSA Group.

3 (B) Take into consideration recommendations on the evacuation
4 of plume from the federal Occupational Safety and Health
5 Administration and National Institute for Occupational Safety and
6 Health.

7 (C) Take into consideration the standards titled “Systems for
8 evacuation of plume generated by medical devices” (ISO 16571)
9 adopted by the International Organization for Standardization in
10 developing a standard establishing how much plume shall be
11 captured by a plume scavenging system.

12 (D) Include a requirement in the regulation for employers to
13 provide training to all workers foreseeably participating in
14 procedures that involve the creation of plume. The training shall
15 include, but not be limited to, general education on the contents
16 of plume, the circumstances in which it is generated, the associated
17 health and safety hazards, and appropriate use of the plume
18 scavenging equipment and systems utilized by the health facility.
19 The training shall be designed to provide an opportunity for
20 interactive questions and answers with a person knowledgeable
21 about occupational exposure to plume and the specific equipment
22 utilized to scavenge plume.

23 (c) The board shall, by July 1, 2020, adopt a proposed regulation
24 of the division, except as specified in subdivision (f), requiring a
25 health facility to evacuate or remove plume through the use of a
26 plume scavenging system in all settings that employ techniques
27 that involve the creation of plume.

28 (d) (1) Nothing in this section alters, amends, expands, or
29 reduces existing general room ventilation standards or
30 requirements. These plume scavenging standards are in addition
31 to general room ventilation standards or requirements, and
32 compliance with general room ventilation standards shall not satisfy
33 the requirements of this section.

34 (2) Evidence that the plume scavenging system conforms to the
35 minimum requirements of this section when installed, operated,
36 and maintained in accordance with the manufacturer’s instructions,
37 shall be provided by the manufacturer.

38 (e) The use of surgical masks shall not satisfy the requirements
39 of this section. The use of respirators shall not satisfy the
40 requirements of this section except when, due to medical necessity,

1 the plume scavenging system is not able to be located where it
2 effectively captures plume.

3 (f) This section shall not limit the authority of the division to
4 develop a regulation, or the authority of the board to adopt a
5 regulation, that is broader in scope or broader in application than
6 required by this section.

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

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Arambula	BILL NUMBER:	AB 422
SPONSOR:		BILL STATUS:	
SUBJECT:	California State University: Doctor of Nursing Practice Degree Program	DATE LAST AMENDED:	Assembly Committee on Higher Education

SUMMARY:

Existing law, until July 1, 2018, establishes the Doctor of Nursing Practice Degree Pilot Program, under which the California State University is authorized to establish a Doctor of Nursing Practice degree pilot program at 3 campuses to award Doctor of Nursing Practice degrees, subject to specified program and enrollment requirements.

ANALYSIS:

This bill would repeal those provisions and would authorize the California State University to establish Doctor of Nursing Practice degree programs that offer Doctor of Nursing Practice degrees, subject to specified program and enrollment requirements. The bill would require the California State University to provide initial funding from within existing budgets, as specified, and would express the Legislature's intent that the California State University seek private donations or other nonstate funds to fund startup costs for the programs.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 422

**Introduced by Assembly Member Arambula
(Coauthor: Assembly Member Quirk-Silva)**

February 9, 2017

An act to repeal and add Article 9 (commencing with Section 89280) of Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, relating to nursing degrees.

LEGISLATIVE COUNSEL'S DIGEST

AB 422, as introduced, Arambula. California State University: Doctor of Nursing Practice Degree Program.

Existing law, until July 1, 2018, establishes the Doctor of Nursing Practice Degree Pilot Program, under which the California State University is authorized to establish a Doctor of Nursing Practice degree pilot program at 3 campuses to award Doctor of Nursing Practice degrees, subject to specified program and enrollment requirements.

This bill would repeal those provisions and would authorize the California State University to establish Doctor of Nursing Practice degree programs that offer Doctor of Nursing Practice degrees, subject to specified program and enrollment requirements. The bill would require the California State University to provide initial funding from within existing budgets, as specified, and would express the Legislature's intent that the California State University seek private donations or other nonstate funds to fund startup costs for the programs.

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. Article 9 (commencing with Section 89280) of
2 Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code
3 is repealed.

