



LEGISLATIVE COMMITTEE MEETING

AGENDA

Embassy Suites San Francisco Airport
250 Gateway Boulevard
South San Francisco, California 94080
(650) 589-3400

May 12, 2016

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

Thursday, May 12, 2016:

8.0 Call to Order, Roll Call and Establishment of Quorum

- 8.01 Review and Vote on Whether to Approve the Minutes of:
- March 10, 2016

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

Assembly Bills

Senate Bills

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

8.2 Public Comment for Items Not on the Agenda

8.3 Adjournment

NOTICE:

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

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

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov, or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.



BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: March 10, 2016

TIME: 11:02 a.m.- 12:15 p.m.

LOCATION: DoubleTree by Hilton Hotel Claremont
 555 W. Foothill Boulevard
 Claremont, California 91711

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

MEMBER ABSENT: None

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

Imelda Ceja-Butkiewicz called the meeting to order at 11:02 a.m.

8.0 Review and Approve Minutes

Motion: Imelda Ceja-Butkiewicz to Accept the January 10, 2016, Minutes			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Abstain

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

AB 1939 Patterson: Licensing requirements

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Cindy Klein			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2079 Calderon: Skilled nursing facilities: staffing

No public comment.

Motion: Cindy Klein to Watch			
Second: Imelda Ceja-Butkiewicz			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2209 Bonilla: Health care coverage: clinical care pathways

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2399 Nazarian: Pregnancy: umbilical cord blood: blood testing

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2507 Gordon: Telehealth: access

One public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Cindy Klein			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2606 Grove: Crimes against children, elders, dependent adults, and persons with disabilities

One public comment.

Motion: Donna Gerber to Watch			
Second: Imelda Ceja-Butkiewicz			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2701 Jones: Department of Consumer Affairs: boards: training requirements

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Cindy Klein			

ICB: Yes	TP: Yes	CK: Yes	DG: Yes
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AB 2744 Gordon: Healing arts: referrals

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Donna Gerber			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

AB 2859 Low: Professions and vocations: retired category: licenses

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Cindy Klein			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 960 Hernandez: Medi-Cal: telehealth: reproductive health care

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 1039 Hill: Professions and vocations

Two public comments.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Donna Gerber			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 1139 Lara: Health professions: undocumented immigrants: scholarships, loans, and loan repayments

No public comments.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Donna Gerber			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 1155 Morrell: Professions and vocations: licenses: military service

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

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

No public comment.

Motion: Donna Gerber to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 1334 Stone: Crime reporting: health practitioners: human trafficking

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

SB 1348 Cannella: Licensure applications: military experience

No public comment.

Motion: Imelda Ceja-Butkiewicz to Watch			
Second: Trande Phillips			
ICB: Yes	TP: Yes	CK: Yes	DG: Yes

8.2 Public Comment for Items Not on the Agenda

There were no public comments.

The meeting adjourned at 12:15 p.m.

Submitted by: _____
Kay Weinkam, Nursing Education Consultant

Approved by: _____
Imelda Ceja-Butkiewicz, Chair

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: May 12, 2016

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

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

BACKGROUND:

Assembly Bills

Senate Bills

AB 12	AB 1748	SB 319	SB 800
AB 26	AB 1939	SB 323	SB 960
AB 85	AB1992	SB 390	SB 1039
AB 172	AB 2079	SB 408	SB 1139
AB 611	AB 2209	SB 464	SB 1155
AB 637	AB 2399	SB 466	SB 1195
AB 840	AB 2507	SB 467	SB 1217
AB 1060	AB 2606	SB 482	SB 1334
AB 1306	AB 2701	SB 531	SB 1348
AB 1351	AB 2744		
AB 1352	AB 2859		
AB 1386			

NEXT STEP: Place on Board agenda

**FINANCIAL
IMPLICATIONS,
IF ANY:**

As reflected by proposed legislation

**PERSON TO
CONTACT:**

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

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
May 12, 2016**

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

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

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2015
May 12, 2016**

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

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BOARD OF REGISTERED NURSING
Senate Bills 2015-2016
May 12, 2016

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 319	Beall	Child welfare services: public health: nursing		Watch (4/2/15)	Chapter 535, Statutes of 2015
SB 323	Hernandez	Nurse practitioners: scope of practice	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
SB 390	Bates	Home health agencies: skilled nursing services		Watch (4/2/15)	Senate Health
SB 408	Morrell	Midwife assistants		Oppose (6/4/15)	Chapter 280, Statutes of 2015
SB 464	Hernandez	Healing arts: self-reporting tools	Support (8/6/15)		Chapter 387, Statutes of 2015
SB 466	Hill	Nursing: Board of Registered Nursing	Watch (8/6/15)	Watch (9/3/15)	Chapter 489, Statutes of 2015
SB 467	Hill	Professions and vocations	Watch (8/6/15)	Watch (9/3/15)	Chapter 656, Statutes of 2015
SB 482	Lara	Controlled substances: CURES database		Support (6/4/15)	Assembly Rules
SB 531	Bates	Board of Behavioral Sciences		Watch (4/2/15)	No longer applicable to the Board
SB 800	Committee on BP&ED	Healing arts	Support (5/7/15)	Support (6/4/15)	Chapter 426, Statutes of 2015
SB 960	Hernandez	Medi-Cal: telehealth: reproductive health care	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1039	Hill	Professions and vocations	Watch (3/10/16)	Support/Watch (4/14/16)	Senate APPR
SB 1139	Lara	Health professions: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1155	Morrell	Professions and vocations: licenses: military service	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1195	Hill	Professions and vocations: board actions: competitive impact		Oppose (4/14/16)	Senate APPR
SB 1217	Stone	Healing arts: reporting requirements: professional liability resulting in death or personal injury	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED
SB 1334	Stone	Crime reporting: health practitioners: reports	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1348	Cannella	Licensure applications: military experience	Watch (3/10/16)	Watch (4/14/16)	Senate APPR

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

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

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

SUMMARY:

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

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

ANALYSIS:

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

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

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

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

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

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

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

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

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

Amended analysis as of 4/14:

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

Amended analysis as of 4/25:

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

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

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:

California School Nurses Association if amended
Drug Policy Alliance

OPPOSE:

California School Employees Association (to previous version)
California Teachers Association

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1748

Introduced by Assembly Member Mayes

February 2, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions. The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. *The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours.* The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for

emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers. The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist to immediately administer naloxone hydrochloride or another opioid antagonist under certain circumstances. ~~The bill would require those individuals to initiate emergency medical services or other appropriate medical followup in accordance with written training materials. The bill would provide that volunteers may only administer naloxone hydrochloride or another opioid antagonist by nasal spray.~~ The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions, ~~who acts with reasonable care in administering~~ *provisions who administers* naloxone hydrochloride or another opioid antagonist, in good ~~faith,~~ *faith and not for compensation*, to a person who ~~is experiencing or is suspected of appears to be~~ experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

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

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

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

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

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

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

15 49414.3. (a) School districts, county offices of education, and
16 charter schools may provide emergency naloxone hydrochloride
17 or another opioid antagonist to school nurses or trained personnel
18 who have volunteered pursuant to subdivision (d), and school
19 nurses or trained personnel may use naloxone hydrochloride or
20 another opioid antagonist to provide emergency medical aid to
21 persons suffering, or reasonably believed to be suffering, from an
22 opioid overdose. ~~Any school district, county office of education,
23 or charter school choosing to exercise the authority provided under
24 this subdivision shall not receive state funds specifically for
25 purposes of this subdivision.~~

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

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

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

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

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

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

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

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

38 ~~(3) A volunteer shall be allowed to administer naloxone~~
39 ~~hydrochloride or another opioid antagonist in the available form~~
40 ~~the volunteer is most comfortable with.~~

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

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

18 (A) Techniques for recognizing symptoms of an opioid
19 overdose.

20 (B) Standards and procedures for the storage, restocking, and
21 emergency use of naloxone hydrochloride or another opioid
22 antagonist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (4) An authorizing physician and surgeon shall not be subject
38 to professional review, be liable in a civil action, or be subject to
39 criminal prosecution for the issuance of a prescription or order
40 pursuant to this section, unless the physician and surgeon's issuance

1 of the prescription or order constitutes gross negligence or willful
2 or malicious conduct.

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

13 (2) *Volunteers may only administer naloxone hydrochloride or*
14 *another opioid antagonist by nasal spray.*

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

18 (j)

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

29 (k)

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

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

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

9 (†)

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

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Patterson	BILL NUMBER:	AB 1939
SPONSOR:	Patterson	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Licensing requirements	DATE LAST AMENDED:	April 12, 2016

SUMMARY:

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

ANALYSIS:

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

Amended analysis as of 3/29:

Section 312.3 of the Business and Professions Code would be amended as shown by the words in italics:

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

Amended analysis as of 4/12:

This bill would require the Legislative Analyst's Office to conduct a study and submit to the Legislature and the department by July 1, 2017, a report identifying, exploring, and addressing occupational licensing requirements that create unnecessary barriers to labor market entry or mobility. The bill would repeal this requirement on January 1, 2021.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

Fresno Chamber of Commerce
Center for Public Interest Law

OPPOSE: None to date

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1939

Introduced by Assembly Member Patterson

February 12, 2016

An act to add *and repeal* Section 312.3 to the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1939, as amended, Patterson. Licensing requirements.

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

This bill would require the ~~director of the department~~ *Legislative Analyst's Office* to conduct a study and submit to the Legislature *and the department* by July 1, 2017, a report identifying, exploring, and addressing occupational licensing requirements that create unnecessary barriers to labor market entry or mobility. *The bill would repeal this requirement on January 1, 2021.*

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 312.3 is added to the Business and
2 Professions Code, to read:
3 312.3. (a) ~~The director~~ *Legislative Analyst's Office* shall
4 conduct a study and submit to the Legislature *and the Department*
5 *of Consumer Affairs* by July 1, 2017, a report identifying,
6 exploring, and addressing areas where occupational licensing
7 requirements create an unnecessary barrier to labor market entry
8 or labor mobility, particularly for dislocated workers, individuals
9 who have moved to California from another state, transitioning
10 service members, and military spouses.
11 (b) (1) The report to be submitted pursuant to subdivision (a)
12 shall be submitted in compliance with Section 9795 of the
13 Government Code.
14 (2) *Pursuant to Section 10231.5 of the Government Code, this*
15 *section is repealed on January 1, 2021.*

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Calderon	BILL NUMBER:	AB 2079
SPONSOR:	Calderon	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Skilled nursing facilities: staffing	DATE LAST AMENDED:	April 18, 2016

SUMMARY:

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

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

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

ANALYSIS:

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

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

Amended analysis as of 4/18:

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

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

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

OPPOSE:

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

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2079

Introduced by Assembly Member Calderon

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would require the department to develop regulations that become effective July 1, 2017, and include a minimum overall staff-to-patient ratio that includes specific staff-to-patient ratios for certified nurse assistants and for licensed nurses that comply with specified requirements. The bill would require the posted information to include a resident census and an accurate report of the number of

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

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

This bill would substitute the term “direct care service hours” for the term “nursing hours” and, commencing ~~July 1, 2017~~, *January 1, 2018*, except as specified, increase the minimum number of direct care service hours per patient day to 4.1 hours.

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

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

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

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

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

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

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

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

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

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

19 (b) (1) The department shall adopt regulations setting forth the
20 minimum number of equivalent direct care service hours per patient
21 required in skilled nursing facilities, subject to the specific
22 requirements of Section 14110.7 of the Welfare and Institutions
23 Code. However, notwithstanding Section 14110.7 of the Welfare
24 and Institutions Code or any other law, the minimum number of
25 direct care service hours per patient required in a skilled nursing
26 facility shall be 3.2 hours, and, commencing ~~July 1, 2017~~, *January*
27 *1, 2018*, shall be 4.1 hours, except as provided in paragraph (2) or
28 Section 1276.9.

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

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

37 (c) Notwithstanding Section 1276, the department shall require
38 the utilization of a registered nurse at all times if the department

1 determines that the services of a skilled nursing and intermediate
2 care facility require the utilization of a registered nurse.

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

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

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

19 1276.65. (a) For purposes of this section, the following
20 definitions shall apply:

21 ~~(1) (A) “Direct caregiver” means a registered nurse, as referred
22 to in Section 2732 of the Business and Professions Code, a licensed
23 vocational nurse, as referred to in Section 2864 of the Business
24 and Professions Code, a psychiatric technician, as referred to in
25 Section 4516 of the Business and Professions Code, a certified
26 nurse assistant, as defined in Section 1337 of this code, or a nurse
27 assistant in an approved training program, as defined in Section
28 1337, while the nurse assistant in an approved training program
29 is performing nursing services as described in Sections 72309,
30 72311, and 72315 of Title 22 of the California Code of Regulations.~~

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

38 *(1) (A) Except as provided in subparagraph (B), “direct
39 caregiver” means a registered nurse, as referred to in Section
40 2732 of the Business and Professions Code, a licensed vocational*

1 nurse, as referred to in Section 2864 of the Business and
2 Professions Code, a psychiatric technician, as referred to in
3 Section 4516 of the Business and Professions Code, or a certified
4 nursing assistant or a nursing assistant who is participating in an
5 approved training program, as defined in Section 1337, while
6 performing nursing services as described in Sections 72309, 72311,
7 and 72315 of Title 22 of the California Code of Regulations.

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

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

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

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

21 (c) (1) (A) Notwithstanding any other law, the State
22 Department of Public Health shall develop regulations that become
23 effective July 1, 2017, that establish a minimum staff-to-patient
24 ratio for direct caregivers working in a skilled nursing facility. The
25 ratio shall include as a part of the overall staff-to-patient ratio,
26 specific staff-to-patient ratios for licensed nurses and certified
27 nurse assistants.

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

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

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

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

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

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

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

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

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

32 (d) The staffing ratios to be developed pursuant to this section
33 shall be minimum standards only and shall be satisfied daily.
34 Skilled nursing facilities shall employ and schedule additional staff
35 as needed to ensure quality resident care based on the needs of
36 individual residents and to ensure compliance with all relevant
37 state and federal staffing requirements.

38 (e) No later than January 1, 2019, and every five years thereafter,
39 the department shall consult with consumers, consumer advocates,
40 recognized collective bargaining agents, and providers to determine

1 the sufficiency of the staffing standards provided in this section
2 and may adopt regulations to increase the minimum staffing ratios
3 to adequate levels.

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

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

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

19 (B) An area used for employee breaks.

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

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

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

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

1 for violations of this section or to inspect for compliance with this
2 section.

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

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

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

20 (j) This section shall not apply to facilities defined in Section
21 1276.9.

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

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

26 14110.7. (a) In skilled nursing facilities, the minimum number
27 of equivalent direct care service hours shall be 3.2, except as set
28 forth in Section 1276.9 of the Health and Safety Code.

29 (b) Commencing July 1, 2017, in skilled nursing facilities,
30 except those skilled nursing facilities that are a distinct part of a
31 general acute care facility, the minimum number of equivalent
32 direct care service hours shall be 4.1, except as set forth in Section
33 1276.9 of the Health and Safety Code.

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

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

1 (e) In intermediate care facilities/developmentally disabled, the
2 minimum number of equivalent direct care service hours shall be
3 2.7.

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

6 14126.022. (a) (1) By August 1, 2011, the department shall
7 develop the Skilled Nursing Facility Quality and Accountability
8 Supplemental Payment System, subject to approval by the federal
9 Centers for Medicare and Medicaid Services, and the availability
10 of federal, state, or other funds.

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

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

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

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

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

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

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

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

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

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

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

11 (b) (1) There is hereby created in the State Treasury, the Skilled
 12 Nursing Facility Quality and Accountability Special Fund. The
 13 fund shall contain moneys deposited pursuant to subdivisions (g)
 14 and (j) to (m), inclusive. Notwithstanding Section 16305.7 of the
 15 Government Code, the fund shall contain all interest and dividends
 16 earned on moneys in the fund.

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

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

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

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

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

33 (c) No appropriation associated with this bill is intended to
 34 implement the provisions of Section 1276.65 of the Health and
 35 Safety Code.

36 (d) (1) There is hereby appropriated for the 2010–11 fiscal year,
 37 one million nine hundred thousand dollars (\$1,900,000) from the
 38 Skilled Nursing Facility Quality and Accountability Special Fund
 39 to the California Department of Aging for the Long-Term Care
 40 Ombudsman Program activities pursuant to Chapter 11

1 (commencing with Section 9700) of Division 8.5. It is the intent
2 of the Legislature for the one million nine hundred thousand dollars
3 (\$1,900,000) from the fund to be in addition to the four million
4 one hundred sixty-eight thousand dollars (\$4,168,000) proposed
5 in the Governor’s May Revision for the 2010–11 Budget. It is
6 further the intent of the Legislature to increase this level of
7 appropriation in subsequent years to provide support sufficient to
8 carry out the mandates and activities pursuant to Chapter 11
9 (commencing with Section 9700) of Division 8.5.

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

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

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

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

36 (i) Fifteen thousand dollars (\$15,000) if the facility fails to meet
37 the requirements for 5 percent or more of the audited days up to
38 49 percent.

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

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

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

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

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

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

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

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

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

36 (E) The appeals process set forth in this paragraph shall be
37 exempt from Chapter 4.5 (commencing with Section 11400) and
38 Chapter 5 (commencing with Section 11500), of Part 1 of Division
39 3 of Title 2 of the Government Code. The provisions of Sections

1 100171 and 131071 of the Health and Safety Code shall not apply
2 to appeals under this paragraph.

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

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

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

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

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

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

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

31 (i) Immunization rates.

32 (ii) Facility acquired pressure ulcer incidence.

33 (iii) The use of physical restraints.

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

37 (v) Resident and family satisfaction.

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

39 (B) Beginning in the 2017–18 fiscal year, compliance with the
40 direct care service hour requirements for skilled nursing facilities

1 established pursuant to Section 1276.65 of the Health and Safety
2 Code and Section 14110.7 of this code.

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

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

16 (i) Compliance with state policy associated with the United
17 States Supreme Court decision in *Olmstead v. L.C. ex rel. Zimring*
18 (1999) 527 U.S. 581.

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

21 (iii) The use of chemical restraints.

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

27 (j) (1) Beginning with the 2010–11 rate year, and pursuant to
28 subparagraph (B) of paragraph (5) of subdivision (a) of Section
29 14126.023, the department shall set aside savings achieved from
30 setting the professional liability insurance cost category, including
31 any insurance deductible costs paid by the facility, at the 75th
32 percentile. From this amount, the department shall transfer the
33 General Fund portion into the Skilled Nursing Facility Quality and
34 Accountability Special Fund. A skilled nursing facility shall
35 provide supplemental data on insurance deductible costs to
36 facilitate this adjustment, in the format and by the deadlines
37 determined by the department. If this data is not provided, a
38 facility's insurance deductible costs will remain in the
39 administrative costs category.

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

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

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

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

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

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

39 (ii) The department shall articulate in a report to the fiscal and
40 appropriate policy committees of the Legislature the

1 implementation of an alternative mechanism as described in clause
2 (i) at least 90 days prior to any policy or budgetary changes, and
3 seek subsequent legislation in order to enact the proposed changes.

4 (2) Skilled nursing facilities that do not submit required
5 performance data by the department's specified data submission
6 deadlines pursuant to subdivision (i) shall not be eligible to receive
7 supplemental payments.

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

15 (4) Notwithstanding paragraph (1), if the department is unable
16 to pay the supplemental payments by April 30, 2014, then on May
17 1, 2014, the department shall use the funds available in the Skilled
18 Nursing Facility Quality and Accountability Special Fund as a
19 result of savings identified in subdivisions (k) and (l), less the
20 administrative costs required to implement subparagraphs (A) and
21 (B) of paragraph (3) of subdivision (b), in addition to any Medicaid
22 funds that are available as of December 31, 2013, to increase
23 provider rates retroactively to August 1, 2013.

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

31 (p) In implementing this section, the department and the State
32 Department of Public Health may contract as necessary, with
33 California's Medicare Quality Improvement Organization, or other
34 entities deemed qualified by the department or the State
35 Department of Public Health, not associated with a skilled nursing
36 facility, to assist with development, collection, analysis, and
37 reporting of the performance data pursuant to subdivision (i), and
38 with demonstrated expertise in long-term care quality, data
39 collection or analysis, and accountability performance measurement
40 models pursuant to subdivision (i). This subdivision establishes

1 an accelerated process for issuing any contract pursuant to this
2 section. Any contract entered into pursuant to this subdivision shall
3 be exempt from the requirements of the Public Contract Code,
4 through December 31, 2020.

5 (q) Notwithstanding Chapter 3.5 (commencing with Section
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
7 the following shall apply:

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

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

14 (r) Notwithstanding paragraph (1) of subdivision (n), if a final
15 judicial determination is made by any state or federal court that is
16 not appealed, in any action by any party, or a final determination
17 is made by the administrator of the federal Centers for Medicare
18 and Medicaid Services, that any payments pursuant to subdivisions
19 (a) and ~~(n)~~, (n) are invalid, unlawful, or contrary to any ~~provision~~
20 ~~of federal law or regulations~~, *regulation*, or of state law, these
21 subdivisions shall become ~~inoperative~~, *inoperative* and for the
22 2011–12 rate year, the rate increase provided under subparagraph
23 (A) of paragraph (4) of subdivision (c) of Section 14126.033 shall
24 be reduced by the amounts described in subdivision (j). For the
25 2013–14 and 2014–15 rate years, any rate increase shall be reduced
26 by the amounts described in subdivisions (j) to (l), inclusive.

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

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Bonilla	BILL NUMBER:	AB 2209
SPONSOR:	Association of Northern California Oncologists Medical Oncology Association of Southern California	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Health care coverage: clinical care pathways	DATE LAST AMENDED:	April 26, 2016

SUMMARY:

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

ANALYSIS:

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

Amended analysis as of 4/7:

The bill would require a health care service plan or health insurer that adopts the use of a clinical pathway, as defined, to comply with certain requirements, including that the plan or health insurer ensures that each clinical pathway is developed in accordance with specified procedures.

The bill would prohibit a plan or health insurer from, among other things, adopting a clinical pathway that hinders education, research, patient screening, or patient access to clinical trials. The bill would require a plan or health insurer that adopts the use of a clinical pathway to make publicly available specified information for each clinical pathway adopted. Because a willful violation of the act by a health care service plan would be a crime, this bill would impose a state-mandated local program.

Amended analysis as of 4/26:

This bill would require a health care service plan or health insurer that develops and implements a clinical pathway, as defined, to comply with certain requirements, including that the plan or health insurer ensures that each clinical pathway is developed in accordance with specified procedures.

The bill would prohibit a plan or health insurer from, among other things, developing and implementing a clinical pathway that discourages patient access to clinical trials.

The bill would require a plan or health insurer that develops and implements a clinical pathway to make publicly available specified information for each clinical pathway developed and implemented.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

Association of Northern California Oncologists
Medical Oncology Association of Southern CA
National Council of Asian Pacific Islander Physicians
California Medical Association
California Chronic Care Coalition
California Retired Teachers Association
Latinas Contra Cancer
National Council of Asian Pacific Islander Physicians
Ovarian Cancer Coalition of Greater California

OPPOSE:

America's Health Insurance Plans
Anthem Blue Cross
Association of California Life and Health Insurance Companies
Blue Shield of California
California Association of Health Plans
California Association of Provider Groups
Kaiser Permanente

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2209

Introduced by Assembly Member Bonilla

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

~~The~~

This bill would require a health care service plan or health insurer that ~~adopts the use of~~ *develops and implements* a clinical pathway, as defined, to comply with certain requirements, including that the plan or health insurer ensures that each clinical pathway is developed in accordance with specified procedures. The bill would prohibit a plan or health insurer from, among other things, ~~adopting~~ *developing and implementing* a clinical pathway that ~~hinders education, research, patient~~

screening, or discourages patient access to clinical trials. The bill would require a plan or health insurer that ~~adopts the use of~~ *develops and implements* a clinical pathway to make publicly available specified information for each clinical pathway ~~adopted.~~ *developed and implemented.* Because a willful violation of the act by a health care service plan would be a crime, this bill would impose a state-mandated local program.

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

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

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 1372.5 is added to the Health and Safety
- 2 Code, to read:
- 3 1372.5. (a) This section shall be known and may be cited as
- 4 ~~the Patient-Centered Clinical Pathway Act of 2016.~~
- 5 (b) For purposes of this section, the following definitions shall
- 6 apply:
- 7 (1) “Clinical pathway” means a ~~multidisciplinary management~~
- 8 ~~tool~~ *treatment plan* based on evidence-based practices used by
- 9 providers ~~involved in~~ *to direct* patient care, for a defined *patient*
- 10 *or patient group with a particular specific* disease or condition, or
- 11 undergoing a ~~particular specific~~ procedure, that is used by the
- 12 provider ~~as a tool~~ to make medical treatment decisions ~~to manage~~
- 13 ~~the~~ *for an enrollee’s or subscriber’s* care, in which the different
- 14 tasks, interventions, or treatment regimens used by the provider
- 15 involved in the enrollee’s *or subscriber’s* care are ~~defined;~~
- 16 ~~optimized,~~ *strictly defined* and sequenced. The use of a clinical
- 17 pathway by a provider relates to the practice of medicine and is
- 18 not a coverage decision.
- 19 (2) “Coverage decision” shall have the same meaning as set
- 20 forth in subdivision (c) of Section 1374.30.
- 21 (3) *Care provided as a result of a clinical pathway is subject*
- 22 *to this chapter, including the provisions regarding grievances,*
- 23 *appeals, or independent medical review (Article 5.55 (commencing*

1 *with Section 1374.30)), and the external medical review process*
2 *to examine coverage decisions regarding experimental or*
3 *investigational therapies pursuant to Section 1370.4.*

4 (c) (1) A health care service plan that ~~adopts the use of~~ *develops*
5 *and implements* a clinical pathway shall do all of the following:

6 (A) Ensure that each clinical pathway is developed in accordance
7 with the following procedures:

8 (i) The clinical pathway is developed by a multidisciplinary
9 group of actively practicing physicians with clinical expertise in
10 the therapeutic area or an organization generally recognized within
11 the relevant medical community as a body with clinical expertise
12 in the therapeutic area. A health care service plan may collaborate
13 with prescribing practitioners to include clinical pathways that are
14 already established or integrated into the prescribing practitioners'
15 treatment patterns, provided the clinical pathway is in compliance
16 with the requirements of this subparagraph.

17 (ii) Prior to finalization, the clinical pathway is reviewed and
18 endorsed by a formal, identified review panel of which all panel
19 members are actively practicing physicians within their respective
20 medical specialties, and a majority of panel members are
21 board-certified physicians in the relevant medical specialty.

22 ~~(iii) Prior to finalization, the clinical pathway is subject to an~~
23 ~~opportunity for review by stakeholders, including, but not limited~~
24 ~~to, prescribing practitioners and their professional societies,~~
25 ~~medical institutions or organizations, patients, patient advocaey~~
26 ~~groups, pharmaceutical and medical device manufacturers, and~~
27 ~~public input that is to be considered in finalizing the clinical~~
28 ~~pathway.~~

29 (B) Ensure that each clinical pathway specifies that a prescribing
30 practitioner participating in a clinical pathway should make
31 recommendations concerning the treatment, management, or
32 prevention of the relevant disease or condition for a specific patient
33 in accordance with the prescribing practitioner's clinical judgment
34 and the individual patient's needs and medical circumstances.