4 SEC. 2. Article 9 (commencing with Section 89280) is added
5 to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education
6 Code, to read:

7
8 Article 9. Doctor of Nursing Practice Degree Program
9

10 89280. (a) Notwithstanding Section 66010.4, in order to meet
11 specific nursing education needs in California, the California State
12 University may establish Doctor of Nursing Practice degree
13 programs.

14 (b) The Doctor of Nursing Practice degree offered by the
15 California State University shall be distinguished from the doctor
16 of philosophy degrees in nursing offered at, or in conjunction with,
17 the University of California.

18 (c) Doctor of Nursing Practice degree programs offered by the
19 California State University shall focus on the preparation of nursing
20 faculty to teach in postsecondary nursing education programs and
21 may also train nurses for advanced nursing practice or nurse
22 leadership, or both.

23 (d) Doctor of Nursing Practice degree programs established by
24 the California State University are not exempt from any required
25 review and approval processes.

26 (e) Enrollments in Doctor of Nursing Practice programs shall
27 not alter the California State University’s ratio of graduate
28 instruction to total enrollment, and shall not diminish enrollment
29 growth in university undergraduate programs.

30 (f) The California State University shall provide any initial
31 funding needed for Doctor of Nursing Practice programs authorized
32 by this article from within existing budgets for academic programs
33 support, without diminishing the quality of program support offered
34 to California State University undergraduate programs. It is the
35 intent of the Legislature that the California State University seek
36 private donations or other nonstate funds to fund startup costs for
37 Doctor of Nursing Practice degree programs.

1 89281. The California State University shall permit students
2 enrolled in the Doctor of Nursing Practice Degree Pilot Program
3 established pursuant to this article, as it read on December 31,
4 2017, to complete their coursework on and after January 1, 2018.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Santiago	BILL NUMBER:	AB 508
SPONSOR:		BILL STATUS:	Assembly Committee on Business and Professions
SUBJECT:	Health care practitioners: student loans	DATE LAST AMENDED:	Introduced February 13, 2017

SUMMARY:

Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan.

Existing law authorizes the board to deny a license to an applicant to become a health care practitioner or deny renewal of a license if he or she is in default on a loan until the default is cleared or until the applicant or licensee makes satisfactory repayment arrangements.

Existing law requires a board, prior to taking these actions, to take into consideration the population served by the health care practitioner and his or her economic status.

Existing law requires that each board that issues citations and imposes fines retain the money from these fines for deposit into its appropriate fund.

ANALYSIS:

This bill would repeal these provisions.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 508

Introduced by Assembly Member Santiago

February 13, 2017

An act to repeal Section 685 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 508, as introduced, Santiago. Health care practitioners: student loans.

Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan. Existing law authorizes the board to deny a license to an applicant to become a health care practitioner or deny renewal of a license if he or she is in default on a loan until the default is cleared or until the applicant or licensee makes satisfactory repayment arrangements. Existing law requires a board, prior to taking these actions, to take into consideration the population served by the health care practitioner and his or her economic status. Existing law requires that each board that issues citations and imposes fines retain the money from these fines for deposit into its appropriate fund.

This bill would repeal these provisions.

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 685 of the Business and Professions Code
2 is repealed.

3 ~~685. (a) (1) A board may cite and fine a currently licensed~~
4 ~~health care practitioner if he or she is in default on a United States~~
5 ~~Department of Health and Human Services education loan,~~
6 ~~including a Health Education Assistance Loan:~~

7 ~~(2) Each board that issues citations and imposes fines shall retain~~
8 ~~the money from these fines for deposit into its appropriate fund.~~

9 ~~(b) The board may deny a license to an applicant to be a health~~
10 ~~care practitioner or deny renewal of a license if he or she is in~~
11 ~~default on a United States Department of Health and Human~~
12 ~~Services education loan, including a Health Education Assistance~~
13 ~~Loan, until the default is cleared or until the applicant or licensee~~
14 ~~has made satisfactory repayment arrangements.~~

15 ~~(c) In determining whether to issue a citation and the amount~~
16 ~~of the fine to a health care practitioner or to deny a license to an~~
17 ~~applicant to be a health care practitioner or to deny the renewal of~~
18 ~~a license, a board shall take into consideration the following:~~

19 ~~(1) The population served by the health care practitioner.~~
20 ~~(2) The health care practitioner’s economic status.~~

21 ~~(d) For purposes of this section, the following terms shall have~~
22 ~~the following meanings:~~

23 ~~(1) “Board” means a licensing board or agency having~~
24 ~~jurisdiction of a licensee, but does not include the Board of~~
25 ~~Chiropractic Examiners.~~

26 ~~(2) “Health care practitioner” means a person licensed or~~
27 ~~certified pursuant to this division or licensed pursuant to the~~
28 ~~Osteopathic Initiative Act.~~

29 ~~(e) This section shall become operative on July 1, 2003.~~

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Arambula	BILL NUMBER:	AB 882
SPONSOR:		BILL STATUS:	
SUBJECT:	Pupil health care services: school nurses	DATE LAST AMENDED:	Introduced

SUMMARY:

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, subject to approval by the governing board of the school district, to perform various pupil health care services.

ANALYSIS:

This bill would state the intent of the Legislature that would enact legislation to increase the number of school nurses in every school district in California.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 882

Introduced by Assembly Member Arambula

February 16, 2017

An act relating to pupil health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 882, as introduced, Arambula. Pupil health care services: school nurses.

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, subject to approval by the governing board of the school district, to perform various pupil health care services.

This bill would state the intent of the Legislature that would enact legislation to increase the number of school nurses in every school district in California.

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

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

- 1 SECTION 1. It is the intent of the Legislature that would enact
- 2 legislation to increase the number of school nurses in every school
- 3 district in California.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Burke	BILL NUMBER:	AB 1110
SPONSOR:		BILL STATUS:	
SUBJECT:	Pupil health: vision services	DATE LAST AMENDED:	Introduced

SUMMARY:

Existing law requires a pupil's vision to be appraised by a school nurse or other authorized person in the pupil's kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil's parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist. Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

ANALYSIS:

This bill would require a pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of a vision examination conducted by a physician, optometrist, or ophthalmologist in accordance with specified provisions.

The bill would prohibit a school from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the vision examination.

The bill would require the department to adopt regulations, rather than guidelines, to implement these provisions.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 1110

Introduced by Assembly Member Burke
(Coauthor: Assembly Member Low)
(Coauthors: Senators Nguyen and Vidak)

February 17, 2017

An act to amend Section 49455 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1110, as introduced, Burke. Pupil health: vision examinations.

Existing law requires a pupil's vision to be appraised by a school nurse or other authorized person in the pupil's kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil's parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist. Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

This bill would require a pupil's vision to be appraised in accordance with the above-specified provisions only if the pupil's parent or guardian fails to provide the results of a vision examination conducted by a physician, optometrist, or ophthalmologist in accordance with specified provisions. The bill would prohibit a school from denying admission to, or taking adverse action against, a pupil if his or her parent or guardian fails to provide the results of the vision examination. The bill would require the department to adopt regulations, rather than guidelines, to implement these provisions.

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 49455 of the Education Code is amended
 2 to read:
 3 49455. (a) ~~(1)~~—During the kindergarten year or upon first
 4 enrollment or entry in a California school district of a pupil at an
 5 elementary school, and ~~in grades 2, 5, and~~ *at least every second*
 6 *year thereafter until the pupil has completed grade 8*, the pupil’s
 7 vision shall be ~~appraised~~ *examined by a physician, optometrist,*
 8 *or ophthalmologist. This examination shall include tests for*
 9 *distance and near visual acuity, eye tracking, binocular vision*
 10 *skills, including both eye teaming and convergence,*
 11 *accommodation, color vision, depth perception, intraocular*
 12 *pressure, pupil evaluation, objective and subjective refraction,*
 13 *and eye health evaluations. The parent or guardian of the school*
 14 ~~nurse or other authorized person under Section 49452.~~ *pupil shall*
 15 *provide results of the vision examination to the school.*
 16 (b) *A school shall not deny admission to a pupil or take any*
 17 *other adverse action against a pupil if his or her parent or*
 18 *guardian fails to provide the results of the vision examination to*
 19 *the school.*
 20 (c) (1) *If the results of the vision examination are not provided*
 21 *to the school, then during the kindergarten year or upon first*
 22 *enrollment or entry, and in grades 2, 5, and 8, the pupil’s vision*
 23 *shall be appraised by the school nurse or other person authorized*
 24 *under Section 49452.*
 25 (2) A pupil whose first enrollment or entry occurs in grade 4 or
 26 7 shall not be required to be appraised in the year immediately
 27 following the pupil’s first enrollment or entry.
 28 ~~(b)~~
 29 (3) The appraisal shall include tests for visual acuity, including
 30 ~~near-vision; vision and color-vision; however, vision. However,~~
 31 *color vision shall be appraised once and only on male pupils, and*
 32 *the results of the appraisal shall be entered in the health record of*
 33 *the pupil. Color vision appraisal need not begin until the male*
 34 *pupil has reached the first grade. grade 1.*
 35 ~~(e) The appraisal may be waived, if the pupil’s parents so desire,~~
 36 ~~by their presenting of a certificate from a physician and surgeon,~~
 37 ~~a physician assistant practicing in compliance with Chapter 7.7~~
 38 ~~(commencing with Section 3500) of Division 2 of the Business~~