35 (C) ~~(i) Review and update, as appropriate, but not less than~~
36 ~~annually, each clinical pathway. However, if a clinical pathway's~~
37 ~~therapeutic area is subject to rapid changes or a major development~~
38 ~~occurs in that therapeutic area, the health care service plan shall~~
39 ~~review and update that clinical pathway on a more frequent or~~

1 ~~regular basis.~~ *Health care service providers shall consider requests*
2 *from network physicians on initiating a review of clinical pathways.*
3 ~~(ii) Establish and maintain a procedure by which prescribing~~
4 ~~practitioners may seek a review or an update of a clinical pathway~~
5 ~~when a new treatment option becomes available and disclose those~~
6 ~~procedures to prescribing practitioners.~~
7 (D) Provide prescribing practitioners, enrollees or subscribers,
8 and the public with readily available access to all of the following:
9 (i) Each clinical pathway.
10 (ii) All scientific data and evidence summaries evaluated in the
11 development of the pathway.
12 (iii) The names of the physicians and other members who
13 conducted the research, developed the analysis, and assessed the
14 clinical pathway.
15 (2) A health care service plan shall not do either of the
16 following:
17 (A) ~~Adopt~~ *Develop and implement* a clinical pathway that
18 ~~hinders education, research, patient screening, or discourages~~
19 ~~patient access to clinical trials.~~
20 (B) Require any practitioner participation in a pathway protocol
21 or adherence to specific treatments within the clinical pathway.
22 (d) A health care service plan that ~~adopts the use of~~ *develops*
23 *and implements* a clinical pathway shall make publicly available
24 for each clinical pathway all of the following information:
25 (1) The scope of the clinical pathway, including the therapeutic
26 area covered by the clinical pathway and any limitations on the
27 patient population or treatment setting for which the clinical
28 pathway was designed, or other limitations on the scope of the
29 clinical pathway.
30 (2) The key clinical features of the clinical pathway, including
31 the decisionmaking steps and key treatment recommendations to
32 be made at each step.
33 (3) The names, qualifications, and any conflicts of interest of
34 the physicians or organization that developed the clinical pathway.
35 (4) A listing of all panel members who participated in the review
36 of the clinical pathway. The listing shall include the institutional
37 affiliations, medical specialties, and any conflicts of interest of the
38 panel members.
39 (5) The sources of evidence on which the clinical pathway is
40 based. ~~If the clinical pathway is based in part on a clinical practice~~

1 ~~guideline or similar document with recommendations on treatment,~~
2 ~~management, or prevention of a particular disease or condition,~~
3 ~~but the clinical pathway uses a more narrow set of items or services~~
4 ~~than the underlying clinical practice guideline or similar document,~~
5 ~~the individuals or organization that developed the clinical pathway~~
6 ~~shall identify the differences between the clinical pathway and the~~
7 ~~underlying clinical practice guideline or similar document, and~~
8 ~~explain why the clinical pathway excludes particular items or~~
9 ~~services.~~

10 (6) A narrative providing a comprehensive summary of the
11 evidence on which the clinical pathway is based, ~~including~~
12 ~~important issues the physicians or organization considered in~~
13 ~~interpreting the evidence and developing the clinical pathway.~~
14 *based.*

15 (7) Information on the process for, and timing of, the health
16 care service plan's review and update of clinical pathways, as
17 required under subparagraph (C) of paragraph (1) of subdivision
18 (c).

19 *(e) Nothing in this section shall be construed to require a health*
20 *care service plan contract to cover a benefit not otherwise required*
21 *by law or not otherwise covered under the plan contract.*

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

24 10123.25. (a) This section shall be known and may be cited
25 as the ~~Patient-Centered Clinical Pathway Act of 2016.~~

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

28 (1) "Clinical pathway" means a ~~multidisciplinary management~~
29 ~~tool~~ *treatment plan* based on evidence-based practices used by
30 providers ~~involved in~~ *to direct* patient care, for a defined *patient*
31 *or* patient group with a ~~particular specific~~ disease or condition, or
32 undergoing a ~~particular specific~~ procedure, that is used by the
33 provider ~~as a tool~~ to make medical treatment decisions ~~to manage~~
34 ~~the~~ *for an insured's or policyholder's* care, in which the different
35 tasks, interventions, or treatment regimens used by the provider
36 involved in the insured's *or policyholder's* care are ~~defined,~~
37 ~~optimized,~~ *strictly defined* and sequenced. The use of a clinical
38 pathway by a provider relates to the practice of medicine and is
39 not a coverage decision.

1 (2) “Coverage decision” shall have the same meaning as set
2 forth in subdivision (c) of Section 10169.

3 (3) *Care provided as a result of a clinical pathway is subject*
4 *to this chapter, including filing a complaint or appeal and*
5 *independent medical review (Article 3.5 (commencing with Section*
6 *10169)).*

7 (c) (1) A health insurer that ~~adopts the use of~~ *develops and*
8 *implements* a clinical pathway shall do all of the following:

9 (A) Ensure that each clinical pathway is developed in accordance
10 with the following procedures:

11 (i) The clinical pathway is developed by a multidisciplinary
12 group of actively practicing physicians with clinical expertise in
13 the therapeutic area or an organization generally recognized within
14 the relevant medical community as a body with clinical expertise
15 in the therapeutic area. A health insurer may collaborate with
16 prescribing practitioners to include clinical pathways that are
17 already established or integrated into the prescribing practitioners’
18 treatment patterns, provided the clinical pathway is in compliance
19 with the requirements of this subparagraph.

20 (ii) Prior to finalization, the clinical pathway is reviewed and
21 endorsed by a formal, identified review panel of which all panel
22 members are actively practicing physicians within their respective
23 medical specialties, and a majority of panel members are
24 board-certified physicians in the relevant medical specialty.

25 ~~(iii) Prior to finalization, the clinical pathway is subject to an~~
26 ~~opportunity for review by stakeholders, including, but not limited~~
27 ~~to, prescribing practitioners and their professional societies,~~
28 ~~medical institutions or organizations, patients, patient advocacy~~
29 ~~groups, pharmaceutical and medical device manufacturers, and~~
30 ~~public input that is to be considered in finalizing the clinical~~
31 ~~pathway.~~

32 (B) Ensure that each clinical pathway specifies that a prescribing
33 practitioner participating in a clinical pathway should make
34 recommendations concerning the treatment, management, or
35 prevention of the relevant disease or condition for a specific patient
36 in accordance with the prescribing practitioner’s clinical judgment
37 and the individual patient’s needs and medical circumstances.

38 (C) ~~(i) Review and update, as appropriate, but not less than~~
39 ~~annually, each clinical pathway. However, if a clinical pathway’s~~
40 ~~therapeutic area is subject to rapid changes or a major development~~

1 ~~occurs in that therapeutic area, the health insurer shall review and~~
2 ~~update that clinical pathway on a more frequent or regular basis.~~
3 *Health care service providers shall consider requests from network*
4 *physicians on initiating a review of clinical pathways.*

5 ~~(ii) Establish and maintain a procedure by which prescribing~~
6 ~~practitioners may seek a review or an update of a clinical pathway~~
7 ~~when a new treatment option becomes available and disclose those~~
8 ~~procedures to prescribing practitioners:~~

9 (D) Provide prescribing practitioners, ~~insureds,~~ *insureds or*
10 *policyholders*, and the public with readily available access to all
11 of the following:

12 (i) Each clinical pathway.

13 (ii) All scientific data and evidence summaries evaluated in the
14 development of the pathway.

15 (iii) The names of the physicians and other members who
16 conducted the research, developed the analysis, and assessed the
17 clinical pathway.

18 (2) A health insurer shall not do either of the following:

19 (A) ~~Adopt~~ *Develop and implement* a clinical pathway that
20 ~~hinders education, research, patient screening, or discourages~~
21 ~~patient access to clinical trials.~~

22 (B) Require any practitioner participation in a pathway protocol
23 or adherence to specific treatments within the clinical pathway.

24 (d) A health insurer that ~~adopts the use of~~ *develops and*
25 *implements* a clinical pathway shall make publicly available for
26 each clinical pathway all of the following information:

27 (1) The scope of the clinical pathway, including the therapeutic
28 area covered by the clinical pathway and any limitations on the
29 patient population or treatment setting for which the clinical
30 pathway was designed, or other limitations on the scope of the
31 clinical pathway.

32 (2) The key clinical features of the clinical pathway, including
33 the decisionmaking steps and key treatment recommendations to
34 be made at each step.

35 (3) The names, qualifications, and any conflicts of interest of
36 the physicians or organization that developed the clinical pathway.

37 (4) A listing of all panel members who participated in the review
38 of the clinical pathway. The listing shall include the institutional
39 affiliations, medical specialties, and any conflicts of interest of the
40 panel members.

1 (5) The sources of evidence on which the clinical pathway is
2 based. ~~If the clinical pathway is based in part on a clinical practice~~
3 ~~guideline or similar document with recommendations on treatment,~~
4 ~~management, or prevention of a particular disease or condition,~~
5 ~~but the clinical pathway uses a more narrow set of items or services~~
6 ~~than the underlying clinical practice guideline or similar document,~~
7 ~~the individuals or organization that developed the clinical pathway~~
8 ~~shall identify the differences between the clinical pathway and the~~
9 ~~underlying clinical practice guideline or similar document, and~~
10 ~~explain why the clinical pathway excludes particular items or~~
11 ~~services.~~

12 (6) A narrative providing a ~~comprehensive~~ summary of the
13 evidence on which the clinical pathway is ~~based, including~~
14 ~~important issues the physicians or organization considered in~~
15 ~~interpreting the evidence and developing the clinical pathway.~~
16 *based.*

17 (7) Information on the process for, and timing of, the health
18 insurer's review and update of clinical pathways, as required under
19 subparagraph (C) of paragraph (1) of subdivision (c).

20 *(e) Nothing in this section shall be construed to require a health*
21 *insurance policy to cover a benefit not otherwise required by law*
22 *or not otherwise covered under the health insurance policy.*

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Gordon	BILL NUMBER:	AB 2507
SPONSOR:	Stanford Health Care	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Telehealth: access	DATE LAST AMENDED:	April 26, 2016

SUMMARY:

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

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

ANALYSIS:

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

This bill would also prohibit a health care provider from requiring the use of telehealth when a patient prefers to receive health care services in person and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified.

The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider.

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

Amended analysis as of 4/26:

This bill would add video communications and telephone communications to the definition of telehealth.

This bill would also prohibit a health care provider from requiring the use of telehealth when it is not appropriate and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified.

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

The bill would provide that all laws regarding the confidentiality of health care information and a patient's right to his or her medical information shall apply to telehealth services.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

Stanford Health Care (sponsor)

AARP California

Adventist Health

ALS Association Golden West Chapter

American Association for Marriage and Family Therapy

Association of California Healthcare Districts

California Academy of Family Physicians

California Association of Health Plans

California Children's Hospital

California Life Sciences Association

California Medical Association

California Primary Care Association

Center for Information Technology Research in the Interest of Society

Center for Technology and Aging

The Children's Partnership

El Camino Hospital

Health Care Interpreters Network

John Muir Health

Lucile Packard Children's Hospital

National Multiple Sclerosis Society
Occupational Therapy Association of California
Providence Health & Services
Sutter Health

OPPOSE:

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
California Chamber of Commerce
California Right to Life Committee, Inc.

AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2507

Introduced by Assembly Member Gordon

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

This bill would also prohibit a health care provider from requiring the use of telehealth when ~~a patient prefers to receive health care services in person~~ *it is not appropriate* and would require health care service plans and health insurers to include coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means, as specified. The bill would prohibit a health care service plan or health insurer from limiting coverage or reimbursement based on a contract entered into between the plan or insurer and an independent telehealth provider. The bill would prohibit a health care service plan or a health insurer from ~~interfering with the physician-patient~~ *altering the provider-patient* relationship based on the modality utilized for services appropriately provided through telehealth. *The bill would provide that all laws regarding the confidentiality of health care information and a patient's right to his or her medical information shall apply to telehealth services.*

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

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

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

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 2290.5 of the Business and Professions
2 Code is amended to read:

3 2290.5. (a) For purposes of this division, the following
4 definitions apply:

5 (1) “Asynchronous store and forward” means the transmission
6 of a patient’s medical information from an originating site to the
7 health care provider at a distant site without the presence of the
8 patient.

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

12 (3) “Health care provider” means either of the following:

13 (A) A person who is licensed under this division.

14 (B) A marriage and family therapist intern or trainee functioning
15 pursuant to Section 4980.43.

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

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

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

35 (b) Prior to the delivery of health care via telehealth, the health
36 care provider initiating the use of telehealth shall inform the patient
37 about the use of telehealth and obtain oral, written, or digital
38 consent from the patient for the use of telehealth as an acceptable

1 mode of delivering health care services and public health. The
2 consent shall be documented.

3 (c) Nothing in this section shall preclude a patient from receiving
4 in-person health care delivery services during a specified course
5 of health care and treatment after agreeing to receive services via
6 telehealth.

7 (d) The failure of a health care provider to comply with this
8 section shall constitute unprofessional conduct. Section 2314 shall
9 not apply to this section.

10 (e) This section shall not be construed to alter the scope of
11 practice of any health care provider or authorize the delivery of
12 health care services in a setting, or in a manner, not otherwise
13 authorized by law.

14 (f) All laws regarding the confidentiality of health care
15 information and a patient's rights to his or her medical information
16 shall apply to telehealth interactions.

17 (g) This section shall not apply to a patient under the jurisdiction
18 of the Department of Corrections and Rehabilitation or any other
19 correctional facility.

20 (h) (1) Notwithstanding any other provision of law and for
21 purposes of this section, the governing body of the hospital whose
22 patients are receiving the telehealth services may grant privileges
23 to, and verify and approve credentials for, providers of telehealth
24 services based on its medical staff recommendations that rely on
25 information provided by the distant-site hospital or telehealth
26 entity, as described in Sections 482.12, 482.22, and 485.616 of
27 Title 42 of the Code of Federal Regulations.

28 (2) By enacting this subdivision, it is the intent of the Legislature
29 to authorize a hospital to grant privileges to, and verify and approve
30 credentials for, providers of telehealth services as described in
31 paragraph (1).

32 (3) For the purposes of this subdivision, "telehealth" shall
33 include "telemedicine" as the term is referenced in Sections 482.12,
34 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

35 SEC. 2. Section 1374.13 of the Health and Safety Code is
36 amended to read:

37 1374.13. (a) For the purposes of this section, the definitions
38 in subdivision (a) of Section 2290.5 of the Business and Professions
39 Code apply.

1 (b) It is the intent of the Legislature to recognize the practice
2 of telehealth as a legitimate means by which an individual may
3 receive health care services from a health care provider without
4 in-person contact with the health care provider.

5 (c) A health care service plan shall not require that in-person
6 contact occur between a health care provider and a patient before
7 payment is made for the covered services appropriately provided
8 through telehealth, subject to the terms and conditions of the
9 contract entered into between the enrollee or subscriber and the
10 health care service plan, and between the health care service plan
11 and its participating providers or provider groups.

12 (d) A health care service plan shall not limit the type of setting
13 where services are provided for the patient or by the health care
14 provider before payment is made for the covered services
15 appropriately provided through telehealth, subject to the terms and
16 conditions of the contract entered into between the enrollee or
17 subscriber and the health care service plan, and between the health
18 care service plan and its participating providers or provider groups.

19 (e) The requirements of this section shall also apply to health
20 care service plan and Medi-Cal managed care plan contracts with
21 the State Department of Health Care Services pursuant to Chapter
22 7 (commencing with Section 14000) or Chapter 8 (commencing
23 with Section 14200) of Part 3 of Division 9 of the Welfare and
24 Institutions Code.

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

29 (g) Notwithstanding any law, this section shall not be interpreted
30 to authorize a health care provider to require the use of telehealth
31 when ~~a patient prefers to be treated in an in-person setting.~~
32 ~~Telehealth services should be physician- or practitioner-guided~~
33 ~~and patient-preferred. it is not appropriate. Nothing in this section~~
34 ~~shall preclude a patient from receiving in-person health care~~
35 ~~delivery services.~~

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

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

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

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

18 (j) *Notwithstanding any other law, this section shall not be*
19 *interpreted to prohibit a health care service plan from undertaking*
20 *a utilization review of telehealth services, provided that the*
21 *utilization review is made in the same manner as a utilization*
22 *review for equivalent services when provided in person or by other*
23 *means.*

24 (k) *This section shall not be construed to alter the scope of*
25 *practice of any health care provider or authorize the delivery of*
26 *health care services in a setting, or in a manner, not otherwise*
27 *authorized by law.*

28 (l) *All laws regarding the confidentiality of health care*
29 *information and a patient's right to his or her medical information*
30 *shall apply to telehealth services.*

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

33 10123.85. (a) For purposes of this section, the definitions in
34 subdivision (a) of Section 2290.5 of the Business and Professions
35 Code shall apply.

36 (b) It is the intent of the Legislature to recognize the practice
37 of telehealth as a legitimate means by which an individual may
38 receive health care services from a health care provider without
39 in-person contact with the health care provider.

1 (c) No health insurer shall require that in-person contact occur
2 between a health care provider and a patient before payment is
3 made for the services appropriately provided through telehealth,
4 subject to the terms and conditions of the contract entered into
5 between the policyholder or contractholder and the insurer, and
6 between the insurer and its participating providers or provider
7 groups.

8 (d) No health insurer shall limit the type of setting where
9 services are provided for the patient or by the health care provider
10 before payment is made for the covered services appropriately
11 provided by telehealth, subject to the terms and conditions of the
12 contract between the policyholder or contract holder and the
13 insurer, and between the insurer and its participating providers or
14 provider groups.

15 (e) Notwithstanding any other provision, this section shall not
16 be interpreted to authorize a health insurer to require the use of
17 telehealth when the health care provider has determined that it is
18 not appropriate.

19 (f) Notwithstanding any law, this section shall not be interpreted
20 to authorize a health care provider to require the use of telehealth
21 when a patient prefers to be treated in an in-person setting.
22 ~~Telehealth services should be physician- or practitioner-guided~~
23 ~~and patient-preferred. it is not appropriate. Nothing in this section~~
24 ~~shall preclude a patient from receiving in-person health care~~
25 ~~delivery services.~~

26 (g) A health insurer shall include in its policy coverage and
27 reimbursement for services provided to a patient through telehealth
28 to the same extent as though provided in person or by some other
29 means.

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

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

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

7 (i) *Notwithstanding any other law, this section shall not be*
 8 *interpreted to prohibit a health insurer from undertaking a*
 9 *utilization review of telehealth services, provided that the*
 10 *utilization review is made in the same manner as a utilization*
 11 *review for equivalent services when provided in person or by other*
 12 *means.*

13 (j) *This section shall not be construed to alter the scope of*
 14 *practice of any health care provider or authorize the delivery of*
 15 *health care services in a setting, or in a manner, not otherwise*
 16 *authorized by law.*

17 (k) *All laws regarding the confidentiality of health care*
 18 *information and a patient’s right to his or her medical information*
 19 *shall apply to telehealth services.*

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

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Grove	BILL NUMBER:	AB 2606
SPONSOR:	The Arc and United Cerebral Palsy California Collaboration	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Crimes against children, elders, dependent adults, and persons with disabilities	DATE LAST AMENDED:	May 3, 2016

SUMMARY:

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

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

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

ANALYSIS:

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

Amended analysis as of 5/3:

This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential,

license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state agency that issued the credential, license, or permit, except as specified (If the law enforcement agency determines that sending the copy of the report to the state agency would jeopardize an ongoing investigation, however, the law enforcement agency shall delay sending the copy to the state agency until the investigation is complete or the law enforcement agency determines that sending the report to the state agency would no longer jeopardize the investigation.).

The bill would remove the crime of rape or other crimes described in Chapter 1 and a hate crime motivated by antisocial bias as described in Chapter 1 from inclusion in the list of crimes subject to this law.

The bill would require a state agency to prioritize and process the report pursuant to applicable law in the same manner as similar reports received by that agency in order to ensure due process of law and equal protection of the laws.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

The Arc and United Cerebral Palsy California Collaboration (sponsor)
Disability Rights California
The Arc of Riverside County
California Advocates for Nursing Home Reform
Association of Regional Center Agencies
California Long-Term Care Ombudsman Association
California State Retirees
The Alliance

OPPOSE:

California Association of Psychiatric Technicians
California Attorneys for Criminal Justice
California Public Defenders Association

AMENDED IN ASSEMBLY MAY 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2606

Introduced by Assembly Member Grove
(Coauthor: Assembly Member Jones)
(Coauthors: Senators Bates, Berryhill, Huff, and Roth)

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action

against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee engages in specified sexual acts with a patient, client, or former patient or client.

This bill would require, if a law enforcement agency receives a report, or if a law enforcement officer makes a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more of specified crimes, the law enforcement agency to promptly send a copy of the report to the state ~~licensing~~ agency that issued the credential, license, or ~~permit~~. *permit, except as specified. The bill would require a state agency to prioritize and process the report pursuant to applicable law in the same manner as similar reports received by that agency in order to ensure due process of law and equal protection of the laws.* By imposing additional duties on law enforcement agencies, this bill would impose a state-mandated local program.

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

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

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. Chapter 14 (commencing with Section 368.7) is
- 2 added to Title 9 of Part 1 of the Penal Code, to read:
- 3
- 4 CHAPTER 14. ~~REPORTING CRIMES AGAINST CHILDREN, ELDERS,~~
- 5 ~~DEPENDENT ADULTS, AND PERSONS WITH DISABILITIES CROSS~~
- 6 *REPORTING TO STATE AGENCIES OF SEX CRIMES, CHILD,*

1 *DEPENDENT ADULT, AND ELDER ABUSE AND NEGLECT, AND*
2 *FAILURE TO REPORT ABUSE AND NEGLECT*

3
4 368.7. If a law enforcement agency receives a report, or if a
5 law enforcement officer makes a report, that a person who holds
6 a state professional or occupational credential, license, or permit
7 that allows the person to provide services to children, elders,
8 dependent adults, or persons with disabilities is alleged to have
9 committed one or more of the crimes described in subdivisions (a)
10 to ~~(f)~~, (d), inclusive, the law enforcement agency shall promptly
11 send a copy of the report to the state agency that issued the
12 credential, license, or permit. *If the law enforcement agency*
13 *determines that sending the copy of the report to the state agency*
14 *would jeopardize an ongoing investigation, however, the law*
15 *enforcement agency shall delay sending the copy to the state*
16 *agency until the investigation is complete or the law enforcement*
17 *agency determines that sending the report to the state agency*
18 *would no longer jeopardize the investigation.*

19 (a) Sexual exploitation by a physician and surgeon,
20 psychotherapist, or drug or alcohol abuse counselor, as described
21 in Section 729 of the Business and Professions Code.

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

24 ~~(e)~~
25 (b) Elder or dependent adult abuse, failure to report elder or
26 dependent adult abuse, interfering with a report of elder or
27 dependent adult ~~abuse~~ *abuse*, or other crimes, as described in
28 Chapter 13.

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

31 ~~(e)~~
32 (c) Sexual abuse, as defined in Section 11165.1.

33 ~~(f)~~
34 (d) Child abuse, failure to report child abuse, or interfering with
35 a report of child abuse.

36 368.8. *When a state agency receives a report pursuant to this*
37 *chapter, the agency shall prioritize and process the report pursuant*
38 *to applicable law in the same manner as similar reports received*
39 *by that agency in order to ensure due process of law and equal*
40 *protection of the laws.*

1 SEC. 2. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Gordon	BILL NUMBER:	AB 2744
SPONSOR:	The Internet Association	BILL STATUS:	Assembly Committee on Appropriations
SUBJECT:	Healing arts: referrals	DATE LAST AMENDED:	April 11, 2016

SUMMARY:

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

ANALYSIS:

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

Amended analysis as of 4/11:

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

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

The Internet Association
Groupon

OPPOSE: None on file.

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2744

Introduced by Assembly Member Gordon
(Coauthor: Senator Hill)

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, as amended, Gordon. Healing arts: referrals.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells ~~prepaid services~~, *services on an Internet platform*, does not constitute a referral of ~~services~~ *patients*. *The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser. The bill would specify*

that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions.

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

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

1 SECTION 1. Section 650 of the Business and Professions Code
2 is amended to read:
3 650. (a) Except as provided in Chapter 2.3 (commencing with
4 Section 1400) of Division 2 of the Health and Safety Code, the
5 offer, delivery, receipt, or acceptance by any person licensed under
6 this division or the Chiropractic Initiative Act of any rebate, refund,
7 commission, preference, patronage dividend, discount, or other
8 consideration, whether in the form of money or otherwise, as
9 compensation or inducement for referring patients, clients, or
10 customers to any person, irrespective of any membership,
11 proprietary interest, or coownership in or with any person to whom
12 these patients, clients, or customers are referred is unlawful.
13 (b) The payment or receipt of consideration for services other
14 than the referral of patients which is based on a percentage of gross
15 revenue or similar type of contractual arrangement shall not be
16 unlawful if the consideration is commensurate with the value of
17 the services furnished or with the fair rental value of any premises
18 or equipment leased or provided by the recipient to the payer.
19 (c) The offer, delivery, receipt, or acceptance of any
20 consideration between a federally qualified health center, as defined
21 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,
22 and any individual or entity providing goods, items, services,
23 donations, loans, or a combination thereof to the health center
24 entity pursuant to a contract, lease, grant, loan, or other agreement,
25 if that agreement contributes to the ability of the health center
26 entity to maintain or increase the availability, or enhance the
27 quality, of services provided to a medically underserved population
28 served by the health center, shall be permitted only to the extent
29 sanctioned or permitted by federal law.
30 (d) Except as provided in Chapter 2.3 (commencing with Section
31 1400) of Division 2 of the Health and Safety Code and in Sections

1 654.1 and 654.2 of this code, it shall not be unlawful for any person
2 licensed under this division to refer a person to any laboratory,
3 pharmacy, clinic (including entities exempt from licensure pursuant
4 to Section 1206 of the Health and Safety Code), or health care
5 facility solely because the licensee has a proprietary interest or
6 coownership in the laboratory, pharmacy, clinic, or health care
7 facility, provided, however, that the licensee's return on investment
8 for that proprietary interest or coownership shall be based upon
9 the amount of the capital investment or proportional ownership of
10 the licensee which ownership interest is not based on the number
11 or value of any patients referred. Any referral excepted under this
12 section shall be unlawful if the prosecutor proves that there was
13 no valid medical need for the referral.

14 (e) Except as provided in Chapter 2.3 (commencing with Section
15 1400) of Division 2 of the Health and Safety Code and in Sections
16 654.1 and 654.2 of this code, it shall not be unlawful to provide
17 nonmonetary remuneration, in the form of hardware, software, or
18 information technology and training services, as described in
19 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code
20 of Federal Regulations, as amended October 4, 2007, as published
21 in the Federal Register (72 Fed. Reg. 56632 and 56644), and
22 subsequently amended versions.

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

28 (g) The payment or receipt of consideration for advertising,
29 wherein a licensee offers or sells ~~prepaid services~~, *services on an*
30 *Internet platform*, shall not constitute a referral of patients. To the
31 extent the licensee determines, after consultation with the purchaser
32 of the ~~prepaid~~ service, that a ~~prepaid~~ *the* service is not appropriate
33 for the purchaser, the licensee shall provide the purchaser *shall*
34 *receive* a refund of the full purchase price. *This subdivision shall*
35 *not apply to basic health care services, as defined in subdivision*
36 *(b) of Section 1345 of the Health and Safety Code, or essential*
37 *health benefits, as defined in Section 1367.005 of the Health and*
38 *Safety Code and Section 10112.27 of the Insurance Code. The*
39 *entity that provides the advertising shall be able to demonstrate*

1 *that the licensee consented in writing to the requirements of this*
2 *subdivision.*

3 (h) A violation of this section is a public offense and is
4 punishable upon a first conviction by imprisonment in a county
5 jail for not more than one year, or by imprisonment pursuant to
6 subdivision (h) of Section 1170 of the Penal Code, or by a fine not
7 exceeding fifty thousand dollars (\$50,000), or by both that
8 imprisonment and fine. A second or subsequent conviction is
9 punishable by imprisonment pursuant to subdivision (h) of Section
10 1170 of the Penal Code, or by that imprisonment and a fine of fifty
11 thousand dollars (\$50,000).

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 482
SPONSOR:	California Narcotic Officers' Association Consumer Attorneys of California	BILL STATUS:	Assembly Committee on Rules
SUBJECT:	Controlled substances: CURES database	DATE LAST AMENDED:	April 7, 2016

SUMMARY:

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

ANALYSIS:

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

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

Amended analysis as of 4/7:

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements if a specified condition exists,

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

BOARD POSITION: Support (6/4/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered.

SUPPORT:

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

OPPOSE:

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

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 482

Introduced by Senator Lara

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

prescription until the prescriber determines that there is a legitimate need for the controlled substance.