1 and Professions Code, or an optometrist setting out the results of
2 a determination of the pupil's vision, including visual acuity and
3 color vision.

4 (d)

5 (4) A pupil's vision may be appraised by using an eye chart or
6 any other scientifically validated photoscreening test.
7 Photoscreening tests shall be ~~performed~~, *performed* under an
8 agreement with, or the supervision of, an optometrist or
9 ophthalmologist, by the school ~~nurse~~ *nurse*, or *by* a trained
10 individual who meets requirements established by the department.

11 (e)

12 (d) Continual and regular observation of the pupil's eyes,
13 appearance, behavior, visual performance, and perception that may
14 indicate vision difficulties shall be done by the school nurse and
15 the classroom teacher.

16 (f)

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

23 (g)

24 (f) The department shall adopt ~~guidelines~~ *regulations* to
25 implement this section, including training ~~requirements~~
26 *requirements*, and a ~~method of testing for near vision~~. *shall provide*
27 *participation data*.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Obernolte	BILL NUMBER:	AB 1190
SPONSOR:		BILL STATUS:	Assembly <i>May be acted upon on or after March 21st</i>
SUBJECT:	Department of Consumer Affairs: BreEZe system: annual report	DATE LAST AMENDED:	Introduced February 17, 2017

SUMMARY:

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the Department of Technology, formerly known as the office of the State Chief Information Officer, based on information provided by the department in a specified manner.

ANALYSIS:

This bill on and after July 1, 2018, would require the department to submit an annual report to the Legislature that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the department's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 1190

Introduced by Assembly Member Obernolte

February 17, 2017

An act to add Section 210.5 to the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1190, as introduced, Obernolte. Department of Consumer Affairs: BreZE system: annual report.

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreZE system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the Department of Technology, formerly known as the office of the State Chief Information Officer, based on information provided by the department in a specified manner.

This bill on and after July 1, 2018, would require the department to submit an annual report to the Legislature that includes, among other things, the department's plans for implementing the BreZE system at specified regulatory entities included in the department's 3rd phase of the BreZE implementation project, including, but not limited to, a timeline for the implementation.

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 210.5 is added to the Business and*
 2 *Professions Code, immediately following Section 210, to read:*
 3 *210.5. (a) On or before July 1 of each year, commencing July*
 4 *1, 2018, the department shall submit an annual report to the*
 5 *Legislature that includes all of the following:*
 6 *(1) The department’s plan for implementing the BreEZe system*
 7 *at the regulatory entities in the department’s third phase of the*
 8 *implementation project, including, but not limited to, a timeline*
 9 *for implementation.*
 10 *(2) The total estimated costs of implementation of the BreEZe*
 11 *system at the regulatory entities in the department’s third phase*
 12 *of the implementation project and the results of any cost-benefit*
 13 *analysis the department conducted for the third phase of the*
 14 *implementation project.*
 15 *(3) A description of whether and to what extent the BreEZe*
 16 *system will achieve any operational efficiencies resulting from*
 17 *implementation by the boards and regulatory entities within the*
 18 *department’s jurisdiction.*
 19 *(b) The report described in subdivision (a) shall be submitted*
 20 *in compliance with Section 9795 of the Government Code.*
 21 *(c) For purposes of this section, “the regulatory entities in the*
 22 *department’s third phase of the implementation project” includes*
 23 *all of the following:*
 24 *(1) Acupuncture Board.*
 25 *(2) Board for Professional Engineers, Land Surveyors, and*
 26 *Geologists.*
 27 *(3) Bureau of Automotive Repair.*
 28 *(4) Bureau of Electronic and Appliance Repair, Home*
 29 *Furnishings, and Thermal Insulation.*
 30 *(5) Bureau for Private Postsecondary Education.*
 31 *(6) California Architects Board.*
 32 *(7) California Board of Accountancy.*
 33 *(8) California State Board of Pharmacy.*
 34 *(9) Cemetery and Funeral Bureau.*
 35 *(10) Contractors’ State License Board.*
 36 *(11) Court Reporters Board of California.*
 37 *(12) Landscape Architects Technical Committee.*
 38 *(13) Professional Fiduciaries Bureau.*

- 1 *(14) Speech-Language Pathology and Audiology and Hearing*
- 2 *Aid Dispensers Board.*
- 3 *(15) State Athletic Commission.*
- 4 *(16) State Board of Chiropractic Examiners.*
- 5 *(17) State Board of Guide Dogs for the Blind.*
- 6 *(18) Structural Pest Control Board.*
- 7 *(19) Telephone Medical Advice Services Bureau.*

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Burke	BILL NUMBER:	AB 1612
SPONSOR:		BILL STATUS:	
SUBJECT:	Nursing: nurse-midwives	DATE LAST AMENDED:	Introduced February 17, 2017

SUMMARY:

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 issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications.

That act authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

ANALYSIS:

This bill would remove from the authority of the committee the development of standards relating to ratios of nurse-midwives to supervising physicians.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL

No. 1612

Introduced by Assembly Member Burke

February 17, 2017

An act to amend Section 2746.2 of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as introduced, Burke. Nursing: nurse-midwives.

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 issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications. That act authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

This bill would remove from the authority of the committee the development of standards relating to ratios of nurse-midwives to supervising physicians.

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 2746.2 of the Business and Professions
- 2 Code is amended to read:
- 3 2746.2. Each applicant shall show by evidence satisfactory to
- 4 the board that he *or she* has met the educational standards

1 established by the board or has at least the equivalent thereof. The
2 board is authorized to appoint a committee of qualified physicians
3 and nurses, including, but not limited to, obstetricians and
4 nurse-midwives, to develop the necessary standards relating to
5 educational requirements, ratios of nurse-midwives to supervising
6 ~~physicians~~, *requirements* and associated matters.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Monning	BILL NUMBER:	SB 227
SPONSOR:		BILL STATUS:	Senate Committee on Business, Professions & Economic Development
SUBJECT:	Vocational nurse: feeding tube services: neurodegenerative conditions.	DATE LAST AMENDED:	Introduced February 2, 2017

SUMMARY:

Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians for the regulation and licensure of vocational nurses and authorizes a licensed vocational nurse to perform certain medical procedures under the direction of a physician and surgeon.

ANALYSIS:

This bill would authorize a licensed vocational nurse to perform certain feeding tube services in a home setting for a patient with a neurodegenerative condition.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Monning

February 2, 2017

An act to add Section 2860.8 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 227, as introduced, Monning. Vocational nurse: feeding tube services: neurodegenerative conditions.

Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians for the regulation and licensure of vocational nurses and authorizes a licensed vocational nurse to perform certain medical procedures under the direction of a physician and surgeon.

This bill would authorize a licensed vocational nurse to perform certain feeding tube services in a home setting for a patient with a neurodegenerative condition.

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 2860.8 is added to the Business and
- 2 Professions Code, to read:
- 3 2860.8. A licensed vocational nurse may perform the following
- 4 feeding tube services in a home setting for a patient diagnosed by
- 5 a physician and surgeon as having Amyotrophic Lateral Sclerosis
- 6 (ALS) or any other neurodegenerative condition:
- 7 (a) Feeding.
- 8 (b) Hydration.

1 (c) Cleaning stoma.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Moorlach	BILL NUMBER:	SB 247
SPONSOR:		BILL STATUS:	
SUBJECT:	Licensing requirements	DATE LAST AMENDED:	Introduced February 6, 2017

SUMMARY:

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

ANALYSIS:

This bill would state the intent of the Legislature to enact legislation that would reduce occupational licensing requirements.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Moorlach

February 6, 2017

An act relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as introduced, Moorlach. Licensing requirements.