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

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

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

- 1 SECTION 1. Section 11165.4 is added to the Health and Safety
- 2 Code, to read:
- 3 11165.4. (a) A prescriber shall access and consult the CURES
- 4 database for the electronic history of controlled substances
- 5 dispensed to a patient under his or her care before prescribing a
- 6 Schedule II or Schedule III controlled substance for the first time
- 7 to that patient and at least annually when that prescribed controlled
- 8 substance remains part of his or her treatment. If the patient has
- 9 an existing prescription for a Schedule II or Schedule III controlled
- 10 substance, the prescriber shall not prescribe an additional controlled
- 11 substance until the prescriber determines that there is a legitimate
- 12 need for that controlled substance.
- 13 (b) Failure to consult a patient’s electronic history as required
- 14 by subdivision (a) is cause for disciplinary action by the
- 15 prescriber’s licensing board. The licensing boards of all prescribers
- 16 authorized to write or issue prescriptions for controlled substances
- 17 shall notify these licensees of the requirements of this section.

1 ~~(e) Notwithstanding any other law, a prescriber is not in~~
2 ~~violation of this section during any period of time in which the~~
3 ~~CURES database is suspended or not accessible or any period of~~
4 ~~time in which the Internet is not operational.~~

5 *(c) A prescriber is not liable in a civil action solely for failing*
6 *to consult the CURES database as required pursuant to subdivision*
7 *(a).*

8 *(d) The requirement in subdivision (a) does not apply, and a*
9 *prescriber is not in violation of this section, if any of the following*
10 *conditions are met:*

11 *(1) The CURES database is suspended or inaccessible, the*
12 *Internet is not operational, the data in the CURES database is*
13 *inaccurate or incomplete, or it is not possible to query the CURES*
14 *database in a timely manner because of an emergency.*

15 *(2) The controlled substance is prescribed to a patient receiving*
16 *hospice care.*

17 *(3) The controlled substance is prescribed to a patient as a part*
18 *of a surgical procedure that has or will occur in a licensed health*
19 *care facility and the prescription is nonrefillable.*

20 *(4) The controlled substance is directly administered to the*
21 *patient by the prescriber or another person authorized to prescribe*
22 *a controlled substance.*

23 ~~(e)~~

24 *(e) This section shall not become operative until the Department*
25 *of Justice certifies that the CURES database is ready for statewide*
26 *use. The department shall notify the Secretary of State and the*
27 *Office of Legislative Counsel of the date of that certification.*

28 ~~(e)~~

29 *(f) For purposes of this section, “prescriber” means a health care*
30 *practitioner who is authorized to write or issue prescriptions under*
31 *Section 11150, excluding veterinarians.*

32 ~~(f)~~

33 *(g) A violation of this section shall not be subject to the*
34 *provisions of Section 11374.*

35 *(h) All applicable state and federal privacy laws govern the*
36 *duties required by this section.*

37 *(i) The provisions of this section are severable. If any provision*
38 *of this section or its application is held invalid, that invalidity shall*

- 1 *not affect other provisions or applications that can be given effect*
- 2 *without the invalid provision or application.*

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Hernandez	BILL NUMBER:	SB 960
SPONSOR:	Planned Parenthood	BILL STATUS:	Senate Committee on Appropriations
SUBJECT:	Medi-Cal: telehealth: reproductive health care	DATE LAST AMENDED:	April 16, 2016

SUMMARY:

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

ANALYSIS:

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

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

Amended analysis as of 4/26:

The bill would require Medi-Cal managed care plans that contract with the department to cover reproductive health care provided by store and forward.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

Planned Parenthood Affiliates of California (sponsor)
American Civil Liberties Union of California
American Congress of Obstetricians and Gynecologists,
District IX (California)
California Academy of Family Physicians
California Family Health Council
California Medical Association
The Children's Partnership
Community Action Fund of Planned Parenthood of Orange and San Bernardino
Counties
County Health Executives Association of California
National Health Law Program
Planned Parenthood Action Fund of the Pacific Southwest
Planned Parenthood Action Fund of Santa Barbara, Ventura & San Luis Obispo
Planned Parenthood Advocacy Project Los Angeles County
Planned Parenthood Mar Monte
Planned Parenthood Northern California Action Fund
Stanford Health Care

OPPOSE:

California Association of Health Plans (unless amended)
California Catholic Conference

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 960

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

February 8, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would enact similar provisions relating to the use of reproductive health care under the Medi-Cal program. The bill would provide that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for “reproductive health care provided by store and forward.” The bill would define that term

to mean an asynchronous transmission of medical information to be reviewed at a later time by a physician, nurse practitioner, certified nurse midwife, licensed midwife, physician assistant, or registered nurse at a distant site, where the provider at the distant site reviews the dental information without the patient being present in real time, as defined and as specified. *The bill would require Medi-Cal managed care plans that contract with the department to cover reproductive health care provided by store and forward.*

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

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 14132.725 of the Welfare and Institutions
2 Code is amended to read:
3 14132.725. (a) To the extent that federal financial participation
4 is available, face-to-face contact between a health care provider
5 and a patient is not required under the Medi-Cal program for
6 teleophthalmology, teledermatology, and teledentistry, and
7 reproductive health care provided by store and forward. Services
8 appropriately provided through the store and forward process are
9 subject to billing and reimbursement policies developed by the
10 department. A Medi-Cal managed care plan that contracts with
11 the department pursuant to this chapter and Chapter 8 (commencing
12 with Section 14200) shall be required to cover ~~the services~~
13 ~~described in this section.~~ *reproductive health care provided by*
14 *store and forward.*
15 (b) For purposes of this section, “teleophthalmology,
16 teledermatology, and teledentistry, and reproductive health care
17 provided by store and forward” means an asynchronous
18 transmission of medical or dental information to be reviewed at a
19 later time by a physician at a distant site who is trained in

1 ophthalmology or dermatology or, for teleophthalmology, by an
2 optometrist who is licensed pursuant to Chapter 7 (commencing
3 with Section 3000) of Division 2 of the Business and Professions
4 Code, or a dentist, or, for reproductive health care, by a physician,
5 nurse practitioner, certified nurse midwife, licensed midwife,
6 physician assistant, or registered nurse operating within his or her
7 scope of practice, where the physician, optometrist, dentist, nurse
8 practitioner, certified nurse midwife, licensed midwife, physician
9 assistant, or registered nurse at the distant site reviews the medical
10 or dental information without the patient being present in real time.
11 A patient receiving teleophthalmology, teledermatology,
12 teledentistry, or reproductive health care by store and forward shall
13 be notified of the right to receive interactive communication with
14 the distant specialist physician, optometrist, dentist, nurse
15 practitioner, certified nurse midwife, licensed midwife, physician
16 assistant, or registered nurse and shall receive an interactive
17 communication with the distant specialist physician, optometrist,
18 dentist, nurse practitioner, certified nurse midwife, licensed
19 midwife, physician assistant, or registered nurse upon request. If
20 requested, communication with the distant specialist physician,
21 optometrist, dentist, nurse practitioner, certified nurse midwife,
22 licensed midwife, physician assistant, or registered nurse may
23 occur either at the time of the consultation, or within 30 days of
24 the patient's notification of the results of the consultation. If the
25 reviewing optometrist identifies a disease or condition requiring
26 consultation or referral pursuant to Section 3041 of the Business
27 and Professions Code, that consultation or referral shall be with
28 an ophthalmologist or other appropriate physician and surgeon, as
29 required.

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

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

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

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

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

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

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

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

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

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

38 (e) Nothing in this section shall be construed to prohibit a
39 Medi-Cal managed care plan from requiring documentation
40 reasonably relevant to a telephonic or electronic visit, as recognized

1 by the Current Procedural Terminology codes published by the
2 American Medical Association.

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

4 (1) “Established patient” means a patient who, within three
5 years immediately preceding the telephonic or electronic visit, has
6 received professional services from the provider or another provider
7 of the same specialty or subspecialty who belongs to the same
8 group practice.

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

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

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

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

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

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

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

34 (h) Notwithstanding Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
36 the department may implement, interpret, and make specific this
37 section by means of all-county letters, provider bulletins, and
38 similar instructions.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1039
SPONSOR:	Hill	BILL STATUS:	Senate Committee on Appropriations
SUBJECT:	Professions and Vocations	DATE LAST AMENDED:	April 21, 2016

SUMMARY:

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

ANALYSIS:

Section 3: This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements.

Amended summary and analysis as of 4/7:

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

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

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

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

Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, among other provisions, as specified.

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

Amended analysis as of 4/12:

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

Amended analysis as of 4/21:

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

Section 6 renumbered to Section 5. This bill now amends rather than repeals BPC, HSC, and IC sections related to telephone medical advice services. The bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

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

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

SUPPORT: None on file related to nursing.

OPPOSE: None on file related to nursing.

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE APRIL 7, 2016

SENATE BILL

No. 1039

Introduced by Senator Hill

February 12, 2016

An act to amend Sections ~~1636.4~~, 2423, 2460, 2461, 2475, 2479, 2486, 2488, 2492, 2499, 2733, 2746.51, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4999, 4999.2, 7137, 7153.3, 8031, 8516, and 8518 of, to amend, repeal, and add Section 4400 of, to add Section 2499.7 to, ~~and to repeal Chapter 15 (commencing with Section 4999) of Division 2 of, Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, and to repeal and add Section 4999.5 of,~~ the Business and Professions Code, to ~~repeal~~ amend Section 1348.8 of the Health and Safety Code, and to ~~repeal~~ amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified.

The bill would state the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program, as specified, to increase the supply of dentists serving in medically underserved areas.

~~(2) The Dental Practice Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to be responsible for the approval of foreign dental schools by evaluating foreign dental schools based on specified criteria. That act authorizes the board to contract with outside consultants or a national professional organization to survey and evaluate foreign dental schools, as specified. That act requires the board to establish a technical advisory group to review the survey and evaluation contracted for prior to the board taking any final action regarding a foreign dental school. That act also requires periodic surveys and evaluations of all approved schools be made to ensure compliance with the act.~~

~~This bill would authorize the board, in lieu of conducting its own survey and evaluation of a foreign dental school, to accept the findings of any commission or accreditation agency approved by the board, if the findings meet specified standards and the foreign dental school is not under review by the board on January 1, 2017, and adopt those findings as the board's own. The bill would delete the requirement to establish a technical advisory group. The bill would instead authorize periodic surveys and evaluations be made to ensure compliance with that act.~~

~~(3)~~

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

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

~~(4)~~

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

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

This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements. The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(5)

(4) The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs. That law prescribes various fees to be paid by licensees and applicants for licensure, and requires all fees collected on behalf of the board to be credited to the Pharmacy Board Contingent Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

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

(6)

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

~~This bill would repeal those provisions.~~

This bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing

arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

(7)

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

This bill would raise specified fees and would require the board to establish criteria for the approval of expedited processing of applications, as specified. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(8)

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

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

(9)

(8) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board, which is within the Department of Consumer Affairs, and requires a licensee to pay a specified license fee. Existing law makes any violation of those provisions punishable as a misdemeanor. Existing law places certain requirements on a registered company or licensee with regards to wood destroying pests or organisms, including that a registered company or licensee is prohibited from commencing work on a contract until an inspection has been made by a licensed Branch 3 field representative or operator, that the address of each property inspected or upon which work was completed is required to be reported to the board, as specified, and that a written inspection report be prepared

and delivered to the person requesting the inspection or his or her agent. Existing law requires the original inspection report to be submitted to the board upon demand. Existing law requires that written report to contain certain information, including a foundation diagram or sketch of the structure or portions of the structure inspected, and requires the report, and any contract entered into, to expressly state if a guarantee for the work is made, and if so, the terms and time period of the guarantee. Existing law establishes the Structural Pest Control Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

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

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

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

(10)

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

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

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

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

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

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

8 ~~1636.4. (a) The Legislature recognizes the need to ensure that~~
9 ~~graduates of foreign dental schools who have received an education~~
10 ~~that is equivalent to that of accredited institutions in the United~~
11 ~~States and that adequately prepares their students for the practice~~
12 ~~of dentistry shall be subject to the same licensure requirements as~~
13 ~~graduates of approved dental schools or colleges. It is the purpose~~
14 ~~of this section to provide for the evaluation of foreign dental~~
15 ~~schools and the approval of those foreign dental schools that~~
16 ~~provide an education that is equivalent to that of similar accredited~~
17 ~~institutions in the United States and that adequately prepare their~~
18 ~~students for the practice of dentistry.~~

19 ~~(b) The board shall be responsible for the approval of foreign~~
20 ~~dental schools based on standards established pursuant to~~
21 ~~subdivision (c). The board may contract with outside consultants~~
22 ~~or a national professional organization to survey and evaluate~~
23 ~~foreign dental schools. The consultant or organization shall report~~
24 ~~to the board regarding its findings in the survey and evaluation.~~
25 ~~The board may, in lieu of conducting its own survey and evaluation~~
26 ~~of a foreign dental school, accept the findings of any commission~~
27 ~~or accreditation agency approved by the board if the findings meet~~
28 ~~the standards of subdivision (c) and adopt those findings as the~~
29 ~~board's own. This subdivision shall not apply to foreign dental~~
30 ~~schools seeking board approval that are under review by the board~~
31 ~~on January 1, 2017.~~

32 ~~(c) Any foreign dental school that wishes to be approved~~
33 ~~pursuant to this section shall make application to the board for this~~
34 ~~approval, which shall be based upon a finding by the board that~~
35 ~~the educational program of the foreign dental school is equivalent~~

1 to that of similar accredited institutions in the United States and
2 adequately prepares its students for the practice of dentistry.
3 Curriculum, faculty qualifications, student attendance, plant and
4 facilities, and other relevant factors shall be reviewed and
5 evaluated. The board shall identify by rule the standards and review
6 procedures and methodology to be used in the approval process
7 consistent with this subdivision. The board shall not grant approval
8 if deficiencies found are of such magnitude as to prevent the
9 students in the school from receiving an educational base suitable
10 for the practice of dentistry.

11 (d) Periodic surveys and evaluations of all approved schools
12 may be made to ensure continued compliance with this section.
13 Approval shall include provisional and full approval. The
14 provisional form of approval shall be for a period determined by
15 the board, not to exceed three years, and shall be granted to an
16 institution, in accordance with rules established by the board, to
17 provide reasonable time for the school seeking permanent approval
18 to overcome deficiencies found by the board. Prior to the expiration
19 of a provisional approval and before the full approval is granted,
20 the school shall be required to submit evidence that deficiencies
21 noted at the time of initial application have been remedied. A
22 school granted full approval shall provide evidence of continued
23 compliance with this section. In the event that the board denies
24 approval or reapproval, the board shall give the school a specific
25 listing of the deficiencies that caused the denial and the
26 requirements for remedying the deficiencies, and shall permit the
27 school, upon request, to demonstrate by satisfactory evidence,
28 within 90 days, that it has remedied the deficiencies listed by the
29 board.

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

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

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 2423 of the Business and Professions Code is
3 amended to read:

4 2423. (a) Notwithstanding Section 2422:

5 (1) All physician and surgeon’s certificates and certificates to
6 practice midwifery shall expire at 12 midnight on the last day of
7 the birth month of the licensee during the second year of a two-year
8 term if not renewed.

9 (2) Registrations of dispensing opticians will expire at midnight
10 on the last day of the month in which the license was issued during
11 the second year of a two-year term if not renewed.

12 (b) The board shall establish by regulation procedures for the
13 administration of a birth date renewal program, including, but not
14 limited to, the establishment of a system of staggered license
15 expiration dates such that a relatively equal number of licenses
16 expire monthly.

17 (c) To renew an unexpired license, the licensee shall, on or
18 before the dates on which it would otherwise expire, apply for
19 renewal on a form prescribed by the licensing authority and pay
20 the prescribed renewal fee.

21 ~~SEC. 4.~~

22 *SEC. 3.* Section 2460 of the Business and Professions Code is
23 amended to read:

24 2460. (a) There is created within the Department of Consumer
25 Affairs a California Board of Podiatric Medicine.

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

32 ~~SEC. 5.~~

33 *SEC. 4.* Section 2461 of the Business and Professions Code is
34 amended to read:

35 2461. As used in this article:

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

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

1 ~~SEC. 6.~~

2 *SEC. 5.* Section 2475 of the Business and Professions Code is
3 amended to read:

4 2475. Unless otherwise provided by law, no postgraduate
5 trainee, intern, resident postdoctoral fellow, or instructor may
6 engage in the practice of podiatric medicine, or receive
7 compensation therefor, or offer to engage in the practice of
8 podiatric medicine unless he or she holds a valid, unrevoked, and
9 unsuspended certificate to practice podiatric medicine issued by
10 the board. However, a graduate of an approved college or school
11 of podiatric medicine upon whom the degree doctor of podiatric
12 medicine has been conferred, who is issued a resident's license,
13 which may be renewed annually for up to eight years for this
14 purpose by the board, and who is enrolled in a postgraduate training
15 program approved by the board, may engage in the practice of
16 podiatric medicine whenever and wherever required as a part of
17 that program and may receive compensation for that practice under
18 the following conditions:

19 (a) A graduate with a resident's license in an approved
20 internship, residency, or fellowship program may participate in
21 training rotations outside the scope of podiatric medicine, under
22 the supervision of a physician and surgeon who holds a medical
23 doctor or doctor of osteopathy degree wherever and whenever
24 required as a part of the training program, and may receive
25 compensation for that practice. If the graduate fails to receive a
26 license to practice podiatric medicine under this chapter within
27 three years from the commencement of the postgraduate training,
28 all privileges and exemptions under this section shall automatically
29 cease.

30 (b) Hospitals functioning as a part of the teaching program of
31 an approved college or school of podiatric medicine in this state
32 may exchange instructors or resident or assistant resident doctors
33 of podiatric medicine with another approved college or school of
34 podiatric medicine not located in this state, or those hospitals may
35 appoint a graduate of an approved school as such a resident for
36 purposes of postgraduate training. Those instructors and residents
37 may practice and be compensated as provided in this section, but
38 that practice and compensation shall be for a period not to exceed
39 two years.

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 2479 of the Business and Professions Code is
3 amended to read:

4 2479. The board shall issue a certificate to practice podiatric
5 medicine to each applicant who meets the requirements of this
6 chapter. Every applicant for a certificate to practice podiatric
7 medicine shall comply with the provisions of Article 4
8 (commencing with Section 2080) which are not specifically
9 applicable to applicants for a physician’s and surgeon’s certificate,
10 in addition to the provisions of this article.

11 ~~SEC. 8.~~

12 *SEC. 7.* Section 2486 of the Business and Professions Code is
13 amended to read:

14 2486. The board shall issue a certificate to practice podiatric
15 medicine if the applicant has submitted directly to the board from
16 the credentialing organizations verification that he or she meets
17 all of the following requirements:

18 (a) The applicant has graduated from an approved school or
19 college of podiatric medicine and meets the requirements of Section
20 2483.

21 (b) The applicant, within the past 10 years, has passed parts I,
22 II, and III of the examination administered by the National Board
23 of Podiatric Medical Examiners of the United States or has passed
24 a written examination that is recognized by the board to be the
25 equivalent in content to the examination administered by the
26 National Board of Podiatric Medical Examiners of the United
27 States.

28 (c) The applicant has satisfactorily completed the postgraduate
29 training required by Section 2484.

30 (d) The applicant has passed within the past 10 years any oral
31 and practical examination that may be required of all applicants
32 by the board to ascertain clinical competence.

33 (e) The applicant has committed no acts or crimes constituting
34 grounds for denial of a certificate under Division 1.5 (commencing
35 with Section 475).

36 (f) The board determines that no disciplinary action has been
37 taken against the applicant by any podiatric licensing authority
38 and that the applicant has not been the subject of adverse judgments
39 or settlements resulting from the practice of podiatric medicine

1 that the board determines constitutes evidence of a pattern of
2 negligence or incompetence.

3 (g) A disciplinary databank report regarding the applicant is
4 received by the board from the Federation of Podiatric Medical
5 Boards.

6 ~~SEC. 9.~~

7 *SEC. 8.* Section 2488 of the Business and Professions Code is
8 amended to read:

9 2488. Notwithstanding any other law, the board shall issue a
10 certificate to practice podiatric medicine by credentialing if the
11 applicant has submitted directly to the board from the credentialing
12 organizations verification that he or she is licensed as a doctor of
13 podiatric medicine in any other state and meets all of the following
14 requirements:

15 (a) The applicant has graduated from an approved school or
16 college of podiatric medicine.

17 (b) The applicant, within the past 10 years, has passed either
18 part III of the examination administered by the National Board of
19 Podiatric Medical Examiners of the United States or a written
20 examination that is recognized by the board to be the equivalent
21 in content to the examination administered by the National Board
22 of Podiatric Medical Examiners of the United States.

23 (c) The applicant has satisfactorily completed a postgraduate
24 training program approved by the Council on Podiatric Medical
25 Education.

26 (d) The applicant, within the past 10 years, has passed any oral
27 and practical examination that may be required of all applicants
28 by the board to ascertain clinical competence.

29 (e) The applicant has committed no acts or crimes constituting
30 grounds for denial of a certificate under Division 1.5 (commencing
31 with Section 475).

32 (f) The board determines that no disciplinary action has been
33 taken against the applicant by any podiatric licensing authority
34 and that the applicant has not been the subject of adverse judgments
35 or settlements resulting from the practice of podiatric medicine
36 that the board determines constitutes evidence of a pattern of
37 negligence or incompetence.

38 (g) A disciplinary databank report regarding the applicant is
39 received by the board from the Federation of Podiatric Medical
40 Boards.

1 ~~SEC. 10.~~

2 *SEC. 9.* Section 2492 of the Business and Professions Code is
3 amended to read:

4 2492. (a) The board shall examine every applicant for a
5 certificate to practice podiatric medicine to ensure a minimum of
6 entry-level competence at the time and place designated by the
7 board in its discretion, but at least twice a year.

8 (b) Unless the applicant meets the requirements of Section 2486,
9 applicants shall be required to have taken and passed the
10 examination administered by the National Board of Podiatric
11 Medical Examiners.

12 (c) The board may appoint qualified persons to give the whole
13 or any portion of any examination as provided in this article, who
14 shall be designated as examination commissioners. The board may
15 fix the compensation of those persons subject to the provisions of
16 applicable state laws and regulations.

17 (d) The provisions of Article 9 (commencing with Section 2170)
18 shall apply to examinations administered by the board except where
19 those provisions are in conflict with or inconsistent with the
20 provisions of this article.

21 ~~SEC. 11.~~

22 *SEC. 10.* Section 2499 of the Business and Professions Code
23 is amended to read:

24 2499. There is in the State Treasury the Board of Podiatric
25 Medicine Fund. Notwithstanding Section 2445, the board shall
26 report to the Controller at the beginning of each calendar month
27 for the month preceding the amount and source of all revenue
28 received by the board, pursuant to this chapter, and shall pay the
29 entire amount thereof to the Treasurer for deposit into the fund.
30 All revenue received by the board from fees authorized to be
31 charged relating to the practice of podiatric medicine shall be
32 deposited in the fund as provided in this section, and shall be used
33 to carry out the provisions of this chapter relating to the regulation
34 of the practice of podiatric medicine.

35 ~~SEC. 12.~~

36 *SEC. 11.* Section 2499.7 is added to the Business and
37 Professions Code, to read:

38 2499.7. (a) Certificates to practice podiatric medicine shall
39 expire at 12 midnight on the last day of the birth month of the
40 licensee during the second year of a two-year term.

1 (b) To renew an unexpired certificate, the licensee, on or before
2 the date on which the certificate would otherwise expire, shall
3 apply for renewal on a form prescribed by the board and pay the
4 prescribed renewal fee.

5 ~~SEC. 13.~~

6 *SEC. 12.* Section 2733 of the Business and Professions Code
7 is amended to read:

8 2733. (a) (1) (A) Upon approval of an application filed
9 pursuant to subdivision (b) of Section 2732.1, and upon the
10 payment of the fee prescribed by subdivision (k) of Section 2815,
11 the board may issue a temporary license to practice professional
12 nursing, and a temporary certificate to practice as a certified public
13 health nurse for a period of six months from the date of issuance.

14 (B) Upon approval of an application filed pursuant to
15 subdivision (b) of Section 2732.1, and upon the payment of the
16 fee prescribed by subdivision (d) of Section 2838.2, the board may
17 issue a temporary certificate to practice as a certified clinical nurse
18 specialist for a period of six months from the date of issuance.

19 (C) Upon approval of an application filed pursuant to
20 subdivision (b) of Section 2732.1, and upon the payment of the
21 fee prescribed by subdivision (e) of Section 2815.5, the board may
22 issue a temporary certificate to practice as a certified nurse-midwife
23 for a period of six months from the date of issuance.

24 (D) Upon approval of an application filed pursuant to
25 subdivision (b) of Section 2732.1, and upon the payment of the
26 fee prescribed by subdivision (d) of Section 2830.7, the board may
27 issue a temporary certificate to practice as a certified nurse
28 anesthetist for a period of six months from the date of issuance.

29 (E) Upon approval of an application filed pursuant to subdivision
30 (b) of Section 2732.1, and upon the payment of the fee prescribed
31 by subdivision (p) of Section 2815, the board may issue a
32 temporary certificate to practice as a certified nurse practitioner
33 for a period of six months from the date of issuance.

34 (2) A temporary license or temporary certificate shall terminate
35 upon notice thereof by certified mail, return receipt requested, if
36 it is issued by mistake or if the application for permanent licensure
37 is denied.

38 (b) Upon written application, the board may reissue a temporary
39 license or temporary certificate to any person who has applied for
40 a regular renewable license pursuant to subdivision (b) of Section

1 2732.1 and who, in the judgment of the board has been excusably
2 delayed in completing his or her application for or the minimum
3 requirements for a regular renewable license, but the board may
4 not reissue a temporary license or temporary certificate more than
5 twice to any one person.

6 ~~SEC. 14.~~

7 *SEC. 13.* Section 2746.51 of the Business and Professions Code
8 is amended to read:

9 2746.51. (a) Neither this chapter nor any other provision of
10 law shall be construed to prohibit a certified nurse-midwife from
11 furnishing or ordering drugs or devices, including controlled
12 substances classified in Schedule II, III, IV, or V under the
13 California Uniform Controlled Substances Act (Division 10
14 (commencing with Section 11000) of the Health and Safety Code),
15 when all of the following apply:

16 (1) The drugs or devices are furnished or ordered incidentally
17 to the provision of any of the following:

18 (A) Family planning services, as defined in Section 14503 of
19 the Welfare and Institutions Code.

20 (B) Routine health care or perinatal care, as defined in
21 subdivision (d) of Section 123485 of the Health and Safety Code.

22 (C) Care rendered, consistent with the certified nurse-midwife's
23 educational preparation or for which clinical competency has been
24 established and maintained, to persons within a facility specified
25 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
26 Health and Safety Code, a clinic as specified in Section 1204 of
27 the Health and Safety Code, a general acute care hospital as defined
28 in subdivision (a) of Section 1250 of the Health and Safety Code,
29 a licensed birth center as defined in Section 1204.3 of the Health
30 and Safety Code, or a special hospital specified as a maternity
31 hospital in subdivision (f) of Section 1250 of the Health and Safety
32 Code.

33 (2) The drugs or devices are furnished or ordered by a certified
34 nurse-midwife in accordance with standardized procedures or
35 protocols. For purposes of this section, standardized procedure
36 means a document, including protocols, developed and approved
37 by the supervising physician and surgeon, the certified
38 nurse-midwife, and the facility administrator or his or her designee.
39 The standardized procedure covering the furnishing or ordering
40 of drugs or devices shall specify all of the following:

1 (A) Which certified nurse-midwife may furnish or order drugs
2 or devices.

3 (B) Which drugs or devices may be furnished or ordered and
4 under what circumstances.

5 (C) The extent of physician and surgeon supervision.

6 (D) The method of periodic review of the certified
7 nurse-midwife's competence, including peer review, and review
8 of the provisions of the standardized procedure.

9 (3) If Schedule II or III controlled substances, as defined in
10 Sections 11055 and 11056 of the Health and Safety Code, are
11 furnished or ordered by a certified nurse-midwife, the controlled
12 substances shall be furnished or ordered in accordance with a
13 patient-specific protocol approved by the treating or supervising
14 physician and surgeon. For Schedule II controlled substance
15 protocols, the provision for furnishing the Schedule II controlled
16 substance shall address the diagnosis of the illness, injury, or
17 condition for which the Schedule II controlled substance is to be
18 furnished.

19 (4) The furnishing or ordering of drugs or devices by a certified
20 nurse-midwife occurs under physician and surgeon supervision.
21 For purposes of this section, no physician and surgeon shall
22 supervise more than four certified nurse-midwives at one time.
23 Physician and surgeon supervision shall not be construed to require
24 the physical presence of the physician, but does include all of the
25 following:

26 (A) Collaboration on the development of the standardized
27 procedure or protocol.

28 (B) Approval of the standardized procedure or protocol.

29 (C) Availability by telephonic contact at the time of patient
30 examination by the certified nurse-midwife.

31 (b) (1) The furnishing or ordering of drugs or devices by a
32 certified nurse-midwife is conditional on the issuance by the board
33 of a number to the applicant who has successfully completed the
34 requirements of paragraph (2). The number shall be included on
35 all transmittals of orders for drugs or devices by the certified
36 nurse-midwife. The board shall maintain a list of the certified
37 nurse-midwives that it has certified pursuant to this paragraph and
38 the number it has issued to each one. The board shall make the list
39 available to the California State Board of Pharmacy upon its
40 request. Every certified nurse-midwife who is authorized pursuant

1 to this section to furnish or issue a drug order for a controlled
2 substance shall register with the United States Drug Enforcement
3 Administration.

4 (2) The board has certified in accordance with paragraph (1)
5 that the certified nurse-midwife has satisfactorily completed a
6 course in pharmacology covering the drugs or devices to be
7 furnished or ordered under this section. The board shall establish
8 the requirements for satisfactory completion of this paragraph.
9 The board may charge the applicant a fee to cover all necessary
10 costs to implement this section, that shall be not less than four
11 hundred dollars (\$400) nor more than one thousand five hundred
12 dollars (\$1,500) for an initial application, nor less than one hundred
13 fifty dollars (\$150) nor more than one thousand dollars (\$1,000)
14 for an application for renewal. The board may charge a penalty
15 fee for failure to renew a furnishing number within the prescribed
16 time that shall be not less than seventy-five dollars (\$75) nor more
17 than five hundred dollars (\$500).

18 (3) A physician and surgeon may determine the extent of
19 supervision necessary pursuant to this section in the furnishing or
20 ordering of drugs and devices.

21 (4) A copy of the standardized procedure or protocol relating
22 to the furnishing or ordering of controlled substances by a certified
23 nurse-midwife shall be provided upon request to any licensed
24 pharmacist who is uncertain of the authority of the certified
25 nurse-midwife to perform these functions.

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

34 (c) Drugs or devices furnished or ordered by a certified
35 nurse-midwife may include Schedule II controlled substances
36 under the California Uniform Controlled Substances Act (Division
37 10 (commencing with Section 11000) of the Health and Safety
38 Code) under the following conditions:

39 (1) The drugs and devices are furnished or ordered in accordance
40 with requirements referenced in paragraphs (2) to (4), inclusive,

1 of subdivision (a) and in paragraphs (1) to (3), inclusive, of
2 subdivision (b).

3 (2) When Schedule II controlled substances, as defined in
4 Section 11055 of the Health and Safety Code, are furnished or
5 ordered by a certified nurse-midwife, the controlled substances
6 shall be furnished or ordered in accordance with a patient-specific
7 protocol approved by the treating or supervising physician and
8 surgeon.

9 (d) Furnishing of drugs or devices by a certified nurse-midwife
10 means the act of making a pharmaceutical agent or agents available
11 to the patient in strict accordance with a standardized procedure
12 or protocol. Use of the term “furnishing” in this section shall
13 include the following:

14 (1) The ordering of a drug or device in accordance with the
15 standardized procedure or protocol.

16 (2) Transmitting an order of a supervising physician and
17 surgeon.

18 (e) “Drug order” or “order” for purposes of this section means
19 an order for medication or for a drug or device that is dispensed
20 to or for an ultimate user, issued by a certified nurse-midwife as
21 an individual practitioner, within the meaning of Section 1306.03
22 of Title 21 of the Code of Federal Regulations. Notwithstanding
23 any other provision of law, (1) a drug order issued pursuant to this
24 section shall be treated in the same manner as a prescription of the
25 supervising physician; (2) all references to “prescription” in this
26 code and the Health and Safety Code shall include drug orders
27 issued by certified nurse-midwives; and (3) the signature of a
28 certified nurse-midwife on a drug order issued in accordance with
29 this section shall be deemed to be the signature of a prescriber for
30 purposes of this code and the Health and Safety Code.

31 ~~SEC. 15.~~

32 *SEC. 14.* Section 2786.5 of the Business and Professions Code
33 is amended to read:

34 2786.5. (a) An institution of higher education or a private
35 postsecondary school of nursing approved by the board pursuant
36 to subdivision (b) of Section 2786 shall remit to the board for
37 deposit in the Board of Registered Nursing Fund the following
38 fees, in accordance with the following schedule:

1 (1) The fee for approval of a school of nursing shall be fixed
2 by the board at not less than forty thousand dollars (\$40,000) nor
3 more than eighty thousand dollars (\$80,000).

4 (2) The fee for continuing approval of a nursing program
5 established after January 1, 2013, shall be fixed by the board at
6 not less than fifteen thousand dollars (\$15,000) nor more than
7 thirty thousand dollars (\$30,000).

8 (3) The processing fee for authorization of a substantive change
9 to an approval of a school of nursing shall be fixed by the board
10 at not less than two thousand five hundred dollars (\$2,500) nor
11 more than five thousand dollars (\$5,000).

12 (b) If the board determines that the annual cost of providing
13 oversight and review of a school of nursing, as required by this
14 article, is less than the amount of any fees required to be paid by
15 that institution pursuant to this article, the board may decrease the
16 fees applicable to that institution to an amount that is proportional
17 to the board’s costs associated with that institution.

18 ~~SEC. 16.~~

19 *SEC. 15.* Section 2811 of the Business and Professions Code
20 is amended to read:

21 2811. (a) Each person holding a regular renewable license
22 under this chapter, whether in an active or inactive status, shall
23 apply for a renewal of his license and pay the biennial renewal fee
24 required by this chapter each two years on or before the last day
25 of the month following the month in which his birthday occurs,
26 beginning with the second birthday following the date on which
27 the license was issued, whereupon the board shall renew the
28 license.

29 (b) Each such license not renewed in accordance with this
30 section shall expire but may within a period of eight years
31 thereafter be reinstated upon payment of the fee required by this
32 chapter and upon submission of such proof of the applicant’s
33 qualifications as may be required by the board, except that during
34 such eight-year period no examination shall be required as a
35 condition for the reinstatement of any such expired license which
36 has lapsed solely by reason of nonpayment of the renewal fee.
37 After the expiration of such eight-year period the board may require
38 as a condition of reinstatement that the applicant pass such
39 examination as it deems necessary to determine his present fitness
40 to resume the practice of professional nursing.

1 (c) A license in an inactive status may be restored to an active
2 status if the licensee meets the continuing education standards of
3 Section 2811.5.

4 ~~SEC. 17.~~

5 *SEC. 16.* Section 2811.5 of the Business and Professions Code
6 is amended to read:

7 2811.5. (a) Each person renewing his or her license under
8 Section 2811 shall submit proof satisfactory to the board that,
9 during the preceding two-year period, he or she has been informed
10 of the developments in the registered nurse field or in any special
11 area of practice engaged in by the licensee, occurring since the
12 last renewal thereof, either by pursuing a course or courses of
13 continuing education in the registered nurse field or relevant to
14 the practice of the licensee, and approved by the board, or by other
15 means deemed equivalent by the board.

16 (b) For purposes of this section, the board shall, by regulation,
17 establish standards for continuing education. The standards shall
18 be established in a manner to ensure that a variety of alternative
19 forms of continuing education are available to licensees, including,
20 but not limited to, academic studies, in-service education, institutes,
21 seminars, lectures, conferences, workshops, extension studies, and
22 home study programs. The standards shall take cognizance of
23 specialized areas of practice, and content shall be relevant to the
24 practice of nursing and shall be related to the scientific knowledge
25 or technical skills required for the practice of nursing or be related
26 to direct or indirect patient or client care. The continuing education
27 standards established by the board shall not exceed 30 hours of
28 direct participation in a course or courses approved by the board,
29 or its equivalent in the units of measure adopted by the board.

30 (c) The board shall audit continuing education providers at least
31 once every five years to ensure adherence to regulatory
32 requirements, and shall withhold or rescind approval from any
33 provider that is in violation of the regulatory requirements.

34 (d) The board shall encourage continuing education in spousal
35 or partner abuse detection and treatment. In the event the board
36 establishes a requirement for continuing education coursework in
37 spousal or partner abuse detection or treatment, that requirement
38 shall be met by each licensee within no more than four years from
39 the date the requirement is imposed.

1 (e) In establishing standards for continuing education, the board
2 shall consider including a course in the special care needs of
3 individuals and their families facing end-of-life issues, including,
4 but not limited to, all of the following:

- 5 (1) Pain and symptom management.
- 6 (2) The psycho-social dynamics of death.
- 7 (3) Dying and bereavement.
- 8 (4) Hospice care.

9 (f) In establishing standards for continuing education, the board
10 may include a course on pain management.

11 (g) This section shall not apply to licensees during the first two
12 years immediately following their initial licensure in California
13 or any other governmental jurisdiction.

14 (h) The board may, in accordance with the intent of this section,
15 make exceptions from continuing education requirements for
16 licensees residing in another state or country, or for reasons of
17 health, military service, or other good cause.

18 ~~SEC. 18.~~

19 *SEC. 17.* Section 2815 of the Business and Professions Code
20 is amended to read:

21 2815. Subject to the provisions of Section 128.5, the amount
22 of the fees prescribed by this chapter in connection with the
23 issuance of licenses for registered nurses under its provisions is
24 that fixed by the following schedule:

25 (a) (1) The fee to be paid upon the filing by a graduate of an
26 approved school of nursing in this state of an application for a
27 licensure by examination shall be fixed by the board at not less
28 than three hundred dollars (\$300) nor more than one thousand
29 dollars (\$1,000).

30 (2) The fee to be paid upon the filing by a graduate of a school
31 of nursing in another state, district, or territory of the United States
32 of an application for a licensure by examination shall be fixed by
33 the board at not less than three hundred fifty dollars (\$350) nor
34 more than one thousand dollars (\$1,000).

35 (3) The fee to be paid upon the filing by a graduate of a school
36 of nursing in another country of an application for a licensure by
37 examination shall be fixed by the board at not less than seven
38 hundred fifty dollars (\$750) nor more than one thousand five
39 hundred dollars (\$1,500).

1 (4) The fee to be paid upon the filing of an application for
2 licensure by a repeat examination shall be fixed by the board at
3 not less than two hundred fifty dollars (\$250) and not more than
4 one thousand dollars (\$1,000).

5 (b) The fee to be paid for taking each examination shall be the
6 actual cost to purchase an examination from a vendor approved
7 by the board.

8 (c) (1) The fee to be paid for application by a person who is
9 licensed or registered as a nurse in another state, district, or territory
10 of the United States for licensure by endorsement shall be fixed
11 by the board at not less than three hundred fifty dollars (\$350) nor
12 more than one thousand dollars (\$1,000).

13 (2) The fee to be paid for application by a person who is licensed
14 or registered as a nurse in another country for licensure by
15 endorsement shall be fixed by the board at not less than seven
16 hundred fifty dollars (\$750) nor more than one thousand five
17 hundred dollars (\$1,500).

18 (d) (1) The biennial fee to be paid upon the filing of an
19 application for renewal of the license shall be not less than one
20 hundred eighty dollars (\$180) nor more than seven hundred fifty
21 dollars (\$750). In addition, an assessment of ten dollars (\$10) shall
22 be collected and credited to the Registered Nurse Education Fund,
23 pursuant to Section 2815.1.

24 (2) The fee to be paid upon the filing of an application for
25 reinstatement pursuant to subdivision (b) of Section 2811 shall be
26 not less than three hundred fifty dollars (\$350) nor more than one
27 thousand dollars (\$1,000).

28 (e) The penalty fee for failure to renew a license within the
29 prescribed time shall be fixed by the board at not more than 50
30 percent of the regular renewal fee, but not less than ninety dollars
31 (\$90) nor more than three hundred seventy-five dollars (\$375).

32 (f) The fee to be paid for approval of a continuing education
33 provider shall be fixed by the board at not less than five hundred
34 dollars (\$500) nor more than one thousand dollars (\$1,000).

35 (g) The biennial fee to be paid upon the filing of an application
36 for renewal of provider approval shall be fixed by the board at not
37 less than seven hundred fifty dollars (\$750) nor more than one
38 thousand dollars (\$1,000).

39 (h) The penalty fee for failure to renew provider approval within
40 the prescribed time shall be fixed at not more than 50 percent of

1 the regular renewal fee, but not less than one hundred twenty-five
2 dollars (\$125) nor more than five hundred dollars (\$500).

3 (i) The penalty for submitting insufficient funds or fictitious
4 check, draft or order on any bank or depository for payment of
5 any fee to the board shall be fixed at not less than fifteen dollars
6 (\$15) nor more than thirty dollars (\$30).

7 (j) The fee to be paid for an interim permit shall be fixed by the
8 board at not less than one hundred dollars (\$100) nor more than
9 two hundred fifty dollars (\$250).

10 (k) The fee to be paid for a temporary license shall be fixed by
11 the board at not less than one hundred dollars (\$100) nor more
12 than two hundred fifty dollars (\$250).

13 (l) The fee to be paid for processing endorsement papers to other
14 states shall be fixed by the board at not less than one hundred
15 dollars (\$100) nor more than two hundred dollars (\$200).

16 (m) The fee to be paid for a certified copy of a school transcript
17 shall be fixed by the board at not less than fifty dollars (\$50) nor
18 more than one hundred dollars (\$100).

19 (n) (1) The fee to be paid for a duplicate pocket license shall
20 be fixed by the board at not less than fifty dollars (\$50) nor more
21 than seventy-five dollars (\$75).

22 (2) The fee to be paid for a duplicate wall certificate shall be
23 fixed by the board at not less than sixty dollars (\$60) nor more
24 than one hundred dollars (\$100).

25 (o) (1) The fee to be paid by a registered nurse for an evaluation
26 of his or her qualifications to use the title “nurse practitioner” shall
27 be fixed by the board at not less than five hundred dollars (\$500)
28 nor more than one thousand five hundred dollars (\$1,500).

29 (2) The fee to be paid by a registered nurse for a temporary
30 certificate to practice as a nurse practitioner shall be fixed by the
31 board at not less than one hundred fifty dollars (\$150) nor more
32 than five hundred dollars (\$500).

33 (3) The fee to be paid upon the filing of an application for
34 renewal of a certificate to practice as a nurse practitioner shall be
35 not less than one hundred fifty dollars (\$150) nor more than one
36 thousand dollars (\$1,000).

37 (4) The penalty fee for failure to renew a certificate to practice
38 as a nurse practitioner within the prescribed time shall be not less
39 than seventy-five dollars (\$75) nor more than five hundred dollars
40 (\$500).

1 (p) The fee to be paid by a registered nurse for listing as a
2 “psychiatric mental health nurse” shall be fixed by the board at
3 not less than three hundred fifty dollars (\$350) nor more than seven
4 hundred fifty dollars (\$750).

5 (q) The fee to be paid for duplicate National Council Licensure
6 Examination for registered nurses (NCLEX-RN) examination
7 results shall be not less than sixty dollars (\$60) nor more than one
8 hundred dollars (\$100).

9 (r) The fee to be paid for a letter certifying a license shall be
10 not less than twenty dollars (\$20) nor more than thirty dollars
11 (\$30).

12 No further fee shall be required for a license or a renewal thereof
13 other than as prescribed by this chapter.

14 ~~SEC. 19.~~

15 *SEC. 18.* Section 2815.5 of the Business and Professions Code
16 is amended to read:

17 2815.5. The amount of the fees prescribed by this chapter in
18 connection with the issuance of certificates as nurse-midwives is
19 that fixed by the following schedule:

20 (a) The fee to be paid upon the filing of an application for a
21 certificate shall be fixed by the board at not less than five hundred
22 dollars (\$500) nor more than one thousand five hundred dollars
23 (\$1,500).

24 (b) The biennial fee to be paid upon the application for a renewal
25 of a certificate shall be fixed by the board at not less than one
26 hundred fifty dollars (\$150) nor more than one thousand dollars
27 (\$1,000).

28 (c) The penalty fee for failure to renew a certificate within the
29 prescribed time shall be 50 percent of the renewal fee in effect on
30 the date of the renewal of the license, but not less than seventy-five
31 dollars (\$75) nor more than five hundred dollars (\$500).

32 (d) The fee to be paid upon the filing of an application for the
33 nurse-midwife equivalency examination shall be fixed by the board
34 at not less than one hundred dollars (\$100) nor more than two
35 hundred dollars (\$200).

36 (e) The fee to be paid for a temporary certificate shall be fixed
37 by the board at not less than one hundred fifty dollars (\$150) nor
38 more than five hundred dollars (\$500).

1 ~~SEC. 20.~~

2 *SEC. 19.* Section 2816 of the Business and Professions Code
3 is amended to read:

4 2816. The nonrefundable fee to be paid by a registered nurse
5 for an evaluation of his or her qualifications to use the title “public
6 health nurse” shall be equal to the fees set out in subdivision (o)
7 of Section 2815. The fee to be paid upon the application for
8 renewal of the certificate to practice as a public health nurse shall
9 be fixed by the board at not less than one hundred twenty-five
10 dollars (\$125) and not more than five hundred dollars (\$500). All
11 fees payable under this section shall be collected by and paid to
12 the Registered Nursing Fund. It is the intention of the Legislature
13 that the costs of carrying out the purposes of this article shall be
14 covered by the revenue collected pursuant to this section.

15 ~~SEC. 21.~~

16 *SEC. 20.* Section 2830.7 of the Business and Professions Code
17 is amended to read:

18 2830.7. The amount of the fees prescribed by this chapter in
19 connection with the issuance of certificates as nurse anesthetists
20 is that fixed by the following schedule:

21 (a) The fee to be paid upon the filing of an application for a
22 certificate shall be fixed by the board at not less than five hundred
23 dollars (\$500) nor more than one thousand five hundred dollars
24 (\$1,500).

25 (b) The biennial fee to be paid upon the application for a renewal
26 of a certificate shall be fixed by the board at not less than one
27 hundred fifty dollars (\$150) nor more than one thousand dollars
28 (\$1,000).

29 (c) The penalty fee for failure to renew a certificate within the
30 prescribed time shall be 50 percent of the renewal fee in effect on
31 the date of the renewal of the license, but not less than seventy-five
32 dollars (\$75) nor more than five hundred dollars (\$500).

33 (d) The fee to be paid for a temporary certificate shall be fixed
34 by the board at not less than one hundred fifty dollars (\$150) nor
35 more than five hundred dollars (\$500).

36 ~~SEC. 22.~~

37 *SEC. 21.* Section 2836.3 of the Business and Professions Code
38 is amended to read:

39 2836.3. (a) The furnishing of drugs or devices by nurse
40 practitioners is conditional on issuance by the board of a number

1 to the nurse applicant who has successfully completed the
2 requirements of subdivision (g) of Section 2836.1. The number
3 shall be included on all transmittals of orders for drugs or devices
4 by the nurse practitioner. The board shall make the list of numbers
5 issued available to the Board of Pharmacy. The board may charge
6 the applicant a fee to cover all necessary costs to implement this
7 section, that shall be not less than four hundred dollars (\$400) nor
8 more than one thousand five hundred dollars (\$1,500) for an initial
9 application, nor less than one hundred fifty dollars (\$150) nor more
10 than one thousand dollars (\$1,000) for an application for renewal.
11 The board may charge a penalty fee for failure to renew a
12 furnishing number within the prescribed time that shall be not less
13 than seventy-five dollars (\$75) nor more than five hundred dollars
14 (\$500).

15 (b) The number shall be renewable at the time of the applicant's
16 registered nurse license renewal.

17 (c) The board may revoke, suspend, or deny issuance of the
18 numbers for incompetence or gross negligence in the performance
19 of functions specified in Sections 2836.1 and 2836.2.

20 ~~SEC. 23:~~

21 *SEC. 22.* Section 2838.2 of the Business and Professions Code
22 is amended to read:

23 2838.2. (a) A clinical nurse specialist is a registered nurse with
24 advanced education, who participates in expert clinical practice,
25 education, research, consultation, and clinical leadership as the
26 major components of his or her role.

27 (b) The board may establish categories of clinical nurse
28 specialists and the standards required to be met for nurses to hold
29 themselves out as clinical nurse specialists in each category. The
30 standards shall take into account the types of advanced levels of
31 nursing practice that are or may be performed and the clinical and
32 didactic education, experience, or both needed to practice safety
33 at those levels. In setting the standards, the board shall consult
34 with clinical nurse specialists, physicians and surgeons appointed
35 by the Medical Board with expertise with clinical nurse specialists,
36 and health care organizations that utilize clinical nurse specialists.

37 (c) A registered nurse who meets one of the following
38 requirements may apply to become a clinical nurse specialist:

39 (1) Possession of a master's degree in a clinical field of nursing.

1 (2) Possession of a master’s degree in a clinical field related to
2 nursing with course work in the components referred to in
3 subdivision (a).

4 (3) On or before July 1, 1998, meets the following requirements:

5 (A) Current licensure as a registered nurse.

6 (B) Performs the role of a clinical nurse specialist as described
7 in subdivision (a).

8 (C) Meets any other criteria established by the board.

9 (d) (1) A nonrefundable fee of not less than five hundred dollars
10 (\$500), but not to exceed one thousand five hundred dollars
11 (\$1,500) shall be paid by a registered nurse applying to be a clinical
12 nurse specialist for the evaluation of his or her qualifications to
13 use the title “clinical nurse specialist.”

14 (2) The fee to be paid for a temporary certificate to practice as
15 a clinical nurse specialist shall be not less than thirty dollars (\$30)
16 nor more than fifty dollars (\$50).

17 (3) A biennial renewal fee shall be paid upon submission of an
18 application to renew the clinical nurse specialist certificate and
19 shall be established by the board at no less than one hundred fifty
20 dollars (\$150) and no more than one thousand dollars (\$1,000).

21 (4) The penalty fee for failure to renew a certificate within the
22 prescribed time shall be 50 percent of the renewal fee in effect on
23 the date of the renewal of the license, but not less than seventy-five
24 dollars (\$75) nor more than five hundred dollars (\$500).

25 (5) The fees authorized by this subdivision shall not exceed the
26 amount necessary to cover the costs to the board to administer this
27 section.

28 ~~SEC. 24.~~

29 *SEC. 23.* Section 4128.2 of the Business and Professions Code
30 is amended to read:

31 4128.2. (a) In addition to the pharmacy license requirement
32 described in Section 4110, a centralized hospital packaging
33 pharmacy shall obtain a specialty license from the board prior to
34 engaging in the functions described in Section 4128.

35 (b) An applicant seeking a specialty license pursuant to this
36 article shall apply to the board on forms established by the board.

37 (c) Before issuing the specialty license, the board shall inspect
38 the pharmacy and ensure that the pharmacy is in compliance with
39 this article and regulations established by the board.

1 (d) A license to perform the functions described in Section 4128
2 may only be issued to a pharmacy that is licensed by the board as
3 a hospital pharmacy.

4 (e) A license issued pursuant to this article shall be renewed
5 annually and is not transferrable.

6 (f) An applicant seeking renewal of a specialty license shall
7 apply to the board on forms established by the board.

8 (g) A license to perform the functions described in Section 4128
9 shall not be renewed until the pharmacy has been inspected by the
10 board and found to be in compliance with this article and
11 regulations established by the board.

12 ~~SEC. 25.~~

13 *SEC. 24.* Section 4400 of the Business and Professions Code
14 is amended to read:

15 4400. The amount of fees and penalties prescribed by this
16 chapter, except as otherwise provided, is that fixed by the board
17 according to the following schedule:

18 (a) The fee for a nongovernmental pharmacy license shall be
19 four hundred dollars (\$400) and may be increased to five hundred
20 twenty dollars (\$520). The fee for the issuance of a temporary
21 nongovernmental pharmacy permit shall be two hundred fifty
22 dollars (\$250) and may be increased to three hundred twenty-five
23 dollars (\$325).

24 (b) The fee for a nongovernmental pharmacy license annual
25 renewal shall be two hundred fifty dollars (\$250) and may be
26 increased to three hundred twenty-five dollars (\$325).

27 (c) The fee for the pharmacist application and examination shall
28 be two hundred dollars (\$200) and may be increased to two
29 hundred sixty dollars (\$260).

30 (d) The fee for regrading an examination shall be ninety dollars
31 (\$90) and may be increased to one hundred fifteen dollars (\$115).
32 If an error in grading is found and the applicant passes the
33 examination, the regrading fee shall be refunded.

34 (e) The fee for a pharmacist license and biennial renewal shall
35 be one hundred fifty dollars (\$150) and may be increased to one
36 hundred ninety-five dollars (\$195).

37 (f) The fee for a nongovernmental wholesaler or third-party
38 logistics provider license and annual renewal shall be seven
39 hundred eighty dollars (\$780) and may be decreased to no less
40 than six hundred dollars (\$600). The application fee for any

1 additional location after licensure of the first 20 locations shall be
2 three hundred dollars (\$300) and may be decreased to no less than
3 two hundred twenty-five dollars (\$225). A temporary license fee
4 shall be seven hundred fifteen dollars (\$715) and may be decreased
5 to no less than five hundred fifty dollars (\$550).

6 (g) The fee for a hypodermic license and renewal shall be one
7 hundred twenty-five dollars (\$125) and may be increased to one
8 hundred sixty-five dollars (\$165).

9 (h) (1) The fee for application, investigation, and issuance of
10 a license as a designated representative pursuant to Section 4053,
11 or as a designated representative-3PL pursuant to Section 4053.1,
12 shall be three hundred thirty dollars (\$330) and may be decreased
13 to no less than two hundred fifty-five dollars (\$255).

14 (2) The fee for the annual renewal of a license as a designated
15 representative or designated representative-3PL shall be one
16 hundred ninety-five dollars (\$195) and may be decreased to no
17 less than one hundred fifty dollars (\$150).

18 (i) (1) The fee for the application, investigation, and issuance
19 of a license as a designated representative for a veterinary
20 food-animal drug retailer pursuant to Section 4053 shall be three
21 hundred thirty dollars (\$330) and may be decreased to no less than
22 two hundred fifty-five dollars (\$255).

23 (2) The fee for the annual renewal of a license as a designated
24 representative for a veterinary food-animal drug retailer shall be
25 one hundred ninety-five dollars (\$195) and may be decreased to
26 no less than one hundred fifty dollars (\$150).

27 (j) (1) The application fee for a nonresident wholesaler or
28 third-party logistics provider license issued pursuant to Section
29 4161 shall be seven hundred eighty dollars (\$780) and may be
30 decreased to no less than six hundred dollars (\$600).

31 (2) For nonresident wholesalers or third-party logistics providers
32 that have 21 or more facilities operating nationwide the application
33 fees for the first 20 locations shall be seven hundred eighty dollars
34 (\$780) and may be decreased to no less than six hundred dollars
35 (\$600). The application fee for any additional location after
36 licensure of the first 20 locations shall be three hundred dollars
37 (\$300) and may be decreased to no less than two hundred
38 twenty-five dollars (\$225). A temporary license fee shall be seven
39 hundred fifteen dollars (\$715) and may be decreased to no less
40 than five hundred fifty dollars (\$550).

1 (3) The annual renewal fee for a nonresident wholesaler license
2 or third-party logistics provider license issued pursuant to Section
3 4161 shall be seven hundred eighty dollars (\$780) and may be
4 decreased to no less than six hundred dollars (\$600).

5 (k) The fee for evaluation of continuing education courses for
6 accreditation shall be set by the board at an amount not to exceed
7 forty dollars (\$40) per course hour.

8 (l) The fee for an intern pharmacist license shall be ninety dollars
9 (\$90) and may be increased to one hundred fifteen dollars (\$115).
10 The fee for transfer of intern hours or verification of licensure to
11 another state shall be twenty-five dollars (\$25) and may be
12 increased to thirty dollars (\$30).