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

This bill would state the intent of the Legislature to enact legislation that would reduce occupational licensing requirements.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation that would reduce occupational licensing requirements.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	De León	BILL NUMBER:	SB 496
SPONSOR:		BILL STATUS:	Senate <i>May be acted upon on or after March 19th.</i>
SUBJECT:	Department of Consumer Affairs: regulatory boards: removal of board members	DATE LAST AMENDED:	Introduced February 16, 2017

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 the Governor to remove from office any member of any board within the department appointed by him or her, on specific grounds, including continued neglect of duties required by law.

ANALYSIS:

This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator De León

February 16, 2017

An act to amend Section 106 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 496, as introduced, De León. Department of Consumer Affairs: regulatory boards: removal of board members.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her, on specific grounds, including continued neglect of duties required by law.

This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

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

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

1 SECTION 1. Section 106 of the Business and Professions Code
2 is amended to read:
3 106. The Governor has power to remove from office at any
4 time, any member of any board appointed by him *or her* for
5 continued neglect of duties required by law, *which may include*
6 *the failure to attend board meetings*, or for incompetence, or

1 unprofessional or dishonorable conduct. Nothing in this section
2 shall be construed as a limitation or restriction on the power of the
3 Governor, conferred on him *or her* by any other ~~provision of law,~~
4 to remove any member of any board.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Stone	BILL NUMBER:	SB 554
SPONSOR:		BILL STATUS:	
SUBJECT:	Nurse practitioners: independent practice	DATE LAST AMENDED:	Introduced February 16, 2017

SUMMARY:

Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing.

Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment or plan of care after consultation with a physician and surgeon. A violation of these provisions is a crime.

ANALYSIS:

This bill would authorize a nurse practitioner who holds a certification from a national certifying body, recognized by the board, to be certified by the board as an independent nurse practitioner and to perform certain nursing functions without the supervision of a physician and surgeon, if the independent nurse practitioner meets specified requirements and practices in underserved geographic areas, as determined by the board.

The bill would prohibit a person from advertizing or hold himself or herself out as an “independent nurse practitioner” unless the person is certified by the board as an independent nurse practitioner pursuant to this bill.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator StoneFebruary 16, 2017

An act to add Article 8.5 (commencing with Section 2837.50) to Chapter 6 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as introduced, Stone. Nurse practitioners: independent practice.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment or plan of care after consultation with a physician and surgeon. A violation of these provisions is a crime.

This bill would authorize a nurse practitioner who holds a certification from a national certifying body, recognized by the board, to be certified by the board as an independent nurse practitioner and to perform certain nursing functions without the supervision of a physician and surgeon, if the independent nurse practitioner meets specified requirements and practices in underserved geographic areas, as determined by the board.

The bill would prohibit a person from advertizing or hold himself or herself out as an "independent nurse practitioner" unless the person is certified by the board as an independent nurse practitioner pursuant to

this bill. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

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

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

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. Article 8.5 (commencing with Section 2837.50)
2 is added to Chapter 6 of Division 2 of the Business and Professions
3 Code, to read:

4
5 Article 8.5. Independent Nurse Practitioners
6

7 2837.50. (a) The board shall establish the category of
8 independent nurse practitioner and shall establish the qualifications
9 and the scope of independent practice as set forth in this article.

10 (b) The qualifications for a certification by the board as an
11 independent nurse practitioner shall include compliance with all
12 of the following:

13 (1) Meeting all of the licensing requirements of Article 8
14 (commencing with Section 2834).

15 (2) Holding a certificate of independent nurse practitioner issued
16 by a national certifying agency recognized by the board.

17 (c) Notwithstanding any law, the board shall specify the scope
18 of practice of an independent nurse practitioner to include all of
19 the following:

20 (1) The nursing practice of a nurse practitioner as set forth in
21 Article 8 (commencing with Section 2834) performed under the
22 supervision of a supervising physician and surgeon as set forth in
23 that article.

24 (2) Specific aspects of the nursing practice of a nurse practitioner
25 as set forth in Article 8 (commencing with Section 2834),
26 including, but not limited to, standardized procedures, as set forth
27 in Section 2725, that may be independently performed by an
28 independent nurse practitioner. Functions identified by the board

1 pursuant to this paragraph may be performed by an independent
2 nurse practitioner, certified pursuant to this article, without the
3 supervision of a physician and surgeon. An independent nurse
4 practitioner shall be authorized to practice independently pursuant
5 to this paragraph only in underserved geographic areas, as
6 determined by the board.

7 (d) No person shall advertise or hold himself or herself out as
8 an “independent nurse practitioner” unless the person is certified
9 by the board as an independent nurse practitioner pursuant to this
10 article.