13 (m) The board may waive or refund the additional fee for the
14 issuance of a license where the license is issued less than 45 days
15 before the next regular renewal date.

16 (n) The fee for the reissuance of any license, or renewal thereof,
17 that has been lost or destroyed or reissued due to a name change
18 shall be thirty-five dollars (\$35) and may be increased to forty-five
19 dollars (\$45).

20 (o) The fee for the reissuance of any license, or renewal thereof,
21 that must be reissued because of a change in the information, shall
22 be one hundred dollars (\$100) and may be increased to one hundred
23 thirty dollars (\$130).

24 (p) It is the intent of the Legislature that, in setting fees pursuant
25 to this section, the board shall seek to maintain a reserve in the
26 Pharmacy Board Contingent Fund equal to approximately one
27 year's operating expenditures.

28 (q) The fee for any applicant for a nongovernmental clinic
29 license shall be four hundred dollars (\$400) and may be increased
30 to five hundred twenty dollars (\$520) for each license. The annual
31 fee for renewal of the license shall be two hundred fifty dollars
32 (\$250) and may be increased to three hundred twenty-five dollars
33 (\$325) for each license.

34 (r) The fee for the issuance of a pharmacy technician license
35 shall be eighty dollars (\$80) and may be increased to one hundred
36 five dollars (\$105). The fee for renewal of a pharmacy technician
37 license shall be one hundred dollars (\$100) and may be increased
38 to one hundred thirty dollars (\$130).

39 (s) The fee for a veterinary food-animal drug retailer license
40 shall be four hundred five dollars (\$405) and may be increased to

1 four hundred twenty-five dollars (\$425). The annual renewal fee
2 for a veterinary food-animal drug retailer license shall be two
3 hundred fifty dollars (\$250) and may be increased to three hundred
4 twenty-five dollars (\$325).

5 (t) The fee for issuance of a retired license pursuant to Section
6 4200.5 shall be thirty-five dollars (\$35) and may be increased to
7 forty-five dollars (\$45).

8 (u) The fee for issuance or renewal of a nongovernmental sterile
9 compounding pharmacy license shall be six hundred dollars (\$600)
10 and may be increased to seven hundred eighty dollars (\$780). The
11 fee for a temporary license shall be five hundred fifty dollars (\$550)
12 and may be increased to seven hundred fifteen dollars (\$715).

13 (v) The fee for the issuance or renewal of a nonresident sterile
14 compounding pharmacy license shall be seven hundred eighty
15 dollars (\$780). In addition to paying that application fee, the
16 nonresident sterile compounding pharmacy shall deposit, when
17 submitting the application, a reasonable amount, as determined by
18 the board, necessary to cover the board's estimated cost of
19 performing the inspection required by Section 4127.2. If the
20 required deposit is not submitted with the application, the
21 application shall be deemed to be incomplete. If the actual cost of
22 the inspection exceeds the amount deposited, the board shall
23 provide to the applicant a written invoice for the remaining amount
24 and shall not take action on the application until the full amount
25 has been paid to the board. If the amount deposited exceeds the
26 amount of actual and necessary costs incurred, the board shall
27 remit the difference to the applicant.

28 (w) This section shall become inoperative on July 1, 2017, and
29 as of January 1, 2018, is repealed.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 4400 is added to the Business and Professions
32 Code, to read:

33 4400. The amount of fees and penalties prescribed by this
34 chapter, except as otherwise provided, is that fixed by the board
35 according to the following schedule:

36 (a) The fee for a nongovernmental pharmacy license shall be
37 five hundred twenty dollars (\$520) and may be increased to five
38 hundred seventy dollars (\$570). The fee for the issuance of a
39 temporary nongovernmental pharmacy permit shall be two hundred

1 fifty dollars (\$250) and may be increased to three hundred
2 twenty-five dollars (\$325).

3 (b) The fee for a nongovernmental pharmacy license annual
4 renewal shall be six hundred sixty-five dollars (\$665) and may be
5 increased to nine hundred thirty dollars (\$930).

6 (c) The fee for the pharmacist application and examination shall
7 be two hundred sixty dollars (\$260) and may be increased to two
8 hundred eighty-five dollars (\$285).

9 (d) The fee for regrading an examination shall be ninety dollars
10 (\$90) and may be increased to one hundred fifteen dollars (\$115).
11 If an error in grading is found and the applicant passes the
12 examination, the regrading fee shall be refunded.

13 (e) The fee for a pharmacist license shall be one hundred
14 ninety-five dollars (\$195) and may be increased to two hundred
15 fifteen dollars (\$215). The fee for a pharmacist biennial renewal
16 shall be three hundred sixty dollars (\$360) and may be increased
17 to five hundred five dollars (\$505).

18 (f) The fee for a nongovernmental wholesaler or third-party
19 logistics provider license and annual renewal shall be seven
20 hundred eighty dollars (\$780) and may be increased to eight
21 hundred twenty dollars (\$820). The application fee for any
22 additional location after licensure of the first 20 locations shall be
23 three hundred dollars (\$300) and may be decreased to no less than
24 two hundred twenty-five dollars (\$225). A temporary license fee
25 shall be seven hundred fifteen dollars (\$715) and may be decreased
26 to no less than five hundred fifty dollars (\$550).

27 (g) The fee for a hypodermic license shall be one hundred
28 seventy dollars (\$170) and may be increased to two hundred forty
29 dollars (\$240). The fee for a hypodermic license renewal shall be
30 two hundred dollars (\$200) and may be increased to two hundred
31 eighty dollars (\$280).

32 (h) (1) The fee for application, investigation, and issuance of
33 a license as a designated representative pursuant to Section 4053,
34 or as a designated representative-3PL pursuant to Section 4053.1,
35 shall be one hundred fifty dollars (\$150) and may be increased to
36 two hundred ten dollars (\$210).

37 (2) The fee for the annual renewal of a license as a designated
38 representative or designated representative-3PL shall be two
39 hundred fifteen dollars (\$215) and may be increased to three
40 hundred dollars (\$300).

1 (i) (1) The fee for the application, investigation, and issuance
2 of a license as a designated representative for a veterinary
3 food-animal drug retailer pursuant to Section 4053 shall be one
4 hundred fifty dollars (\$150) and may be increased to two hundred
5 ten dollars (\$210).

6 (2) The fee for the annual renewal of a license as a designated
7 representative for a veterinary food-animal drug retailer shall be
8 two hundred fifteen dollars (\$215) and may be increased to three
9 hundred dollars (\$300).

10 (j) (1) The application fee for a nonresident wholesaler or
11 third-party logistics provider license issued pursuant to Section
12 4161 shall be seven hundred eighty dollars (\$780) and may be
13 increased to eight hundred twenty dollars (\$820).

14 (2) For nonresident wholesalers or third-party logistics providers
15 that have 21 or more facilities operating nationwide the application
16 fees for the first 20 locations shall be seven hundred eighty dollars
17 (\$780) and may be increased to eight hundred twenty dollars
18 (\$820). The application fee for any additional location after
19 licensure of the first 20 locations shall be three hundred dollars
20 (\$300) and may be decreased to no less than two hundred
21 twenty-five dollars (\$225). A temporary license fee shall be seven
22 hundred fifteen dollars (\$715) and may be decreased to no less
23 than five hundred fifty dollars (\$550).

24 (3) The annual renewal fee for a nonresident wholesaler license
25 or third-party logistics provider license issued pursuant to Section
26 4161 shall be seven hundred eighty dollars (\$780) and may be
27 increased to eight hundred twenty dollars (\$820).

28 (k) The fee for evaluation of continuing education courses for
29 accreditation shall be set by the board at an amount not to exceed
30 forty dollars (\$40) per course hour.

31 (l) The fee for an intern pharmacist license shall be one hundred
32 sixty-five dollars (\$165) and may be increased to two hundred
33 thirty dollars (\$230). The fee for transfer of intern hours or
34 verification of licensure to another state shall be twenty-five dollars
35 (\$25) and may be increased to thirty dollars (\$30).

36 (m) The board may waive or refund the additional fee for the
37 issuance of a license where the license is issued less than 45 days
38 before the next regular renewal date.

39 (n) The fee for the reissuance of any license, or renewal thereof,
40 that has been lost or destroyed or reissued due to a name change

1 shall be thirty-five dollars (\$35) and may be increased to forty-five
2 dollars (\$45).

3 (o) The fee for the reissuance of any license, or renewal thereof,
4 that must be reissued because of a change in the information, shall
5 be one hundred dollars (\$100) and may be increased to one hundred
6 thirty dollars (\$130).

7 (p) It is the intent of the Legislature that, in setting fees pursuant
8 to this section, the board shall seek to maintain a reserve in the
9 Pharmacy Board Contingent Fund equal to approximately one
10 year's operating expenditures.

11 (q) The fee for any applicant for a nongovernmental clinic
12 license shall be five hundred twenty dollars (\$520) for each license
13 and may be increased to five hundred seventy dollars (\$570). The
14 annual fee for renewal of the license shall be three hundred
15 twenty-five dollars (\$325) for each license and may be increased
16 to three hundred sixty dollars (\$360).

17 (r) The fee for the issuance of a pharmacy technician license
18 shall be one hundred forty dollars (\$140) and may be increased to
19 one hundred ninety-five dollars (\$195). The fee for renewal of a
20 pharmacy technician license shall be one hundred forty dollars
21 (\$140) and may be increased to one hundred ninety-five dollars
22 (\$195).

23 (s) The fee for a veterinary food-animal drug retailer license
24 shall be four hundred thirty-five dollars (\$435) and may be
25 increased to six hundred ten dollars (\$610). The annual renewal
26 fee for a veterinary food-animal drug retailer license shall be three
27 hundred thirty dollars (\$330) and may be increased to four hundred
28 sixty dollars (\$460).

29 (t) The fee for issuance of a retired license pursuant to Section
30 4200.5 shall be thirty-five dollars (\$35) and may be increased to
31 forty-five dollars (\$45).

32 (u) The fee for issuance of a nongovernmental sterile
33 compounding pharmacy license shall be one thousand six hundred
34 forty-five dollars (\$1,645) and may be increased to two thousand
35 three hundred five dollars (\$2,305). The fee for a temporary license
36 shall be five hundred fifty dollars (\$550) and may be increased to
37 seven hundred fifteen dollars (\$715). The annual renewal fee of
38 the license shall be one thousand three hundred twenty-five dollars
39 (\$1,325) and may be increased to one thousand eight hundred
40 fifty-five dollars (\$1,855).

1 (v) The fee for the issuance of a nonresident sterile compounding
 2 pharmacy license shall be two thousand three hundred eighty
 3 dollars (\$2,380) and may be increased to three thousand three
 4 hundred thirty-five dollars (\$3,335). The annual renewal of the
 5 license shall be two thousand two hundred seventy dollars (\$2,270)
 6 and may be increased to three thousand one hundred eighty dollars
 7 (\$3,180). In addition to paying that application fee, the nonresident
 8 sterile compounding pharmacy shall deposit, when submitting the
 9 application, a reasonable amount, as determined by the board,
 10 necessary to cover the board's estimated cost of performing the
 11 inspection required by Section 4127.2. If the required deposit is
 12 not submitted with the application, the application shall be deemed
 13 to be incomplete. If the actual cost of the inspection exceeds the
 14 amount deposited, the board shall provide to the applicant a written
 15 invoice for the remaining amount and shall not take action on the
 16 application until the full amount has been paid to the board. If the
 17 amount deposited exceeds the amount of actual and necessary
 18 costs incurred, the board shall remit the difference to the applicant.

19 (w) The fee for the issuance of a centralized hospital packaging
 20 license shall be eight hundred twenty dollars (\$820) and may be
 21 increased to one thousand one hundred fifty dollars (\$1,150). The
 22 annual renewal of the license shall be eight hundred five dollars
 23 (\$805) and may be increased to one thousand one hundred
 24 twenty-five dollars (\$1,125).

25 (x) This section shall become operative on July 1, 2017.

26 ~~SEC. 27. Chapter 15 (commencing with Section 4999) of~~
 27 ~~Division 2 of the Business and Professions Code is repealed.~~

28 *SEC. 26. Section 4999 of the Business and Professions Code*
 29 *is amended to read:*

30 4999. ~~(a) Any~~ "Telephone medical advice service" means any
 31 business entity that employs, or contracts or subcontracts, directly
 32 or indirectly, with, the full-time equivalent of five or more persons
 33 functioning as health care professionals, whose primary function
 34 is to provide telephone medical advice, that provides telephone
 35 medical advice services to a patient at a California address shall
 36 ~~be registered with the Telephone Medical Advice Services Bureau.~~

37 ~~(b) A~~ address. "Telephone medical advice service" does not
 38 include a medical group that operates in multiple locations in
 39 California ~~shall not be required to register pursuant to this section~~
 40 if no more than five full-time equivalent persons at any one location

1 perform telephone medical advice services and those persons limit
2 the telephone medical advice services to patients being treated at
3 that location.

4 ~~(e) Protection of the public shall be the highest priority for the
5 bureau in exercising its registration, regulatory, and disciplinary
6 functions. Whenever the protection of the public is inconsistent
7 with other interests sought to be promoted, the protection of the
8 public shall be paramount.~~

9 *SEC. 27. Section 4999.1 of the Business and Professions Code*
10 *is repealed.*

11 ~~4999.1. Application for registration as a telephone medical
12 advice service shall be made on a form prescribed by the
13 department, accompanied by the fee prescribed pursuant to Section
14 4999.5. The department shall make application forms available.
15 Applications shall contain all of the following:~~

16 ~~(a) The signature of the individual owner of the telephone
17 medical advice service, or of all of the partners if the service is a
18 partnership, or of the president or secretary if the service is a
19 corporation. The signature shall be accompanied by a resolution
20 or other written communication identifying the individual whose
21 signature is on the form as owner, partner, president, or secretary.~~

22 ~~(b) The name under which the person applying for the telephone
23 medical advice service proposes to do business.~~

24 ~~(c) The physical address, mailing address, and telephone number
25 of the business entity.~~

26 ~~(d) The designation, including the name and physical address,
27 of an agent for service of process in California.~~

28 ~~(e) A list of all health care professionals providing medical
29 advice services that are required to be licensed, registered, or
30 certified pursuant to this chapter. This list shall be submitted to
31 the department on a form to be prescribed by the department and
32 shall include, but not be limited to, the name, state of licensure,
33 type of license, and license number.~~

34 ~~(f) The department shall be notified within 30 days of any
35 change of name, physical location, mailing address, or telephone
36 number of any business, owner, partner, corporate officer, or agent
37 for service of process in California, together with copies of all
38 resolutions or other written communications that substantiate these
39 changes.~~

1 SEC. 28. Section 4999.2 of the Business and Professions Code
 2 is amended to read:

3 4999.2. (a) ~~In order to obtain and maintain a registration, a A~~
 4 telephone medical advice service shall ~~comply~~ *be responsible for*
 5 ~~complying with the requirements established by the department.~~
 6 ~~Those requirements shall include, but shall not be limited to, all~~
 7 ~~of the following:~~ *following requirements:*

8 ~~(1) (A)~~
 9 (a) (1) Ensuring that all health care professionals who provide
 10 medical advice services are appropriately licensed, certified, or
 11 registered as a physician and surgeon pursuant to Chapter 5
 12 (commencing with Section 2000) or the Osteopathic Initiative Act,
 13 as a dentist, dental hygienist, dental hygienist in alternative
 14 practice, or dental hygienist in extended functions pursuant to
 15 Chapter 4 (commencing with Section 1600), as an occupational
 16 therapist pursuant to Chapter 5.6 (commencing with Section 2570),
 17 as a registered nurse pursuant to Chapter 6 (commencing with
 18 Section 2700), as a psychologist pursuant to Chapter 6.6
 19 (commencing with Section 2900), as a naturopathic doctor pursuant
 20 to Chapter 8.2 (commencing with Section 3610), as a marriage
 21 and family therapist pursuant to Chapter 13 (commencing with
 22 Section 4980), as a licensed clinical social worker pursuant to
 23 Chapter 14 (commencing with Section 4991), as a licensed
 24 professional clinical counselor pursuant to Chapter 16
 25 (commencing with Section 4999.10), as an optometrist pursuant
 26 to Chapter 7 (commencing with Section 3000), or as a chiropractor
 27 pursuant to the Chiropractic Initiative Act, and operating consistent
 28 with the laws governing their respective scopes of practice in the
 29 state within which they provide telephone medical advice services,
 30 except as provided in ~~paragraph (2).~~ *subdivision (b).*

31 ~~(B)~~
 32 (2) Ensuring that all health care professionals who provide
 33 telephone medical advice services from an out-of-state location,
 34 as identified in ~~subparagraph (A); paragraph (1),~~ are licensed,
 35 registered, or certified in the state within which they are providing
 36 the telephone medical advice services and are operating consistent
 37 with the laws governing their respective scopes of practice.

38 ~~(2)~~
 39 (b) Ensuring that the telephone medical advice provided is
 40 consistent with good professional practice.

1 ~~(3)~~
2 (c) Maintaining records of telephone medical advice services,
3 including records of complaints, provided to patients in California
4 for a period of at least five years.

5 ~~(4)~~
6 (d) Ensuring that no staff member uses a title or designation
7 when speaking to an enrollee, subscriber, or consumer that may
8 cause a reasonable person to believe that the staff member is a
9 licensed, certified, or registered health care professional described
10 in ~~subparagraph (A) of paragraph (1); paragraph (1) of subdivision~~
11 ~~(a)~~, unless the staff member is a licensed, certified, or registered
12 professional.

13 ~~(5)~~
14 (e) Complying with all directions and requests for information
15 made by the department.

16 ~~(6)~~
17 (f) Notifying the department within 30 days of any change of
18 name, physical location, mailing address, or telephone number of
19 any business, owner, partner, corporate officer, or agent for service
20 of process in California, together with copies of all resolutions or
21 other written communications that substantiate these changes.

22 ~~(7) Submitting quarterly reports, on a form prescribed by the~~
23 ~~department, to the department within 30 days of the end of each~~
24 ~~calendar quarter.~~

25 ~~(b) To the extent permitted by Article VII of the California~~
26 ~~Constitution, the department may contract with a private nonprofit~~
27 ~~accrediting agency to evaluate the qualifications of applicants for~~
28 ~~registration pursuant to this chapter and to make recommendations~~
29 ~~to the department.~~

30 ~~SEC. 29. Section 4999.3 of the Business and Professions Code~~
31 ~~is repealed.~~

32 ~~4999.3. (a) The department may suspend, revoke, or otherwise~~
33 ~~discipline a registrant or deny an application for registration as a~~
34 ~~telephone medical advice service based on any of the following:~~

35 ~~(1) Incompetence, gross negligence, or repeated similar~~
36 ~~negligent acts performed by the registrant or any employee of the~~
37 ~~registrant.~~

38 ~~(2) An act of dishonesty or fraud by the registrant or any~~
39 ~~employee of the registrant.~~

1 ~~(3) The commission of any act, or being convicted of a crime,~~
2 ~~that constitutes grounds for denial or revocation of licensure~~
3 ~~pursuant to any provision of this division.~~

4 ~~(b) The proceedings shall be conducted in accordance with~~
5 ~~Chapter 5 (commencing with Section 11500) of Part 1 of Division~~
6 ~~3 of Title 2 of the Government Code, and the department shall~~
7 ~~have all powers granted therein.~~

8 ~~(c) Copies of any complaint against a telephone medical advice~~
9 ~~service shall be forwarded to the Department of Managed Health~~
10 ~~Care.~~

11 ~~(d) The department shall forward a copy of any complaint~~
12 ~~submitted to the department pursuant to this chapter to the entity~~
13 ~~that issued the license to the licensee involved in the advice~~
14 ~~provided to the patient.~~

15 ~~SEC. 30. Section 4999.4 of the Business and Professions Code~~
16 ~~is repealed.~~

17 ~~4999.4. (a) Every registration issued to a telephone medical~~
18 ~~advice service shall expire 24 months after the initial date of~~
19 ~~issuance.~~

20 ~~(b) To renew an unexpired registration, the registrant shall,~~
21 ~~before the time at which the registration would otherwise expire,~~
22 ~~pay the renewal fee authorized by Section 4999.5.~~

23 ~~(c) An expired registration may be renewed at any time within~~
24 ~~three years after its expiration upon the filing of an application for~~
25 ~~renewal on a form prescribed by the bureau and the payment of~~
26 ~~all fees authorized by Section 4999.5. A registration that is not~~
27 ~~renewed within three years following its expiration shall not be~~
28 ~~renewed, restored, or reinstated thereafter, and the delinquent~~
29 ~~registration shall be canceled immediately upon expiration of the~~
30 ~~three-year period.~~

31 ~~SEC. 31. Section 4999.5 of the Business and Professions Code~~
32 ~~is repealed.~~

33 ~~4999.5. The department may set fees for registration and~~
34 ~~renewal as a telephone medical advice service sufficient to pay~~
35 ~~the costs of administration of this chapter.~~

36 ~~SEC. 32. Section 4999.5 is added to the Business and~~
37 ~~Professions Code, to read:~~

38 ~~4999.5. The respective healing arts licensing boards shall be~~
39 ~~responsible for enforcing this chapter and any other laws and~~

1 *regulations affecting California licensed health care professionals*
2 *providing telephone medical advice services.*

3 *SEC. 33. Section 4999.6 of the Business and Professions Code*
4 *is repealed.*

5 ~~4999.6. The department may adopt, amend, or repeal any rules~~
6 ~~and regulations that are reasonably necessary to carry out this~~
7 ~~chapter. A telephone medical advice services provider who~~
8 ~~provides telephone medical advice to a significant total number~~
9 ~~of charity or medically indigent patients may, at the discretion of~~
10 ~~the director, be exempt from the fee requirements imposed by this~~
11 ~~chapter. However, those providers shall comply with all other~~
12 ~~provisions of this chapter.~~

13 ~~SEC. 28.~~

14 *SEC. 34. Section 7137 of the Business and Professions Code*
15 *is amended to read:*

16 7137. The board shall set fees by regulation. These fees shall
17 not exceed the following schedule:

18 (a) (1) The application fee for an original license in a single
19 classification shall not be more than three hundred sixty dollars
20 (\$360).

21 (2) The application fee for each additional classification applied
22 for in connection with an original license shall not be more than
23 seventy-five dollars (\$75).

24 (3) The application fee for each additional classification pursuant
25 to Section 7059 shall not be more than three hundred dollars
26 (\$300).

27 (4) The application fee to replace a responsible managing officer,
28 responsible managing manager, responsible managing member,
29 or responsible managing employee pursuant to Section 7068.2
30 shall not be more than three hundred dollars (\$300).

31 (5) The application fee to add personnel, other than a qualifying
32 individual, to an existing license shall not be more than one
33 hundred fifty dollars (\$150).

34 (b) The fee for rescheduling an examination for an applicant
35 who has applied for an original license, additional classification,
36 a change of responsible managing officer, responsible managing
37 manager, responsible managing member, or responsible managing
38 employee, or for an asbestos certification or hazardous substance
39 removal certification, shall not be more than sixty dollars (\$60).

1 (c) The fee for scheduling or rescheduling an examination for
2 a licensee who is required to take the examination as a condition
3 of probation shall not be more than sixty dollars (\$60).

4 (d) The initial license fee for an active or inactive license shall
5 not be more than two hundred twenty dollars (\$220).

6 (e) (1) The renewal fee for an active license shall not be more
7 than four hundred thirty dollars (\$430).

8 (2) The renewal fee for an inactive license shall not be more
9 than two hundred twenty dollars (\$220).

10 (f) The delinquency fee is an amount equal to 50 percent of the
11 renewal fee, if the license is renewed after its expiration.

12 (g) The registration fee for a home improvement salesperson
13 shall not be more than ninety dollars (\$90).

14 (h) The renewal fee for a home improvement salesperson
15 registration shall not be more than ninety dollars (\$90).

16 (i) The application fee for an asbestos certification examination
17 shall not be more than ninety dollars (\$90).

18 (j) The application fee for a hazardous substance removal or
19 remedial action certification examination shall not be more than
20 ninety dollars (\$90).

21 (k) In addition to any other fees charged to C-10 and C-7
22 contractors, the board may charge a fee not to exceed twenty dollars
23 (\$20), which shall be used by the board to enforce provisions of
24 the Labor Code related to electrician certification.

25 (l) The board shall, by regulation, establish criteria for the
26 approval of expedited processing of applications. Approved
27 expedited processing of applications for licensure or registration,
28 as required by other provisions of law, shall not be subject to this
29 subdivision.

30 ~~SEC. 29.~~

31 *SEC. 35.* Section 7153.3 of the Business and Professions Code
32 is amended to read:

33 7153.3. (a) To renew a home improvement salesperson
34 registration, which has not expired, the registrant shall before the
35 time at which the registration would otherwise expire, apply for
36 renewal on a form prescribed by the registrar and pay a renewal
37 fee prescribed by this chapter. Renewal of an unexpired registration
38 shall continue the registration in effect for the two-year period
39 following the expiration date of the registration, when it shall
40 expire if it is not again renewed.

1 (b) An application for renewal of registration is delinquent if
2 the application is not postmarked or received via electronic
3 transmission as authorized by Section 7156.6 by the date on which
4 the registration would otherwise expire. A registration may,
5 however, still be renewed at any time within three years after its
6 expiration upon the filing of an application for renewal on a form
7 prescribed by the registrar and the payment of the renewal fee
8 prescribed by this chapter and a delinquent renewal penalty equal
9 to 50 percent of the renewal fee. If a registration is not renewed
10 within three years, the person shall make a new application for
11 registration pursuant to Section 7153.1.

12 (c) The registrar may refuse to renew a registration for failure
13 by the registrant to complete the application for renewal of
14 registration. If a registrant fails to return the application rejected
15 for insufficiency or incompleteness within 90 days from the
16 original date of rejection, the application and fee shall be deemed
17 abandoned. Any application abandoned may not be reinstated.
18 However, the person may file a new application for registration
19 pursuant to Section 7153.1.

20 The registrar may review and accept the petition of a person who
21 disputes the abandonment of his or her renewal application upon
22 a showing of good cause. This petition shall be received within 90
23 days of the date the application for renewal is deemed abandoned.

24 ~~SEC. 30.~~

25 *SEC. 36.* Section 8031 of the Business and Professions Code
26 is amended to read:

27 8031. The amount of the fees required by this chapter is that
28 fixed by the board in accordance with the following schedule:

29 (a) The fee for filing an application for each examination shall
30 be no more than forty dollars (\$40).

31 (b) The fee for examination and reexamination for the written
32 or practical part of the examination shall be in an amount fixed by
33 the board, which shall be equal to the actual cost of preparing,
34 administering, grading, and analyzing the examination, but shall
35 not exceed seventy-five dollars (\$75) for each separate part, for
36 each administration.

37 (c) The initial certificate fee is an amount equal to the renewal
38 fee in effect on the last regular renewal date before the date on
39 which the certificate is issued, except that, if the certificate will
40 expire less than 180 days after its issuance, then the fee is 50

1 percent of the renewal fee in effect on the last regular renewal date
2 before the date on which the certificate is issued, or fifty dollars
3 (\$50), whichever is greater. The board may, by appropriate
4 regulation, provide for the waiver or refund of the initial certificate
5 fee where the certificate is issued less than 45 days before the date
6 on which it will expire.

7 (d) By a resolution adopted by the board, a renewal fee may be
8 established in such amounts and at such times as the board may
9 deem appropriate to meet its operational expenses and funding
10 responsibilities as set forth in this chapter. The renewal fee shall
11 not be more than two hundred fifty dollars (\$250) nor less than
12 ten dollars (\$10) annually, with the following exception:

13 Any person who is employed full time by the State of California
14 as a hearing reporter and who does not otherwise render shorthand
15 reporting services for a fee shall be exempt from licensure while
16 in state employment and shall not be subject to the renewal fee
17 provisions of this subdivision until 30 days after leaving state
18 employment. The renewal fee shall, in addition to the amount fixed
19 by this subdivision, include any unpaid fees required by this section
20 plus any delinquency fee.

21 (e) The duplicate certificate fee shall be no greater than ten
22 dollars (\$10).