11 SEC. 2. 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
March 18, 2017**

BILL ANALYSIS

AUTHOR:	Portantino	BILL NUMBER:	SB 746
SPONSOR:		BILL STATUS:	
SUBJECT:	Pupil health: physical exam	DATE LAST AMENDED:	Introduced February 17, 2017

SUMMARY:

Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for a pupil to participate in an interscholastic athletic program of a school.

ANALYSIS:

This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession to perform that physical examination.

ANALYSIS:

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Portantino

February 17, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as introduced, Portantino. Pupil health: physical examinations.

Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for a pupil to participate in an interscholastic athletic program of a school.

This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession to perform that physical examination.

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

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

- 1 SECTION 1. Section 49458 of the Education Code is amended
- 2 to read:
- 3 49458. When a school district or a county superintendent of
- 4 schools requires a physical examination as a condition of
- 5 participation in an interscholastic athletic program, the physical
- 6 examination may be performed by a physician and ~~surgeon or~~
- 7 *surgeon*, physician assistant practicing in compliance with Chapter
- 8 7.7 (commencing with Section 3500) of Division 2 of the Business
- 9 and Professions ~~Code~~. *Code, doctor of chiropractic practicing in*

1 *compliance with Chapter 2 (commencing with Section 1000) of*
2 *Division 2 of the Business and Professions Code, naturopathic*
3 *doctor practicing in compliance with Chapter 8.2 (commencing*
4 *with Section 3610) of Division 2 of the Business and Professions*
5 *Code, or nurse practitioner practicing in compliance with Article*
6 *8 (commencing with Section 2834) of Chapter 6 of Division 2 of*
7 *the Business and Professions Code.*

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 799
SPONSOR:		BILL STATUS:	Senate <i>May be acted upon on or after March 23rd</i>
SUBJECT:	Board of Registered Nursing: sunset extension	DATE LAST AMENDED:	Introduced February 17, 2017

SUMMARY:

Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs and sets forth its powers and duties regarding the licensure and regulation of registered nurses. Existing law requires the board to appoint an executive officer to perform duties delegated by the board.

ANALYSIS:

Existing law, on January 1, 2018, repeals the provisions establishing the board and the executive officer position.

This bill would extend the repeal date of those provisions to January 1, 2022.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Hill

February 17, 2017

An act to amend Sections 2701 and 2708 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as introduced, Hill. Board of Registered Nursing: sunset extension.

Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs and sets forth its powers and duties regarding the licensure and regulation of registered nurses. Existing law requires the board to appoint an executive officer to perform duties delegated by the board.

Existing law, on January 1, 2018, repeals the provisions establishing the board and the executive officer position.

This bill would extend the repeal date of those provisions to January 1, 2022.

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 2701 of the Business and Professions
- 2 Code is amended to read:
- 3 2701. (a) There is in the Department of Consumer Affairs the
- 4 Board of Registered Nursing consisting of nine members.
- 5 (b) For purposes of this chapter, "board," or "the board," refers
- 6 to the Board of Registered Nursing. Any reference in state law to
- 7 the Board of Nurse Examiners of the State of California or the

1 California Board of Nursing Education and Nurse Registration
2 shall be construed to refer to the Board of Registered Nursing.

3 (c) The board shall have all authority vested in the previous
4 board under this chapter. The board may enforce all disciplinary
5 actions undertaken by the previous board.

6 (d) This section shall remain in effect only until January 1, ~~2018~~,
7 2022, and as of that date, is repealed, unless a later enacted statute
8 that is enacted before January 1, ~~2018~~, 2022, deletes or extends
9 that date. Notwithstanding any other law, the repeal of this section
10 renders the board subject to review by the appropriate policy
11 committees of the Legislature.

12 SEC. 2. Section 2708 of the Business and Professions Code is
13 amended to read:

14 2708. (a) The board shall appoint an executive officer who
15 shall perform the duties delegated by the board and who shall be
16 responsible to it for the accomplishment of those duties.

17 (b) The executive officer shall be a nurse currently licensed
18 under this chapter and shall possess other qualifications as
19 determined by the board.

20 (c) The executive officer shall not be a member of the board.

21 (d) This section shall remain in effect only until January 1, ~~2018~~,
22 2022, and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, ~~2018~~, 2022, deletes or extends
24 that date.