23 (f) The penalty for failure to notify the board of a change of
24 name or address as required by Section 8024.6 shall be no greater
25 than fifty dollars (\$50).

26 ~~SEC. 31.~~

27 *SEC. 37.* Section 8516 of the Business and Professions Code
28 is amended to read:

29 8516. (a) This section, and Section 8519, apply only to wood
30 destroying pests or organisms.

31 (b) A registered company or licensee shall not commence work
32 on a contract, or sign, issue, or deliver any documents expressing
33 an opinion or statement relating to the absence or presence of wood
34 destroying pests or organisms until an inspection has been made
35 by a licensed Branch 3 field representative or operator employed
36 by a registered company, except as provided in Section 8519.5.
37 The address of each property inspected or upon which work is
38 completed shall be reported on a form prescribed by the board and
39 shall be filed with the board no later than 10 business days after
40 the commencement of an inspection or upon completed work.

1 Every property inspected pursuant to this subdivision or Section
2 8518 shall be assessed a filing fee pursuant to Section 8674.

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

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

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

28 (1) The start date of the inspection and the name of the licensed
29 field representative or operator making the inspection.

30 (2) The name and address of the person or firm ordering the
31 report.

32 (3) The name and address of the property owner and any person
33 who is a party in interest.

34 (4) The address or location of the property.

35 (5) A general description of the building or premises inspected.

36 (6) A foundation diagram or sketch of the structure or structures
37 or portions of the structure or structures inspected, including the
38 approximate location of any infested or infected areas evident, and
39 the parts of the structure where conditions that would ordinarily
40 subject those parts to attack by wood destroying pests or organisms

1 exist. Reporting of the infested or infected wood members, or parts
2 of the structure identified, shall be listed in the inspection report
3 to clearly identify them, as is typical in standard construction
4 components, including, but not limited to, siding, studs, rafters,
5 floor joists, fascia, subfloor, sheathing, and trim boards.

6 (7) Information regarding the substructure, foundation walls
7 and footings, porches, patios and steps, air vents, abutments, attic
8 spaces, roof framing that includes the eaves, rafters, fascias,
9 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
10 or other parts subject to attack by wood destroying pests or
11 organisms. Conditions usually deemed likely to lead to infestation
12 or infection, such as earth-wood contacts, excessive cellulose
13 debris, faulty grade levels, excessive moisture conditions, evidence
14 of roof leaks, and insufficient ventilation are to be reported.

15 (8) One of the following statements, as appropriate, printed in
16 bold type:

17 (A) The exterior surface of the roof was not inspected. If you
18 want the water tightness of the roof determined, you should contact
19 a roofing contractor who is licensed by the Contractors' State
20 License Board.

21 (B) The exterior surface of the roof was inspected to determine
22 whether or not wood destroying pests or organisms are present.

23 (9) Indication or description of any areas that are inaccessible
24 or not inspected with recommendation for further inspection if
25 practicable. If, after the report has been made in compliance with
26 this section, authority is given later to open inaccessible areas, a
27 supplemental report on conditions in these areas shall be made.

28 (10) Recommendations for corrective measures.

29 (11) Information regarding the pesticide or pesticides to be used
30 for their control or prevention as set forth in subdivision (a) of
31 Section 8538.

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

36 An estimate or bid shall be given separately allocating the costs
37 to perform each and every recommendation for corrective measures
38 as specified in subdivision (c) with the original inspection report
39 if the person who ordered the original inspection report so requests,

1 and if the registered company is regularly in the business of
2 performing each corrective measure.

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

6 A reinspection shall be an inspection of those items previously
7 listed on an original report to determine if the recommendations
8 have been completed. Each reinspection shall be reported on an
9 original inspection report form and shall be labeled “Reinspection.”
10 Each reinspection shall also identify the original report by date.

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

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

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

19
20 “NOTICE: Reports on this structure prepared by various
21 registered companies should list the same findings (i.e. termite
22 infestations, termite damage, fungus damage, etc.). However,
23 recommendations to correct these findings may vary from company
24 to company. You have a right to seek a second opinion from
25 another company.”

26
27 (c) At the time a report is ordered, the registered company or
28 licensee shall inform the person or entity ordering the report, that
29 a separate report is available pursuant to this subdivision. If a
30 separate report is requested at the time the inspection report is
31 ordered, the registered company or licensee shall separately identify
32 on the report each recommendation for corrective measures as
33 follows:

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

37 If a registered company or licensee fails to inform as required
38 by this subdivision and a dispute arises, or if any other dispute
39 arises as to whether this subdivision has been complied with, a
40 separate report shall be provided within 24 hours of the request

1 but, in no event, later than the next business day, and at no
2 additional cost.

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

14 (e) The inspection report form prescribed by the board shall
15 separately identify the infestation or infection that is evident and
16 the conditions that are present that are deemed likely to lead to
17 infestation or infection. If a separate form is requested, the form
18 shall explain the infestation or infection that is evident and the
19 conditions that are present that are deemed likely to lead to
20 infestation or infection and the difference between those conditions.
21 In no event, however, shall conditions deemed likely to lead to
22 infestation or infection be characterized as actual "defects" or as
23 actual "active" infestations or infections or in need of correction
24 as a precondition to issuing a certification pursuant to Section
25 8519.

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

34 (g) For purposes of this section, "control service agreement"
35 means an agreement, including extended warranties, to have a
36 licensee conduct over a period of time regular inspections and
37 other activities related to the control or eradication of wood
38 destroying pests and organisms. Under a control service agreement
39 a registered company shall refer to the original report and contract
40 in a manner as to identify them clearly, and the report shall be

1 assumed to be a true report of conditions as originally issued,
2 except it may be modified after a control service inspection. A
3 registered company is not required to issue a report as outlined in
4 paragraphs (1) to (11), inclusive, of subdivision (b) after each
5 control service inspection. If after control service inspection, no
6 modification of the original report is made in writing, then it will
7 be assumed that conditions are as originally reported. A control
8 service contract shall state specifically the particular wood
9 destroying pests or organisms and the portions of the buildings or
10 structures covered by the contract.

11 (h) A registered company or licensee may enter into and
12 maintain a control service agreement provided the following
13 requirements are met:

14 (1) The control service agreement shall be in writing, signed by
15 both parties, and shall specifically include the following:

16 (A) The wood destroying pests and organisms covered by the
17 control service agreement.

18 (B) Any wood destroying pest or organism that is not covered
19 must be specifically listed.

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

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

27 (E) A reference to the original inspection report.

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

30 (G) Whether the fee includes structural repairs.

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

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

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

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

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

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

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

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

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

18 (D) Correction of the infestation or infection takes place within
19 45 days of its discovery.

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

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

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

32 ~~SEC. 32.~~

33 *SEC. 38.* Section 8518 of the Business and Professions Code
34 is amended to read:

35 8518. (a) When a registered company completes work under
36 a contract, it shall prepare, on a form prescribed by the board, a
37 notice of work completed and not completed, and shall furnish
38 that notice to the owner of the property or the owner's agent within
39 10 business days after completing the work. The notice shall

1 include a statement of the cost of the completed work and estimated
2 cost of work not completed.

3 (b) The address of each property inspected or upon which work
4 was completed shall be reported on a form prescribed by the board
5 and shall be filed with the board no later than 10 business days
6 after completed work.

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

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

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

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

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

26 ~~SEC. 33. Section 1348.8 of the Health and Safety Code is~~
27 ~~repealed.~~

28 ~~SEC. 34. Section 10279 of the Insurance Code is repealed.~~

29 *SEC. 39. Section 1348.8 of the Health and Safety Code is*
30 *amended to read:*

31 1348.8. (a) A health care service plan that provides, operates,
32 or contracts for telephone medical advice services to its enrollees
33 and subscribers shall do all of the following:

34 (1) Ensure that the in-state or out-of-state telephone medical
35 advice service ~~is registered pursuant to~~ *complies with the*
36 *requirements of* Chapter 15 (commencing with Section 4999) of
37 Division 2 of the Business and Professions Code.

38 (2) Ensure that the staff providing telephone medical advice
39 services for the in-state or out-of-state telephone medical advice
40 service are licensed as follows:

1 (A) For full service health care service plans, the staff hold a
2 valid California license as a registered nurse or a valid license in
3 the state within which they provide telephone medical advice
4 services as a physician and surgeon or physician assistant, and are
5 operating in compliance with the laws governing their respective
6 scopes of practice.

7 (B) (i) For specialized health care service plans providing,
8 operating, or contracting with a telephone medical advice service
9 in California, the staff shall be appropriately licensed, registered,
10 or certified as a dentist pursuant to Chapter 4 (commencing with
11 Section 1600) of Division 2 of the Business and Professions Code,
12 as a dental hygienist pursuant to Article 7 (commencing with
13 Section 1740) of Chapter 4 of Division 2 of the Business and
14 Professions Code, as a physician and surgeon pursuant to Chapter
15 5 (commencing with Section 2000) of Division 2 of the Business
16 and Professions Code or the Osteopathic Initiative Act, as a
17 registered nurse pursuant to Chapter 6 (commencing with Section
18 2700) of Division 2 of the Business and Professions Code, as a
19 psychologist pursuant to Chapter 6.6 (commencing with Section
20 2900) of Division 2 of the Business and Professions Code, as an
21 optometrist pursuant to Chapter 7 (commencing with Section 3000)
22 of Division 2 of the Business and Professions Code, as a marriage
23 and family therapist pursuant to Chapter 13 (commencing with
24 Section 4980) of Division 2 of the Business and Professions Code,
25 as a licensed clinical social worker pursuant to Chapter 14
26 (commencing with Section 4991) of Division 2 of the Business
27 and Professions Code, as a professional clinical counselor pursuant
28 to Chapter 16 (commencing with Section 4999.10) of Division 2
29 of the Business and Professions Code, or as a chiropractor pursuant
30 to the Chiropractic Initiative Act, and operating in compliance
31 with the laws governing their respective scopes of practice.

32 (ii) For specialized health care service plans providing,
33 operating, or contracting with an out-of-state telephone medical
34 advice service, the staff shall be health care professionals, as
35 identified in clause (i), who are licensed, registered, or certified
36 in the state within which they are providing the telephone medical
37 advice services and are operating in compliance with the laws
38 governing their respective scopes of practice. All registered nurses
39 providing telephone medical advice services to both in-state and
40 out-of-state business entities registered pursuant to this chapter

1 shall be licensed pursuant to Chapter 6 (commencing with Section
2 2700) of Division 2 of the Business and Professions Code.

3 (3) Ensure that every full service health care service plan
4 provides for a physician and surgeon who is available on an on-call
5 basis at all times the service is advertised to be available to
6 enrollees and subscribers.

7 (4) Ensure that staff members handling enrollee or subscriber
8 calls, who are not licensed, certified, or registered as required by
9 paragraph (2), do not provide telephone medical advice. Those
10 staff members may ask questions on behalf of a staff member who
11 is licensed, certified, or registered as required by paragraph (2),
12 in order to help ascertain the condition of an enrollee or subscriber
13 so that the enrollee or subscriber can be referred to licensed staff.
14 However, under no circumstances shall those staff members use
15 the answers to those questions in an attempt to assess, evaluate,
16 advise, or make any decision regarding the condition of an enrollee
17 or subscriber or determine when an enrollee or subscriber needs
18 to be seen by a licensed medical professional.

19 (5) Ensure that no staff member uses a title or designation when
20 speaking to an enrollee or subscriber that may cause a reasonable
21 person to believe that the staff member is a licensed, certified, or
22 registered professional described in Section 4999.2 of the Business
23 and Professions Code unless the staff member is a licensed,
24 certified, or registered professional.

25 (6) Ensure that the in-state or out-of-state telephone medical
26 advice service designates an agent for service of process in
27 California and files this designation with the director.

28 (7) Requires that the in-state or out-of-state telephone medical
29 advice service makes and maintains records for a period of five
30 years after the telephone medical advice services are provided,
31 including, but not limited to, oral or written transcripts of all
32 medical advice conversations with the health care service plan's
33 enrollees or subscribers in California and copies of all complaints.
34 If the records of telephone medical advice services are kept out of
35 state, the health care service plan shall, upon the request of the
36 director, provide the records to the director within 10 days of the
37 request.

38 (8) Ensure that the telephone medical advice services are
39 provided consistent with good professional practice.

1 (b) The director shall forward to the Department of Consumer
2 Affairs, within 30 days of the end of each calendar quarter, data
3 regarding complaints filed with the department concerning
4 telephone medical advice services.

5 (c) For purposes of this section, “telephone medical advice”
6 means a telephonic communication between a patient and a health
7 care professional in which the health care professional’s primary
8 function is to provide to the patient a telephonic response to the
9 patient’s questions regarding his or her or a family member’s
10 medical care or treatment. “Telephone medical advice” includes
11 assessment, evaluation, or advice provided to patients or their
12 family members.

13 *SEC. 40. Section 10279 of the Insurance Code is amended to*
14 *read:*

15 10279. (a) Every disability insurer that provides group or
16 individual policies of disability, or both, that provides, operates,
17 or contracts for, telephone medical advice services to its insureds
18 shall do all of the following:

19 (1) Ensure that the in-state or out-of-state telephone medical
20 advice service ~~is registered pursuant to~~ *complies with the*
21 *requirements of Chapter 15 (commencing with Section 4999) of*
22 *Division 2 of the Business and Professions Code.*

23 (2) Ensure that the staff providing telephone medical advice
24 services for the in-state or out-of-state telephone medical advice
25 service hold a valid California license as a registered nurse or a
26 valid license in the state within which they provide telephone
27 medical advice services as a physician and surgeon or physician
28 assistant and are operating consistent with the laws governing their
29 respective scopes of practice.

30 (3) Ensure that a physician and surgeon is available on an on-call
31 basis at all times the service is advertised to be available to
32 enrollees and subscribers.

33 (4) Ensure that the in-state or out-of-state telephone medical
34 advice service designates an agent for service of process in
35 California and files this designation with the commissioner.

36 (5) Require that the in-state or out-of-state telephone medical
37 advice service makes and maintains records for a period of five
38 years after the telephone medical advice services are provided,
39 including, but not limited to, oral or written transcripts of all
40 medical advice conversations with the disability insurer’s insureds

1 in California and copies of all complaints. If the records of
2 telephone medical advice services are kept out of state, the insurer
3 shall, upon the request of the director, provide the records to the
4 director within 10 days of the request.

5 (6) Ensure that the telephone medical advice services are
6 provided consistent with good professional practice.

7 (b) The commissioner shall forward to the Department of
8 Consumer Affairs, within 30 days of the end of each calendar
9 quarter, data regarding complaints filed with the department
10 concerning telephone medical advice services.

11 ~~SEC. 35.~~

12 *SEC. 41.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 1139
SPONSOR:	California Pan-Ethnic Health Network Pre-Health Dreamers	BILL STATUS:	Senate Committee on Appropriations
SUBJECT:	Health Professionals: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments	DATE LAST AMENDED:	April 19, 2016

SUMMARY:

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

ANALYSIS:

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

Amended analysis as of 4/4:

The bill as amended adds “medical residency programs” to its subject. The bill adds as Section (1) a section related to the Medical Practice Act regarding applicants, including those without lawful immigration status, to medical school programs and medical residency training programs. Please refer to the attached bill for the new language.

Section (2) refers to the Health Professions Education Foundation; no changes.

Amended summary and analysis as of 4/19:

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

California Pan-Ethnic Health Network (sponsor)
Pre-Health Dreamers (sponsor)
American Academy of Pediatrics
American Civil Liberties Union of California
Asian Law Alliance
California Immigrant Policy Center
California Mental Health Connection
California Primary Care Association
California State Council of the Service Employees
International Union (SEIU)
Community Health Partnership
Courage Campaign
Department of Medicine at the University of
California, Irvine
Doctors for America
Educators for Fair Consideration
The Greenling Institute
Having Our Say Coalition
Health Access California
Inland Empire Immigrant Youth Coalition
Latino Medical Student Association
National Association of Social Workers
National Immigration Law Center
Services, Immigrant Right, and Education Network(SIREN)
Stanford University's Latino Medical Student
Association
Western Center on Law & Poverty
Six Individual Letters

OPPOSE:

Californians for Population Stabilization

AMENDED IN SENATE APRIL 19, 2016

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1139

Introduced by Senator Lara
(Coauthor: Senator Hall)

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, as amended, Lara. Health professionals: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayment.

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

Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education and their respective institutions of higher education. Existing law establishes the University of California, under the administration of the Regents of the University

of California, as one of the segments of public postsecondary education in this state. The University of California operates medical schools at its Davis, Irvine, Los Angeles, San Diego, and San Francisco campuses, and a medical school will open at its Riverside campus in the 2016–17 academic year.

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

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

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

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

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

- 1 SECTION 1. Section 2064.3 is added to the Business and
- 2 Professions Code, to read:
- 3 2064.3. Notwithstanding any other law:
- 4 (a) Any student, including a person without lawful immigration
- 5 status, a person who is exempt from nonresident tuition pursuant
- 6 to Section 68130.5 of the Education Code, or a person who is both

1 without lawful immigration status and exempt from nonresident
2 tuition pursuant to Section 68130.5 of the Education Code, who
3 meets the requirements for admission is eligible to participate in
4 a medical school program and a medical residency training program
5 at any public or private postsecondary educational institution that
6 offers such a program.

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

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

14 128371. (a) The Legislature finds and declares that it is in the
15 best interest of the State of California to provide persons who are
16 not lawfully present in the United States with the state benefits
17 provided by Health Professions Education Foundation programs,
18 and therefore, enacts this section pursuant to Section 1621(d) of
19 Title 8 of the United States Code.

20 (b) A program ~~within the Health Professions Education~~
21 ~~Foundation~~ *listed in subdivision (d)* shall not deny an application
22 based on the citizenship status or immigration status of the
23 applicant.

24 (c) For any program ~~within the Health Professions Education~~
25 ~~Foundation~~, *listed in subdivision (d)*, when mandatory disclosure
26 of a social security number is required, an applicant shall provide
27 his or her social security number, if one has been issued, or an
28 individual tax identification number that has been or will be
29 submitted.

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

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

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

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

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

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

1 ~~(6) The Steven M. Thompson Medical School Scholarship~~
2 ~~Account created pursuant to Section 128580.~~

3 ~~(7)~~

4 (6) Loan forgiveness and scholarship programs created pursuant
5 to Section 5820 of the Welfare and Institutions Code.

6 (7) *The Song-Brown Health Care Workforce Training Act*
7 *created pursuant to Article 1 (commencing with Section 128200)*
8 *of Chapter 4.*

9 (8) *To the extent permitted under federal law, the program*
10 *administered by the office pursuant to the federal National Health*
11 *Service Corps State Loan Repayment Program (42 U.S.C. Sec.*
12 *254q-1), commonly known as the California State Loan Repayment*
13 *Program.*

14 (9) *The programs administered by the office pursuant to the*
15 *Health Professions Career Opportunity Program (Section 127885),*
16 *commonly known as the Mini Grants Program and the California's*
17 *Student/Resident Experiences and Rotations in Community Health,*
18 *or CalSEARCH, Program.*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1195
SPONSOR:	Hill	BILL STATUS:	Senate Committee on Appropriations
SUBJECT:	Professions and vocations: board actions: competitive impact	DATE LAST AMENDED:	April 6, 2016

SUMMARY:

This bill was introduced on February 18, 2016, under a different title. It was amended on April 6.

Section 1. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

Section 2. Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

Section 3. Refers to the Veterinary Medical Practice Act; please refer to the bill.

Section 4. Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.

Section 5. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

Section 6. Please refer to the bill.

ANALYSIS:

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

Section 2. This bill would instead prohibit the executive officer from being a licensee of the board.

Section 3: Please refer to the bill.

Section 4. This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

Section 5. This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decision makers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the

proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decision makers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

Section 6. Please refer to the bill.

BOARD POSITION: Oppose (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered.

SUPPORT:

University of California - Davis School of Veterinary Medicine
California Veterinary Medical Association (if amended)

OPPOSE:

None on file as of April 12, 2016.

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1195

Introduced by Senator Hill

February 18, 2016

An act to amend Sections ~~4800 and 4804.5~~ of 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, 4825.1, 4830, and 4846.5 of, and to add Sections 4826.3, 4826.5, 4826.7, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections 825, 11346.5, 11349, and 11349.1 of the Government Code, relating to ~~healing arts~~, professional regulation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. ~~Veterinary Medical Board: executive officer~~. Professions and vocations: board actions: competitive impact.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

~~The~~

(3) *The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.*

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. *The bill would authorize a veterinarian and registered veterinary technician who is under the direct supervision of a veterinarian with a current and active license to compound a drug for anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified. The bill would authorize the California State Board of Pharmacy and the board to ensure compliance with these requirements. The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences while engaged in the performance of specified duties to be licensed as a veterinarian in the state or hold a university license issued by the board. The bill would require an applicant for a university license to meet certain requirements, including that the applicant passes a specified exam. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. By requiring*

additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation. By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

(5) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants

in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

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

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

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

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

1 SECTION 1. Section 109 of the Business and Professions Code
2 is amended to read:

3 109. ~~(a) The decisions of any of the boards comprising the~~
4 ~~department with respect to setting standards, conducting~~
5 ~~examinations, passing candidates, and revoking licenses, are not~~
6 ~~subject to review by the director, but are final within the limits~~
7 ~~provided by this code which are applicable to the particular board,~~
8 ~~except as provided in this section.~~

9 ~~(b)~~

10 109. (a) The director may initiate an investigation of any
11 allegations of misconduct in the preparation, administration, or
12 scoring of an examination which is administered by a board, or in
13 the review of qualifications which are a part of the licensing process
14 of any board. A request for investigation shall be made by the
15 director to the Division of Investigation through the chief of the
16 division or to any law enforcement agency in the jurisdiction where
17 the alleged misconduct occurred.

18 ~~(c)~~

19 (b) (1) The director may intervene in any matter of any board
20 where an investigation by the Division of Investigation discloses
21 probable cause to believe that the conduct or activity of a board,
22 or its members or employees constitutes a violation of criminal
23 law.

24 ~~The~~

1 (2) ~~The term “intervene,” as used in paragraph (c) of this section~~
2 (1) may include, but is not limited to, an application for a
3 restraining order or injunctive relief as specified in Section 123.5,
4 or a referral or request for criminal prosecution. For purposes of
5 this section, the director shall be deemed to have standing under
6 Section 123.5 and shall seek representation of the Attorney
7 General, or other appropriate counsel in the event of a conflict in
8 pursuing that action.

9 (c) *The director may, upon his or her own initiative, and shall,*
10 *upon request by a consumer or licensee, review any board decision*
11 *or other action to determine whether it unreasonably restrains*
12 *trade. Such a review shall proceed as follows:*

13 (1) *The director shall assess whether the action or decision*
14 *reflects a clearly articulated and affirmatively expressed state law.*
15 *If the director determines that the action or decision does not*
16 *reflect a clearly articulated and affirmatively expressed state law,*
17 *the director shall disapprove the board action or decision and it*
18 *shall not go into effect.*

19 (2) *If the action or decision is a reflection of clearly articulated*
20 *and affirmatively expressed state law, the director shall assess*
21 *whether the action or decision was the result of the board’s*
22 *exercise of ministerial or discretionary judgment. If the director*
23 *finds no exercise of discretionary judgment, but merely the direct*
24 *application of statutory or constitutional provisions, the director*
25 *shall close the investigation and review of the board action or*
26 *decision.*

27 (3) *If the director concludes under paragraph (2) that the board*
28 *exercised discretionary judgment, the director shall review the*
29 *board action or decision as follows:*

30 (A) *The director shall conduct a full review of the board action*
31 *or decision using all relevant facts, data, market conditions, public*
32 *comment, studies, or other documentary evidence pertaining to*
33 *the market impacted by the board’s action or decision and*
34 *determine whether the anticompetitive effects of the action or*
35 *decision are clearly outweighed by the benefit to the public. The*
36 *director may seek, designate, employ, or contract for the services*
37 *of independent antitrust or economic experts pursuant to Section*
38 *307. These experts shall not be active participants in the market*
39 *affected by the board action or decision.*

1 (B) If the board action or decision was not previously subject
2 to a public comment period, the director shall release the subject
3 matter of his or her investigation for a 30-day public comment
4 period and shall consider all comments received.

5 (C) If the director determines that the action or decision furthers
6 the public protection mission of the board and the impact on
7 competition is justified, the director may approve the action or
8 decision.

9 (D) If the director determines that the action furthers the public
10 protection mission of the board and the impact on competition is
11 justified, the director may approve the action or decision. If the
12 director finds the action or decision does not further the public
13 protection mission of the board or finds that the action or decision
14 is not justified, the director shall either refuse to approve it or
15 shall modify the action or decision to ensure that any restraints
16 of trade are related to, and advance, clearly articulated state law
17 or public policy.

18 (4) The director shall issue, and post on the department's
19 Internet Web site, his or her final written decision approving,
20 modifying, or disapproving the action or decision with an
21 explanation of the reasons and rationale behind the director's
22 decision within 90 days from receipt of the request from a
23 consumer or licensee. Notwithstanding any other law, the decision
24 of the director shall be final, except if the state or federal
25 constitution requires an appeal of the director's decision.

26 (d) The review set forth in paragraph (3) of subdivision (c) shall
27 not apply when an individual seeks review of disciplinary or other
28 action pertaining solely to that individual.

29 (e) The director shall report to the Chairs of the Senate Business,
30 Professions, and Economic Development Committee and the
31 Assembly Business and Professions Committee annually,
32 commencing March 1, 2017, regarding his or her disapprovals,
33 modifications, or findings from any audit, review, or monitoring
34 and evaluation conducted pursuant to this section. That report
35 shall be submitted in compliance with Section 9795 of the
36 Government Code.

37 (f) If the director has already reviewed a board action or
38 decision pursuant to this section or Section 313.1, the director
39 shall not review that action or decision again.

1 (g) *This section shall not be construed to affect, impede, or*
2 *delay any disciplinary actions of any board.*

3 *SEC. 2. Section 116 of the Business and Professions Code is*
4 *amended to read:*

5 116. (a) The director may audit and review, upon his or her
6 own initiative, or upon the request of a consumer or licensee,
7 inquiries and complaints regarding licensees, dismissals of
8 disciplinary cases, the opening, conduct, or closure of
9 investigations, informal conferences, and discipline short of formal
10 accusation by ~~the Medical Board of California, the allied health~~
11 ~~professional boards, and the California Board of Podiatric~~
12 ~~Medicine. The director may make recommendations for changes~~
13 ~~to the disciplinary system to the appropriate board, the Legislature,~~
14 ~~or both.~~ *any board or bureau within the department.*

15 (b) The director shall report to the ~~Chairpersons~~ *Chairs* of the
16 ~~Senate Business and Professions~~ *Business, Professions, and*
17 *Economic Development* Committee and the ~~Assembly Health~~
18 *Business and Professions* Committee annually, commencing March
19 1, ~~1995,~~ 2017, regarding his or her findings from any audit, review,
20 or monitoring and evaluation conducted pursuant to this section.
21 *This report shall be submitted in compliance with Section 9795 of*
22 *the Government Code.*

23 *SEC. 3. Section 153 of the Business and Professions Code is*
24 *amended to read:*

25 153. The director may investigate the work of the several
26 boards in his department and may obtain a copy of all records and
27 full and complete data in all official matters in possession of the
28 boards, their members, officers, or ~~employees, other than~~
29 ~~examination questions prior to submission to applicants at~~
30 ~~scheduled examinations.~~ *employees.*

31 *SEC. 4. Section 307 of the Business and Professions Code is*
32 *amended to read:*

33 307. The director may contract for the services of experts and
34 consultants where necessary to carry out ~~the provisions of this~~
35 chapter and may provide compensation and reimbursement of
36 expenses for ~~such~~ *those* experts and consultants in accordance with
37 state law.

38 *SEC. 5. Section 313.1 of the Business and Professions Code*
39 *is amended to read:*

1 313.1. (a) Notwithstanding any other ~~provision~~ of law to the
2 contrary, no rule or ~~regulation, except those relating to~~
3 ~~examinations and qualifications for licensure, regulation~~ and no
4 fee change proposed or promulgated by any of the boards,
5 commissions, or committees within the department, shall take
6 effect pending compliance with this section.

7 (b) The director shall be formally notified of and shall ~~be~~
8 ~~provided a full opportunity to review, in accordance with the~~
9 requirements of Article 5 (commencing with Section 11346) of
10 Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government
11 Code, *the requirements in subdivision (c) of Section 109*, and this
12 section, all of the following:

13 (1) All notices of proposed action, any modifications and
14 supplements thereto, and the text of proposed regulations.

15 (2) Any notices of sufficiently related changes to regulations
16 previously noticed to the public, and the text of proposed
17 regulations showing modifications to the text.

18 (3) Final rulemaking records.

19 (4) *All relevant facts, data, public comments, market conditions,*
20 *studies, or other documentary evidence pertaining to the market*
21 *impacted by the proposed regulation. This information shall be*
22 *included in the written decision of the director required under*
23 *paragraph (4) of subdivision (c) of Section 109.*

24 (c) The submission of all notices and final rulemaking records
25 to the director and the ~~completion of the director's review,~~
26 *approval*, as authorized by this section, shall be a precondition to
27 the filing of any rule or regulation with the Office of Administrative
28 Law. The Office of Administrative Law shall have no jurisdiction
29 to review a rule or regulation subject to this section until after the
30 ~~completion of the director's review and only then if the director~~
31 ~~has not disapproved it.~~ *approval*. The filing of any document with
32 the Office of Administrative Law shall be accompanied by a
33 certification that the board, commission, or committee has complied
34 with the requirements of this section.

35 (d) Following the receipt of any final rulemaking record subject
36 to subdivision (a), the director shall have the authority for a period
37 of 30 days to *approve a proposed rule or regulation or disapprove*
38 *a proposed rule or regulation on the ground that it is injurious to*
39 *the public health, safety, or ~~welfare.~~ welfare, or has an*
40 *impermissible anticompetitive effect. The director may modify a*

1 rule or regulation as a condition of approval. Any modifications
2 to regulations by the director shall be subject to a 30-day public
3 comment period before the director issues a final decision
4 regarding the modified regulation. If the director does not approve
5 the rule or regulation within the 30-day period, the rule or
6 regulation shall not be submitted to the Office of Administrative
7 Law and the rule or regulation shall have no effect.

8 (e) Final rulemaking records shall be filed with the director
9 within the one-year notice period specified in Section 11346.4 of
10 the Government Code. If necessary for compliance with this
11 section, the one-year notice period may be extended, as specified
12 by this subdivision.

13 (1) In the event that the one-year notice period lapses during
14 the director's 30-day review period, or within 60 days following
15 the notice of the director's disapproval, it may be extended for a
16 maximum of 90 days.

17 (2) If the director approves the final rulemaking record or
18 declines to take action on it within 30 days, record, the board,
19 commission, or committee shall have five days from the receipt
20 of the record from the director within which to file it with the
21 Office of Administrative Law.

22 (3) If the director disapproves a rule or regulation, it shall have
23 no force or effect unless, within 60 days of the notice of
24 disapproval, (A) the disapproval is overridden by a unanimous
25 vote of the members of the board, commission, or committee, and
26 (B) the board, commission, or committee files the final rulemaking
27 record with the Office of Administrative Law in compliance with
28 this section and the procedures required by Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code. *This paragraph shall not apply to any*
31 *decision disapproved by the director under subdivision (c) of*
32 *Section 109.*

33 (f) ~~Nothing in this~~ This section shall *not* be construed to prohibit
34 the director from affirmatively approving a proposed rule,
35 regulation, or fee change at any time within the 30-day period after
36 it has been submitted to him or her, in which event it shall become
37 effective upon compliance with this section and the procedures
38 required by Chapter 3.5 (commencing with Section 11340) of Part
39 1 of Division 3 of Title 2 of the Government Code.

1 *SEC. 6. Section 2708 of the Business and Professions Code is*
2 *amended to read:*

3 2708. (a) The board shall appoint an executive officer who
4 shall perform the duties delegated by the board and who shall be
5 responsible to it for the accomplishment of those duties.

6 (b) The executive officer shall *not* be a ~~nurse currently licensed~~
7 *licensee* under this chapter and shall possess other qualifications
8 as determined by the board.

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

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

13 ~~SECTION 1.~~

14 *SEC. 7. Section 4800 of the Business and Professions Code is*
15 *amended to read:*

16 4800. (a) There is in the Department of Consumer Affairs a
17 Veterinary Medical Board in which the administration of this
18 chapter is vested. The board consists of the following members:

19 (1) Four licensed veterinarians.

20 (2) One registered veterinary technician.

21 (3) Three public members.

22 (b) This section shall remain in effect only until January 1, 2021,
23 and as of that date is repealed.

24 (c) Notwithstanding any other law, the repeal of this section
25 renders the board subject to review by the appropriate policy
26 committees of the Legislature. However, the review of the board
27 shall be limited to those issues identified by the appropriate policy
28 committees of the Legislature and shall not involve the preparation
29 or submission of a sunset review document or evaluative
30 questionnaire.

31 ~~SEC. 2.~~

32 *SEC. 8. Section 4804.5 of the Business and Professions Code*
33 *is amended to read:*

34 4804.5. (a) The board may appoint a person exempt from civil
35 service who shall be designated as an executive officer and who
36 shall exercise the powers and perform the duties delegated by the
37 board and vested in him or her by this chapter.

38 (b) This section shall remain in effect only until January 1, 2021,
39 and as of that date is repealed.

1 *SEC. 9. Section 4825.1 of the Business and Professions Code*
2 *is amended to read:*

3 4825.1. These definitions shall govern the construction of this
4 chapter as it applies to veterinary medicine.

5 (a) “Diagnosis” means the act or process of identifying or
6 determining the health status of an animal through examination
7 and the opinion derived from that examination.

8 (b) “Animal” means any member of the animal kingdom other
9 than humans, and includes fowl, fish, and reptiles, wild or
10 domestic, whether living or dead.

11 (c) “Food animal” means any animal that is raised for the
12 production of an edible product intended for consumption by
13 humans. The edible product includes, but is not limited to, milk,
14 meat, and eggs. Food animal includes, but is not limited to, cattle
15 (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

16 (d) “Livestock” includes all animals, poultry, aquatic and
17 amphibian species that are raised, kept, or used for profit. It does
18 not include those species that are usually kept as pets such as dogs,
19 cats, and pet birds, or companion animals, including equines.

20 (e) “Compounding,” for the purposes of veterinary medicine,
21 shall have the same meaning given in Section 1735 of Title 16 of
22 the California Code of Regulations, except that every reference
23 therein to “pharmacy” and “pharmacist” shall be replaced with
24 “veterinary premises” and “veterinarian,” and except that only
25 a licensed veterinarian or a licensed registered veterinarian
26 technician under direct supervision of a veterinarian may perform
27 compounding and shall not delegate to or supervise any part of
28 the performance of compounding by any other person.

29 *SEC. 10. Section 4826.3 is added to the Business and*
30 *Professions Code, to read:*

31 4826.3. (a) Notwithstanding Section 4051, a veterinarian or
32 registered veterinarian technician under the direct supervision of
33 a veterinarian with a current and active license may compound a
34 drug for anesthesia, the prevention, cure, or relief of a wound,
35 fracture, bodily injury, or disease of an animal in a premises
36 currently and actively registered with the board and only under
37 the following conditions:

38 (1) Where there is no FDA-approved animal or human drug
39 that can be used as labeled or in an appropriate extralabel manner

1 *to properly treat the disease, symptom, or condition for which the*
2 *drug is being prescribed.*

3 *(2) Where the compounded drug is not available from a*
4 *compounding pharmacy, outsourcing facility, or other*
5 *compounding supplier in a dosage form and concentration to*
6 *appropriately treat the disease, symptom, or condition for which*
7 *the drug is being prescribed.*

8 *(3) Where the need and prescription for the compounded*
9 *medication has arisen within an established*
10 *veterinarian-client-patient relationship as a means to treat a*
11 *specific occurrence of a disease, symptom, or condition observed*
12 *and diagnosed by the veterinarian in a specific animal that*
13 *threatens the health of the animal or will cause suffering or death*
14 *if left untreated.*

15 *(4) Where the quantity compounded does not exceed a quantity*
16 *demonstrably needed to treat a patient with which the veterinarian*
17 *has a current veterinarian-client-patient relationship.*

18 *(5) Except as specified in subdivision (c), where the compound*
19 *is prepared only with commercially available FDA-approved*
20 *animal or human drugs as active ingredients.*

21 *(b) A compounded veterinary drug may be prepared from an*
22 *FDA-approved animal or human drug for extralabel use only when*
23 *there is no approved animal or human drug that, when used as*
24 *labeled or in an appropriate extralabel manner will, in the*
25 *available dosage form and concentration, treat the disease,*
26 *symptom, or condition. Compounding from an approved human*
27 *drug for use in food-producing animals is not permitted if an*
28 *approved animal drug can be used for compounding.*

29 *(c) A compounded veterinary drug may be prepared from bulk*
30 *drug substances only when:*

31 *(1) The drug is compounded and dispensed by the veterinarian*
32 *to treat an individually identified animal patient under his or her*
33 *care.*

34 *(2) The drug is not intended for use in food-producing animals.*

35 *(3) If the drug contains a bulk drug substance that is a*
36 *component of any marketed FDA-approved animal or human drug,*
37 *there is a change between the compounded drug and the*
38 *comparable marketed drug made for an individually identified*
39 *animal patient that produces a clinical difference for that*
40 *individually identified animal patient, as determined by the*

1 veterinarian prescribing the compounded drug for his or her
2 patient.

3 (4) There are no FDA-approved animal or human drugs that
4 can be used as labeled or in an appropriate extralabel manner to
5 properly treat the disease, symptom, or condition for which the
6 drug is being prescribed.

7 (5) All bulk drug substances used in compounding are
8 manufactured by an establishment registered under Section 360
9 of Title 21 of the United States Code and are accompanied by a
10 valid certificate of analysis.

11 (6) The drug is not sold or transferred by the veterinarian
12 compounding the drug, except that the veterinarian shall be
13 permitted to administer the drug to a patient under his or her care
14 or dispense it to the owner or caretaker of an animal under his or
15 her care.

16 (7) Within 15 days of becoming aware of any product defect or
17 serious adverse event associated with any drug compounded by
18 the veterinarian from bulk drug substances, the veterinarian shall
19 report it to the federal Food and Drug Administration on Form
20 FDA 1932a.

21 (8) In addition to any other requirements, the label of any
22 veterinary drug compounded from bulk drug substances shall
23 indicate the species of the intended animal patient, the name of
24 the animal patient, and the name of the owner or caretaker of the
25 patient.

26 (d) Each compounded veterinary drug preparation shall meet
27 the labeling requirements of Section 4076 and Sections 1707.5
28 and 1735.4 of Title 16 of the California Code of Regulations, except
29 that every reference therein to “pharmacy” and “pharmacist”
30 shall be replaced by “veterinary premises” and “veterinarian,”
31 and any reference to “patient” shall be understood to refer to the
32 animal patient. In addition, each label on a compounded veterinary
33 drug preparation shall include withdrawal and holding times, if
34 needed, and the disease, symptom, or condition for which the drug
35 is being prescribed. Any compounded veterinary drug preparation
36 that is intended to be sterile, including for injection, administration
37 into the eye, or inhalation, shall in addition meet the labeling
38 requirements of Section 1751.2 of Title 16 of the California Code
39 of Regulations, except that every reference therein to “pharmacy”
40 and “pharmacist” shall be replaced by “veterinary premises” and

1 “veterinarian,” and any reference to “patient” shall be understood
2 to refer to the animal patient.

3 (e) Any veterinarian, registered veterinarian technician who is
4 under the direct supervision of a veterinarian, and veterinary
5 premises engaged in compounding shall meet the compounding
6 requirements for pharmacies and pharmacists stated by the
7 provisions of Article 4.5 (commencing with Section 1735) of Title
8 16 of the California Code of Regulations, except that every
9 reference therein to “pharmacy” and “pharmacist” shall be
10 replaced by “veterinary premises” and “veterinarian,” and any
11 reference to “patient” shall be understood to refer to the animal
12 patient:

13 (1) Section 1735.1 of Title 16 of the California Code of
14 Regulations.

15 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of Section
16 1735.2 of Title 16 of the California Code of Regulations.

17 (3) Section 1735.3 of Title 16 of the California Code of
18 Regulations, except that only a licensed veterinarian or registered
19 veterinarian technician may perform compounding and shall not
20 delegate to or supervise any part of the performance of
21 compounding by any other person.

22 (4) Section 1735.4 of Title 16 of the California Code of
23 Regulations.

24 (5) Section 1735.5 of Title 16 of the California Code of
25 Regulations.

26 (6) Section 1735.6 of Title 16 of the California Code of
27 Regulations.

28 (7) Section 1735.7 of Title 16 of the California Code of
29 Regulations.

30 (8) Section 1735.8 of Title 16 of the California Code of
31 Regulations.

32 (f) Any veterinarian, registered veterinarian technician under
33 the direct supervision of a veterinarian, and veterinary premises
34 engaged in sterile compounding shall meet the sterile compounding
35 requirements for pharmacies and pharmacists under Article 7
36 (commencing with Section 1751) of Title 16 of the California Code
37 of Regulations, except that every reference therein to “pharmacy”
38 and “pharmacist” shall be replaced by “veterinary premises” and
39 “veterinarian,” and any reference to “patient” shall be understood
40 to refer to the animal patient.

1 (g) *The California State Board of Pharmacy shall have authority*
2 *with the board to ensure compliance with this section and shall*
3 *have the right to inspect any veterinary premises engaged in*
4 *compounding, along with or separate from the board, to ensure*
5 *compliance with this section. The board is specifically charged*
6 *with enforcing this section with regard to its licensees.*

7 SEC. 11. *Section 4826.5 is added to the Business and*
8 *Professions Code, to read:*

9 4826.5. *Failure by a licensed veterinarian, registered*
10 *veterinarian technician, or veterinary premises to comply with the*
11 *provisions of this article shall be deemed unprofessional conduct*
12 *and constitute grounds for discipline.*

13 SEC. 12. *Section 4826.7 is added to the Business and*
14 *Professions Code, to read:*

15 4826.7. *The board may adopt regulations to implement the*
16 *provisions of this article.*

17 SEC. 13. *Section 4830 of the Business and Professions Code*
18 *is amended to read:*

19 4830. (a) This chapter does not apply to:

20 (1) Veterinarians while serving in any armed branch of the
21 military service of the United States or the United States
22 Department of Agriculture while actually engaged and employed
23 in their official capacity.

24 (2) Regularly licensed veterinarians in actual consultation from
25 other states.

26 (3) Regularly licensed veterinarians actually called from other
27 states to attend cases in this state, but who do not open an office
28 or appoint a place to do business within this state.

29 ~~(4) Veterinarians employed by the University of California~~
30 ~~while engaged in the performance of duties in connection with the~~
31 ~~College of Agriculture, the Agricultural Experiment Station, the~~
32 ~~School of Veterinary Medicine, or the agricultural extension work~~
33 ~~of the university or employed by the Western University of Health~~
34 ~~Sciences while engaged in the performance of duties in connection~~
35 ~~with the College of Veterinary Medicine or the agricultural~~
36 ~~extension work of the university.~~

37 ~~(5)~~

38 (4) Students in the School of Veterinary Medicine of the
39 University of California or the College of Veterinary Medicine of
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,
2 including those in off-campus educational programs under the
3 direct supervision of a licensed veterinarian in good standing, as
4 defined in paragraph (1) of subdivision (b) of Section 4848,
5 appointed by the University of California, Davis, or the Western
6 University of Health Sciences.

7 ~~(6)~~

8 (5) A veterinarian who is employed by the Meat and Poultry
9 Inspection Branch of the California Department of Food and
10 Agriculture while actually engaged and employed in his or her
11 official capacity. A person exempt under this paragraph shall not
12 otherwise engage in the practice of veterinary medicine unless he
13 or she is issued a license by the board.

14 ~~(7)~~

15 (6) Unlicensed personnel employed by the Department of Food
16 and Agriculture or the United States Department of Agriculture
17 when in the course of their duties they are directed by a veterinarian
18 supervisor to conduct an examination, obtain biological specimens,
19 apply biological tests, or administer medications or biological
20 products as part of government disease or condition monitoring,
21 investigation, control, or eradication activities.

22 (b) (1) For purposes of paragraph (3) of subdivision (a), a
23 regularly licensed veterinarian in good standing who is called from
24 another state by a law enforcement agency or animal control
25 agency, as defined in Section 31606 of the Food and Agricultural
26 Code, to attend to cases that are a part of an investigation of an
27 alleged violation of federal or state animal fighting or animal
28 cruelty laws within a single geographic location shall be exempt
29 from the licensing requirements of this chapter if the law
30 enforcement agency or animal control agency determines that it
31 is necessary to call the veterinarian in order for the agency or
32 officer to conduct the investigation in a timely, efficient, and
33 effective manner. In determining whether it is necessary to call a
34 veterinarian from another state, consideration shall be given to the
35 availability of veterinarians in this state to attend to these cases.
36 An agency, department, or officer that calls a veterinarian pursuant
37 to this subdivision shall notify the board of the investigation.

38 (2) Notwithstanding any other provision of this chapter, a
39 regularly licensed veterinarian in good standing who is called from
40 another state to attend to cases that are a part of an investigation

1 described in paragraph (1) may provide veterinary medical care
2 for animals that are affected by the investigation with a temporary
3 shelter facility, and the temporary shelter facility shall be exempt
4 from the registration requirement of Section 4853 if all of the
5 following conditions are met:

6 (A) The temporary shelter facility is established only for the
7 purpose of the investigation.

8 (B) The temporary shelter facility provides veterinary medical
9 care, shelter, food, and water only to animals that are affected by
10 the investigation.

11 (C) The temporary shelter facility complies with Section 4854.

12 (D) The temporary shelter facility exists for not more than 60
13 days, unless the law enforcement agency or animal control agency
14 determines that a longer period of time is necessary to complete
15 the investigation.

16 (E) Within 30 calendar days upon completion of the provision
17 of veterinary health care services at a temporary shelter facility
18 established pursuant to this section, the veterinarian called from
19 another state by a law enforcement agency or animal control agency
20 to attend to a case shall file a report with the board. The report
21 shall contain the date, place, type, and general description of the
22 care provided, along with a listing of the veterinary health care
23 practitioners who participated in providing that care.

24 (c) For purposes of paragraph (3) of subdivision (a), the board
25 may inspect temporary facilities established pursuant to this
26 section.

27 *SEC. 14. Section 4846.5 of the Business and Professions Code*
28 *is amended to read:*

29 4846.5. (a) Except as provided in this section, the board shall
30 issue renewal licenses only to those applicants that have completed
31 a minimum of 36 hours of continuing education in the preceding
32 two years.

33 (b) (1) Notwithstanding any other law, continuing education
34 hours shall be earned by attending courses relevant to veterinary
35 medicine and sponsored or cosponsored by any of the following:

36 (A) American Veterinary Medical Association (AVMA)
37 accredited veterinary medical colleges.

38 (B) Accredited colleges or universities offering programs
39 relevant to veterinary medicine.

40 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association’s affiliated state
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American
8 Veterinary Medical Association or its state affiliated veterinary
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for
14 Continuing Medical Education (ACCME) or approved by the
15 American Medical Association (AMA), providers recognized by
16 the American Dental Association Continuing Education
17 Recognition Program (ADA CERP), and AMA or ADA affiliated
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those
20 veterinarians taking self-study courses, which may include, but
21 are not limited to, reading journals, viewing video recordings, or
22 listening to audio recordings. The taking of these courses shall be
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing
27 education approval bodies for the purpose of approving continuing
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval
30 shall have the option of applying to the board or to a
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,
33 on a prospective basis, that a provider of continuing veterinary
34 medical education authorized pursuant to paragraph (1) or (3) is
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses
37 sponsored or cosponsored by those entities listed in paragraph (1)
38 between January 1, 2000, and January 1, 2001, shall be credited
39 toward a veterinarian’s continuing education requirement under
40 this section.

1 (c) Every person renewing his or her license issued pursuant to
2 Section 4846.4, or any person applying for relicensure or for
3 reinstatement of his or her license to active status, shall submit
4 proof of compliance with this section to the board certifying that
5 he or she is in compliance with this section. Any false statement
6 submitted pursuant to this section shall be a violation subject to
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license
9 renewal. This section shall apply only to second and subsequent
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all
12 applicants to verify the completion of the continuing education
13 requirement. Applicants shall maintain records of completion of
14 required continuing education coursework for a period of four
15 years and shall make these records available to the board for
16 auditing purposes upon request. If the board, during this audit,
17 questions whether any course reported by the veterinarian satisfies
18 the continuing education requirement, the veterinarian shall provide
19 information to the board concerning the content of the course; the
20 name of its sponsor and cosponsor, if any; and specify the specific
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an
23 inactive license under Section 701 shall submit an application on
24 a form provided by the board. In order to restore an inactive license
25 to active status, the veterinarian shall have completed a minimum
26 of 36 hours of continuing education within the last two years
27 preceding application. The inactive license status of a veterinarian
28 shall not deprive the board of its authority to institute or continue
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article
31 by a veterinarian constitutes unprofessional conduct and grounds
32 for disciplinary action or for the issuance of a citation and the
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing
35 education requirement any veterinarian who for reasons of health,
36 military service, or undue hardship cannot meet those requirements.
37 Applications for waivers shall be submitted on a form provided
38 by the board.

39 (i) The administration of this section may be funded through
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed
2 the costs of administering the corresponding provisions of this
3 section.

4 (j) For those continuing education providers not listed in
5 paragraph (1) of subdivision (b), the board or its recognized
6 national approval agent shall establish criteria by which a provider
7 of continuing education shall be approved. The board shall initially
8 review and approve these criteria and may review the criteria as
9 needed. The board or its recognized agent shall monitor, maintain,
10 and manage related records and data. The board may impose an
11 application fee, not to exceed two hundred dollars (\$200)
12 biennially, for continuing education providers not listed in
13 paragraph (1) of subdivision (b).

14 (k) (1) ~~On or after~~ Beginning January 1, 2018, a licensed
15 veterinarian who renews his or her license shall complete a
16 minimum of one credit hour of continuing education on the
17 judicious use of medically important antimicrobial drugs every
18 four years as part of his or her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important
20 antimicrobial drug” means an antimicrobial drug listed in Appendix
21 A of the federal Food and Drug Administration’s Guidance for
22 Industry #152, including critically important, highly important,
23 and important antimicrobial drugs, as that appendix may be
24 amended.

25 *SEC. 15. Section 4848.1 is added to the Business and*
26 *Professions Code, to read:*

27 *4848.1. (a) A veterinarian engaged in the practice of veterinary*
28 *medicine, as defined in Section 4826, employed by the University*
29 *of California while engaged in the performance of duties in*
30 *connection with the School of Veterinary Medicine or employed*
31 *by the Western University of Health Sciences while engaged in the*
32 *performance of duties in connection with the College of Veterinary*
33 *Medicine shall be licensed in California or shall hold a university*
34 *license issued by the board.*

35 *(b) An applicant is eligible to hold a university license if all of*
36 *the following are satisfied:*

37 *(1) The applicant is currently employed by the University of*
38 *California or Western University of Health Sciences as defined in*
39 *subdivision (a).*

1 (2) *Passes an examination concerning the statutes and*
2 *regulations of the Veterinary Medicine Practice Act, administered*
3 *by the board, pursuant to subparagraph (C) of paragraph (2) of*
4 *subdivision (a) of Section 4848.*

5 (3) *Successfully completes the approved educational curriculum*
6 *described in paragraph (5) of subdivision (b) of Section 4848 on*
7 *regionally specific and important diseases and conditions.*

8 (c) *A university license:*

9 (1) *Shall be numbered as described in Section 4847.*

10 (2) *Shall cease to be valid upon termination of employment by*
11 *the University of California or by the Western University of Health*
12 *Sciences.*

13 (3) *Shall be subject to the license renewal provisions in Section*
14 *4846.4.*

15 (4) *Shall be subject to denial, revocation, or suspension pursuant*
16 *to Sections 4875 and 4883.*

17 (d) *An individual who holds a University License is exempt from*
18 *satisfying the license renewal requirements of Section 4846.5.*

19 SEC. 16. *Section 4853.7 is added to the Business and*
20 *Professions Code, to read:*

21 4853.7. *A premise registration that is not renewed within five*
22 *years after its expiration may not be renewed and shall not be*
23 *restored, reissued, or reinstated thereafter. However, an*
24 *application for a new premise registration may be submitted and*
25 *obtained if both of the following conditions are met:*

26 (a) *No fact, circumstance, or condition exists that, if the premise*
27 *registration was issued, would justify its revocation or suspension.*

28 (b) *All of the fees that would be required for the initial premise*
29 *registration are paid at the time of application.*

30 SEC. 17. *Section 825 of the Government Code is amended to*
31 *read:*

32 825. (a) *Except as otherwise provided in this section, if an*
33 *employee or former employee of a public entity requests the public*
34 *entity to defend him or her against any claim or action against him*
35 *or her for an injury arising out of an act or omission occurring*
36 *within the scope of his or her employment as an employee of the*
37 *public entity and the request is made in writing not less than 10*
38 *days before the day of trial, and the employee or former employee*
39 *reasonably cooperates in good faith in the defense of the claim or*
40 *action, the public entity shall pay any judgment based thereon or*

1 any compromise or settlement of the claim or action to which the
2 public entity has agreed.

3 If the public entity conducts the defense of an employee or
4 former employee against any claim or action with his or her
5 reasonable good-faith cooperation, the public entity shall pay any
6 judgment based thereon or any compromise or settlement of the
7 claim or action to which the public entity has agreed. However,
8 where the public entity conducted the defense pursuant to an
9 agreement with the employee or former employee reserving the
10 rights of the public entity not to pay the judgment, compromise,
11 or settlement until it is established that the injury arose out of an
12 act or omission occurring within the scope of his or her
13 employment as an employee of the public entity, the public entity
14 is required to pay the judgment, compromise, or settlement only
15 if it is established that the injury arose out of an act or omission
16 occurring in the scope of his or her employment as an employee
17 of the public entity.

18 Nothing in this section authorizes a public entity to pay that part
19 of a claim or judgment that is for punitive or exemplary damages.

20 (b) Notwithstanding subdivision (a) or any other provision of
21 law, a public entity is authorized to pay that part of a judgment
22 that is for punitive or exemplary damages if the governing body
23 of that public entity, acting in its sole discretion except in cases
24 involving an entity of the state government, finds all of the
25 following:

26 (1) The judgment is based on an act or omission of an employee
27 or former employee acting within the course and scope of his or
28 her employment as an employee of the public entity.

29 (2) At the time of the act giving rise to the liability, the employee
30 or former employee acted, or failed to act, in good faith, without
31 actual malice and in the apparent best interests of the public entity.

32 (3) Payment of the claim or judgment would be in the best
33 interests of the public entity.

34 As used in this subdivision with respect to an entity of state
35 government, “a decision of the governing body” means the
36 approval of the Legislature for payment of that part of a judgment
37 that is for punitive damages or exemplary damages, upon
38 recommendation of the appointing power of the employee or
39 former employee, based upon the finding by the Legislature and
40 the appointing authority of the existence of the three conditions

1 for payment of a punitive or exemplary damages claim. The
2 provisions of subdivision (a) of Section 965.6 shall apply to the
3 payment of any claim pursuant to this subdivision.

4 The discovery of the assets of a public entity and the introduction
5 of evidence of the assets of a public entity shall not be permitted
6 in an action in which it is alleged that a public employee is liable
7 for punitive or exemplary damages.

8 The possibility that a public entity may pay that part of a
9 judgment that is for punitive damages shall not be disclosed in any
10 trial in which it is alleged that a public employee is liable for
11 punitive or exemplary damages, and that disclosure shall be
12 grounds for a mistrial.

13 (c) Except as provided in subdivision (d), if the provisions of
14 this section are in conflict with the provisions of a memorandum
15 of understanding reached pursuant to Chapter 10 (commencing
16 with Section 3500) of Division 4 of Title 1, the memorandum of
17 understanding shall be controlling without further legislative action,
18 except that if those provisions of a memorandum of understanding
19 require the expenditure of funds, the provisions shall not become
20 effective unless approved by the Legislature in the annual Budget
21 Act.

22 (d) The subject of payment of punitive damages pursuant to this
23 section or any other provision of law shall not be a subject of meet
24 and confer under the provisions of Chapter 10 (commencing with
25 Section 3500) of Division 4 of Title 1, or pursuant to any other
26 law or authority.

27 (e) Nothing in this section shall affect the provisions of Section
28 818 prohibiting the award of punitive damages against a public
29 entity. This section shall not be construed as a waiver of a public
30 entity's immunity from liability for punitive damages under Section
31 1981, 1983, or 1985 of Title 42 of the United States Code.

32 (f) (1) Except as provided in paragraph (2), a public entity shall
33 not pay a judgment, compromise, or settlement arising from a
34 claim or action against an elected official, if the claim or action is
35 based on conduct by the elected official by way of tortiously
36 intervening or attempting to intervene in, or by way of tortiously
37 influencing or attempting to influence the outcome of, any judicial
38 action or proceeding for the benefit of a particular party by
39 contacting the trial judge or any commissioner, court-appointed
40 arbitrator, court-appointed mediator, or court-appointed special

1 referee assigned to the matter, or the court clerk, bailiff, or marshal
2 after an action has been filed, unless he or she was counsel of
3 record acting lawfully within the scope of his or her employment
4 on behalf of that party. Notwithstanding Section 825.6, if a public
5 entity conducted the defense of an elected official against such a
6 claim or action and the elected official is found liable by the trier
7 of fact, the court shall order the elected official to pay to the public
8 entity the cost of that defense.

9 (2) If an elected official is held liable for monetary damages in
10 the action, the plaintiff shall first seek recovery of the judgment
11 against the assets of the elected official. If the elected official's
12 assets are insufficient to satisfy the total judgment, as determined
13 by the court, the public entity may pay the deficiency if the public
14 entity is authorized by law to pay that judgment.

15 (3) To the extent the public entity pays any portion of the
16 judgment or is entitled to reimbursement of defense costs pursuant
17 to paragraph (1), the public entity shall pursue all available
18 creditor's remedies against the elected official, including
19 garnishment, until that party has fully reimbursed the public entity.

20 (4) This subdivision shall not apply to any criminal or civil
21 enforcement action brought in the name of the people of the State
22 of California by an elected district attorney, city attorney, or
23 attorney general.

24 (g) *Notwithstanding subdivision (a), a public entity shall pay*
25 *for a judgment or settlement for treble damage antitrust awards*
26 *against a member of a regulatory board for an act or omission*
27 *occurring within the scope of his or her employment as a member*
28 *of a regulatory board.*

29 *SEC. 18. Section 11346.5 of the Government Code is amended*
30 *to read:*

31 11346.5. (a) The notice of proposed adoption, amendment, or
32 repeal of a regulation shall include the following:

33 (1) A statement of the time, place, and nature of proceedings
34 for adoption, amendment, or repeal of the regulation.

35 (2) Reference to the authority under which the regulation is
36 proposed and a reference to the particular code sections or other
37 provisions of law that are being implemented, interpreted, or made
38 specific.

1 (3) An informative digest drafted in plain English in a format
2 similar to the Legislative Counsel’s digest on legislative bills. The
3 informative digest shall include the following:

4 (A) A concise and clear summary of existing laws and
5 regulations, if any, related directly to the proposed action and of
6 the effect of the proposed action.

7 (B) If the proposed action differs substantially from an existing
8 comparable federal regulation or statute, a brief description of the
9 significant differences and the full citation of the federal regulations
10 or statutes.

11 (C) A policy statement overview explaining the broad objectives
12 of the regulation and the specific benefits anticipated by the
13 proposed adoption, amendment, or repeal of a regulation, including,
14 to the extent applicable, nonmonetary benefits such as the
15 protection of public health and safety, worker safety, or the
16 environment, the prevention of discrimination, the promotion of
17 fairness or social equity, and the increase in openness and
18 transparency in business and government, among other things.

19 (D) An evaluation of whether the proposed regulation is
20 inconsistent or incompatible with existing state regulations.

21 (4) Any other matters as are prescribed by statute applicable to
22 the specific state agency or to any specific regulation or class of
23 regulations.

24 (5) A determination as to whether the regulation imposes a
25 mandate on local agencies or school districts and, if so, whether
26 the mandate requires state reimbursement pursuant to Part 7
27 (commencing with Section 17500) of Division 4.

28 (6) An estimate, prepared in accordance with instructions
29 adopted by the Department of Finance, of the cost or savings to
30 any state agency, the cost to any local agency or school district
31 that is required to be reimbursed under Part 7 (commencing with
32 Section 17500) of Division 4, other nondiscretionary cost or
33 savings imposed on local agencies, and the cost or savings in
34 federal funding to the state.

35 For purposes of this paragraph, “cost or savings” means
36 additional costs or savings, both direct and indirect, that a public
37 agency necessarily incurs in reasonable compliance with
38 regulations.

39 (7) If a state agency, in proposing to adopt, amend, or repeal
40 any administrative regulation, makes an initial determination that

1 the action may have a significant, statewide adverse economic
2 impact directly affecting business, including the ability of
3 California businesses to compete with businesses in other states,
4 it shall include the following information in the notice of proposed
5 action:

6 (A) Identification of the types of businesses that would be
7 affected.

8 (B) A description of the projected reporting, recordkeeping, and
9 other compliance requirements that would result from the proposed
10 action.

11 (C) The following statement: “The (name of agency) has made
12 an initial determination that the (adoption/amendment/repeal) of
13 this regulation may have a significant, statewide adverse economic
14 impact directly affecting business, including the ability of
15 California businesses to compete with businesses in other states.
16 The (name of agency) (has/has not) considered proposed
17 alternatives that would lessen any adverse economic impact on
18 business and invites you to submit proposals. Submissions may
19 include the following considerations:

20 (i) The establishment of differing compliance or reporting
21 requirements or timetables that take into account the resources
22 available to businesses.

23 (ii) Consolidation or simplification of compliance and reporting
24 requirements for businesses.

25 (iii) The use of performance standards rather than prescriptive
26 standards.

27 (iv) Exemption or partial exemption from the regulatory
28 requirements for businesses.”

29 (8) If a state agency, in adopting, amending, or repealing any
30 administrative regulation, makes an initial determination that the
31 action will not have a significant, statewide adverse economic
32 impact directly affecting business, including the ability of
33 California businesses to compete with businesses in other states,
34 it shall make a declaration to that effect in the notice of proposed
35 action. In making this declaration, the agency shall provide in the
36 record facts, evidence, documents, testimony, or other evidence
37 upon which the agency relies to support its initial determination.

38 An agency’s initial determination and declaration that a proposed
39 adoption, amendment, or repeal of a regulation may have or will
40 not have a significant, adverse impact on businesses, including the

1 ability of California businesses to compete with businesses in other
2 states, shall not be grounds for the office to refuse to publish the
3 notice of proposed action.

4 (9) A description of all cost impacts, known to the agency at
5 the time the notice of proposed action is submitted to the office,
6 that a representative private person or business would necessarily
7 incur in reasonable compliance with the proposed action.

8 If no cost impacts are known to the agency, it shall state the
9 following:

10 “The agency is not aware of any cost impacts that a
11 representative private person or business would necessarily incur
12 in reasonable compliance with the proposed action.”

13 (10) A statement of the results of the economic impact
14 assessment required by subdivision (b) of Section 11346.3 or the
15 standardized regulatory impact analysis if required by subdivision
16 (c) of Section 11346.3, a summary of any comments submitted to
17 the agency pursuant to subdivision (f) of Section 11346.3 and the
18 agency’s response to those comments.

19 (11) The finding prescribed by subdivision (d) of Section
20 11346.3, if required.

21 (12) (A) A statement that the action would have a significant
22 effect on housing costs, if a state agency, in adopting, amending,
23 or repealing any administrative regulation, makes an initial
24 determination that the action would have that effect.

25 (B) The agency officer designated in paragraph ~~(14)~~ (15) shall
26 make available to the public, upon request, the agency’s evaluation,
27 if any, of the effect of the proposed regulatory action on housing
28 costs.

29 (C) The statement described in subparagraph (A) shall also
30 include the estimated costs of compliance and potential benefits
31 of a building standard, if any, that were included in the initial
32 statement of reasons.

33 (D) For purposes of model codes adopted pursuant to Section
34 18928 of the Health and Safety Code, the agency shall comply
35 with the requirements of this paragraph only if an interested party
36 has made a request to the agency to examine a specific section for
37 purposes of estimating the costs of compliance and potential
38 benefits for that section, as described in Section 11346.2.

39 (13) *If the regulatory action is submitted by a state board on*
40 *which a controlling number of decisionmakers are active market*

1 *participants in the market the board regulates, a statement that*
2 *the adopting agency has evaluated the impact of the proposed*
3 *regulation on competition, and that the proposed regulation*
4 *further a clearly articulated and affirmatively expressed state law*
5 *to restrain competition.*

6 ~~(13)~~

7 (14) A statement that the adopting agency must determine that
8 no reasonable alternative considered by the agency or that has
9 otherwise been identified and brought to the attention of the agency
10 would be more effective in carrying out the purpose for which the
11 action is proposed, would be as effective and less burdensome to
12 affected private persons than the proposed action, or would be
13 more cost effective to affected private persons and equally effective
14 in implementing the statutory policy or other provision of law. For
15 a major regulation, as defined by Section 11342.548, proposed on
16 or after November 1, 2013, the statement shall be based, in part,
17 upon the standardized regulatory impact analysis of the proposed
18 regulation, as required by Section 11346.3, as well as upon the
19 benefits of the proposed regulation identified pursuant to
20 subparagraph (C) of paragraph (3).

21 ~~(14)~~

22 (15) The name and telephone number of the agency
23 representative and designated backup contact person to whom
24 inquiries concerning the proposed administrative action may be
25 directed.

26 ~~(15)~~

27 (16) The date by which comments submitted in writing must
28 be received to present statements, arguments, or contentions in
29 writing relating to the proposed action in order for them to be
30 considered by the state agency before it adopts, amends, or repeals
31 a regulation.

32 ~~(16)~~

33 (17) Reference to the fact that the agency proposing the action
34 has prepared a statement of the reasons for the proposed action,
35 has available all the information upon which its proposal is based,
36 and has available the express terms of the proposed action, pursuant
37 to subdivision (b).

38 ~~(17)~~

39 (18) A statement that if a public hearing is not scheduled, any
40 interested person or his or her duly authorized representative may

1 request, no later than 15 days prior to the close of the written
2 comment period, a public hearing pursuant to Section 11346.8.

3 ~~(18)~~

4 (19) A statement indicating that the full text of a regulation
5 changed pursuant to Section 11346.8 will be available for at least
6 15 days prior to the date on which the agency adopts, amends, or
7 repeals the resulting regulation.

8 ~~(19)~~

9 (20) A statement explaining how to obtain a copy of the final
10 statement of reasons once it has been prepared pursuant to
11 subdivision (a) of Section 11346.9.

12 ~~(20)~~

13 (21) If the agency maintains an Internet Web site or other similar
14 forum for the electronic publication or distribution of written
15 material, a statement explaining how materials published or
16 distributed through that forum can be accessed.

17 ~~(21)~~

18 (22) If the proposed regulation is subject to Section 11346.6, a
19 statement that the agency shall provide, upon request, a description
20 of the proposed changes included in the proposed action, in the
21 manner provided by Section 11346.6, to accommodate a person
22 with a visual or other disability for which effective communication
23 is required under state or federal law and that providing the
24 description of proposed changes may require extending the period
25 of public comment for the proposed action.

26 (b) The agency representative designated in paragraph~~(14)~~ (15)
27 of subdivision (a) shall make available to the public upon request
28 the express terms of the proposed action. The representative shall
29 also make available to the public upon request the location of
30 public records, including reports, documentation, and other
31 materials, related to the proposed action. If the representative
32 receives an inquiry regarding the proposed action that the
33 representative cannot answer, the representative shall refer the
34 inquiry to another person in the agency for a prompt response.

35 (c) This section shall not be construed in any manner that results
36 in the invalidation of a regulation because of the alleged inadequacy
37 of the notice content or the summary or cost estimates, or the
38 alleged inadequacy or inaccuracy of the housing cost estimates, if
39 there has been substantial compliance with those requirements.

1 *SEC. 19. Section 11349 of the Government Code is amended*
2 *to read:*

3 11349. The following definitions govern the interpretation of
4 this chapter:

5 (a) “Necessity” means the record of the rulemaking proceeding
6 demonstrates by substantial evidence the need for a regulation to
7 effectuate the purpose of the statute, court decision, or other
8 provision of law that the regulation implements, interprets, or
9 makes specific, taking into account the totality of the record. For
10 purposes of this standard, evidence includes, but is not limited to,
11 facts, studies, and expert opinion.

12 (b) “Authority” means the provision of law which permits or
13 obligates the agency to adopt, amend, or repeal a regulation.

14 (c) “Clarity” means written or displayed so that the meaning of
15 regulations will be easily understood by those persons directly
16 affected by them.

17 (d) “Consistency” means being in harmony with, and not in
18 conflict with or contradictory to, existing statutes, court decisions,
19 or other provisions of law.

20 (e) “Reference” means the statute, court decision, or other
21 provision of law which the agency implements, interprets, or makes
22 specific by adopting, amending, or repealing a regulation.

23 (f) “Nonduplication” means that a regulation does not serve the
24 same purpose as a state or federal statute or another regulation.
25 This standard requires that an agency proposing to amend or adopt
26 a regulation must identify any state or federal statute or regulation
27 which is overlapped or duplicated by the proposed regulation and
28 justify any overlap or duplication. This standard is not intended
29 to prohibit state agencies from printing relevant portions of
30 enabling legislation in regulations when the duplication is necessary
31 to satisfy the clarity standard in paragraph (3) of subdivision (a)
32 of Section 11349.1. This standard is intended to prevent the
33 indiscriminate incorporation of statutory language in a regulation.

34 (g) “Competitive impact” means that the record of the
35 rulemaking proceeding or other documentation demonstrates that
36 the regulation is authorized by a clearly articulated and
37 affirmatively expressed state law, that the regulation furthers the
38 public protection mission of the state agency, and that the impact
39 on competition is justified in light of the applicable regulatory
40 rationale for the regulation.

1 *SEC. 20. Section 11349.1 of the Government Code is amended*
2 *to read:*

3 11349.1. (a) The office shall review all regulations adopted,
4 amended, or repealed pursuant to the procedure specified in Article
5 5 (commencing with Section 11346) and submitted to it for
6 publication in the California Code of Regulations Supplement and
7 for transmittal to the Secretary of State and make determinations
8 using all of the following standards:

9 (1) Necessity.

10 (2) Authority.

11 (3) Clarity.

12 (4) Consistency.

13 (5) Reference.

14 (6) Nonduplication.

15 (7) *For those regulations submitted by a state board on which*
16 *a controlling number of decisionmakers are active market*
17 *participants in the market the board regulates, the office shall*
18 *review for competitive impact.*

19 In reviewing regulations pursuant to this section, the office shall
20 restrict its review to the regulation and the record of the rulemaking
21 ~~proceeding~~ *except as directed in subdivision (h)*. The office shall
22 approve the regulation or order of repeal if it complies with the
23 standards set forth in this section and with this chapter.

24 (b) In reviewing proposed regulations for the criteria in
25 subdivision (a), the office may consider the clarity of the proposed
26 regulation in the context of related regulations already in existence.

27 (c) The office shall adopt regulations governing the procedures
28 it uses in reviewing regulations submitted to it. The regulations
29 shall provide for an orderly review and shall specify the methods,
30 standards, presumptions, and principles the office uses, and the
31 limitations it observes, in reviewing regulations to establish
32 compliance with the standards specified in subdivision (a). The
33 regulations adopted by the office shall ensure that it does not
34 substitute its judgment for that of the rulemaking agency as
35 expressed in the substantive content of adopted regulations.

36 (d) The office shall return any regulation subject to this chapter
37 to the adopting agency if any of the following occur:

38 (1) The adopting agency has not prepared the estimate required
39 by paragraph (6) of subdivision (a) of Section 11346.5 and has not

1 included the data used and calculations made and the summary
2 report of the estimate in the file of the rulemaking.

3 (2) The agency has not complied with Section 11346.3.
4 “Noncompliance” means that the agency failed to complete the
5 economic impact assessment or standardized regulatory impact
6 analysis required by Section 11346.3 or failed to include the
7 assessment or analysis in the file of the rulemaking proceeding as
8 required by Section 11347.3.

9 (3) The adopting agency has prepared the estimate required by
10 paragraph (6) of subdivision (a) of Section 11346.5, the estimate
11 indicates that the regulation will result in a cost to local agencies
12 or school districts that is required to be reimbursed under Part 7
13 (commencing with Section 17500) of Division 4, and the adopting
14 agency fails to do any of the following:

15 (A) Cite an item in the Budget Act for the fiscal year in which
16 the regulation will go into effect as the source from which the
17 Controller may pay the claims of local agencies or school districts.

18 (B) Cite an accompanying bill appropriating funds as the source
19 from which the Controller may pay the claims of local agencies
20 or school districts.

21 (C) Attach a letter or other documentation from the Department
22 of Finance which states that the Department of Finance has
23 approved a request by the agency that funds be included in the
24 Budget Bill for the next following fiscal year to reimburse local
25 agencies or school districts for the costs mandated by the
26 regulation.

27 (D) Attach a letter or other documentation from the Department
28 of Finance which states that the Department of Finance has
29 authorized the augmentation of the amount available for
30 expenditure under the agency’s appropriation in the Budget Act
31 which is for reimbursement pursuant to Part 7 (commencing with
32 Section 17500) of Division 4 to local agencies or school districts
33 from the unencumbered balances of other appropriations in the
34 Budget Act and that this augmentation is sufficient to reimburse
35 local agencies or school districts for their costs mandated by the
36 regulation.

37 (4) The proposed regulation conflicts with an existing state
38 regulation and the agency has not identified the manner in which
39 the conflict may be resolved.

1 (5) The agency did not make the alternatives determination as
2 required by paragraph (4) of subdivision (a) of Section 11346.9.

3 (6) *The office decides that the record of the rulemaking*
4 *proceeding or other documentation for the proposed regulation*
5 *does not demonstrate that the regulation is authorized by a clearly*
6 *articulated and affirmatively expressed state law, that the*
7 *regulation does not further the public protection mission of the*
8 *state agency, or that the impact on competition is not justified in*
9 *light of the applicable regulatory rationale for the regulation.*

10 (e) The office shall notify the Department of Finance of all
11 regulations returned pursuant to subdivision (d).

12 (f) The office shall return a rulemaking file to the submitting
13 agency if the file does not comply with subdivisions (a) and (b)
14 of Section 11347.3. Within three state working days of the receipt
15 of a rulemaking file, the office shall notify the submitting agency
16 of any deficiency identified. If no notice of deficiency is mailed
17 to the adopting agency within that time, a rulemaking file shall be
18 deemed submitted as of the date of its original receipt by the office.
19 A rulemaking file shall not be deemed submitted until each
20 deficiency identified under this subdivision has been corrected.

21 (g) Notwithstanding any other law, return of the regulation to
22 the adopting agency by the office pursuant to this section is the
23 exclusive remedy for a failure to comply with subdivision (c) of
24 Section 11346.3 or paragraph (10) of subdivision (a) of Section
25 11346.5.

26 (h) *The office may designate, employ, or contract for the services*
27 *of independent antitrust or applicable economic experts when*
28 *reviewing proposed regulations for competitive impact. When*
29 *reviewing a regulation for competitive impact, the office shall do*
30 *all of the following:*

31 (1) *If the Director of Consumer Affairs issued a written decision*
32 *pursuant to subdivision (c) of Section 109 of the Business and*
33 *Professions Code, the office shall review and consider the decision*
34 *and all supporting documentation in the rulemaking file.*

35 (2) *Consider whether the anticompetitive effects of the proposed*
36 *regulation are clearly outweighed by the public policy merits.*

37 (3) *Provide a written opinion setting forth the office's findings*
38 *and substantive conclusions under paragraph (2), including, but*
39 *not limited to, whether rejection or modification of the proposed*
40 *regulation is necessary to ensure that restraints of trade are related*

1 *to and advance the public policy underlying the applicable*
2 *regulatory rationale.*

3 *SEC. 21. No reimbursement is required by this act pursuant*
4 *to Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Stone	BILL NUMBER:	SB 1217
SPONSOR:	Stone	BILL STATUS:	Senate Committee on Business, Professions & Economic Development- Reconsideration
SUBJECT:	Healing arts: reporting requirements: professional liability resulting in death or personal injury.	DATE LAST AMENDED:	April 12, 2016

SUMMARY:

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

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

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

Existing law provides that, for other specified healing arts practitioners including, among others, licensed educational psychologists, licensed nurses, and licensed pharmacists, information concerning professional liability settlements, judgments, and arbitration awards of over \$3,000 in damages arising from death or personal injury shall be reported to their respective licensing boards.

ANALYSIS:

This bill would raise the minimum dollar amount triggering those reporting requirements from \$3,000.00 to \$10,000.00.

Amended analysis as of 4/12:

This bill would restore the minimum dollar amount to \$3000.00 as the amount triggering those reporting requirements.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT: None on file.

OPPOSE: None on file.

AMENDED IN SENATE APRIL 12, 2016

SENATE BILL

No. 1217

Introduced by Senator Stone

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill ~~would~~ *would, notwithstanding the above provision, instead require the record to contain reported judgments or settlements with damages over—\$10,000: \$10,000 for persons licensed under the Pharmacy Act.*

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

This bill would raise the minimum dollar amount triggering those reporting requirements from \$3,000 to ~~\$10,000~~ *\$10,000 for persons licensed under the Pharmacy Law*.

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 800 of the Business and Professions Code
2 is amended to read:
3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Dental Hygiene
5 Committee of California, the Osteopathic Medical Board of
6 California, the State Board of Chiropractic Examiners, the Board
7 of Registered Nursing, the Board of Vocational Nursing and
8 Psychiatric Technicians of the State of California, the State Board
9 of Optometry, the Veterinary Medical Board, the Board of
10 Behavioral Sciences, the Physical Therapy Board of California,
11 the California State Board of Pharmacy, the Speech-Language
12 Pathology and Audiology and Hearing Aid Dispensers Board, the
13 California Board of Occupational Therapy, the Acupuncture Board,
14 and the Physician Assistant Board shall each separately create and

1 maintain a central file of the names of all persons who hold a
2 license, certificate, or similar authority from that board. Each
3 central file shall be created and maintained to provide an individual
4 historical record for each licensee with respect to the following
5 information:

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

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

16 (B) *Notwithstanding subparagraph (A), any judgment or*
17 *settlement requiring a person licensed pursuant to Chapter 9*
18 *(commencing with Section 4000) or his or her insurer to pay any*
19 *amount of damages in excess of ten thousand dollars (\$10,000)*
20 *for any claim that injury or death was proximately caused by the*
21 *licensee’s negligence, error or omission in practice, or by*
22 *rendering unauthorized professional services, pursuant to the*
23 *reporting requirements of Section 801 or 802.*

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

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

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

38 (b) (1) Each board shall prescribe and promulgate forms on
39 which members of the public and other licensees or certificate
40 holders may file written complaints to the board alleging any act

1 of misconduct in, or connected with, the performance of
2 professional services by the licensee.

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

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

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

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

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

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

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

3 801. (a) Except as provided in Section 801.01 and ~~subdivision~~
4 ~~(b) subdivisions (b), (c), (d), and (e)~~ of this section, every insurer
5 providing professional liability insurance to a person who holds a
6 license, certificate, or similar authority from or under any agency
7 specified in subdivision (a) of Section 800 shall send a complete
8 report to that agency as to any settlement or arbitration award over
9 ~~ten thousand dollars (\$10,000)~~ *three thousand dollars (\$3,000)* of
10 a claim or action for damages for death or personal injury caused
11 by that person's negligence, error, or omission in practice, or by
12 his or her rendering of unauthorized professional services. The
13 report shall be sent within 30 days after the written settlement
14 agreement has been reduced to writing and signed by all parties
15 thereto or within 30 days after service of the arbitration award on
16 the parties.

17 *(b) Every insurer providing professional liability insurance to*
18 *a person licensed pursuant to Chapter 13 (commencing with*
19 *Section 4980), Chapter 14 (commencing with Section 4991), or*
20 *Chapter 16 (commencing with Section 4999.10) shall send a*
21 *complete report to the Board of Behavioral Sciences as to any*
22 *settlement or arbitration award over ten thousand dollars*
23 *(\$10,000) of a claim or action for damages for death or personal*
24 *injury caused by that person's negligence, error, or omission in*
25 *practice, or by his or her rendering of unauthorized professional*
26 *services. The report shall be sent within 30 days after the written*
27 *settlement agreement has been reduced to writing and signed by*
28 *all parties thereto or within 30 days after service of the arbitration*
29 *award on the parties.*

30 *(c) Every insurer providing professional liability insurance to*
31 *a dentist licensed pursuant to Chapter 4 (commencing with Section*
32 *1600) shall send a complete report to the Dental Board of*
33 *California as to any settlement or arbitration award over ten*
34 *thousand dollars (\$10,000) of a claim or action for damages for*
35 *death or personal injury caused by that person's negligence, error,*
36 *or omission in practice, or rendering of unauthorized professional*
37 *services. The report shall be sent within 30 days after the written*
38 *settlement agreement has been reduced to writing and signed by*
39 *all parties thereto or within 30 days after service of the arbitration*
40 *award on the parties.*

1 ~~(b)~~

2 (d) Every insurer providing liability insurance to a veterinarian
3 licensed pursuant to Chapter 11 (commencing with Section 4800)
4 shall send a complete report to the Veterinary Medical Board of
5 any settlement or arbitration award over ten thousand dollars
6 (\$10,000) of a claim or action for damages for death or injury
7 caused by that person's negligence, error, or omission in practice,
8 or rendering of unauthorized professional service. The report shall
9 be sent within 30 days after the written settlement agreement has
10 been reduced to writing and signed by all parties thereto or within
11 30 days after service of the arbitration award on the parties.

12 (e) *Every insurer providing liability insurance to a person*
13 *licensed pursuant to Chapter 9 (commencing with Section 4000)*
14 *shall send a complete report to the California State Board of*
15 *Pharmacy of any settlement or arbitration award over ten thousand*
16 *dollars (\$10,000) of a claim or action for damages for death or*
17 *injury caused by that person's negligence, error, or omission in*
18 *practice, or rendering of unauthorized professional service. The*
19 *report shall be sent within 30 days after the written settlement*
20 *agreement has been reduced to writing and signed by all parties*
21 *thereto or within 30 days after service of the arbitration award on*
22 *the parties.*

23 ~~(e)~~

24 (f) The insurer shall notify the claimant, or if the claimant is
25 represented by counsel, the insurer shall notify the claimant's
26 attorney, that the report required by subdivision (a) has been sent
27 to the agency. If the attorney has not received this notice within
28 45 days after the settlement was reduced to writing and signed by
29 all of the parties, the arbitration award was served on the parties,
30 or the date of entry of the civil judgment, the attorney shall make
31 the report to the agency.

32 ~~(d)~~

33 (g) Notwithstanding any other ~~provision of~~ law, no insurer shall
34 enter into a settlement without the written consent of the insured,
35 except that this prohibition shall not void any settlement entered
36 into without that written consent. The requirement of written
37 consent shall only be waived by both the insured and the insurer.
38 This section shall only apply to a settlement on a policy of
39 insurance executed or renewed on or after January 1, 1971.

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

3 801.1. (a) Every state or local governmental agency that
4 self-insures a person who holds a license, certificate, or similar
5 authority from or under any agency specified in subdivision (a) of
6 Section 800 (except a person licensed pursuant to Chapter 3
7 (commencing with Section 1200) or Chapter 5 (commencing with
8 Section 2000) or the Osteopathic Initiative Act) shall send a
9 complete report to that agency as to any settlement or arbitration
10 award over ~~ten thousand dollars (\$10,000)~~ *three thousand dollars*
11 *(\$3,000)* of a claim or action for damages for death or personal
12 injury caused by that person's negligence, error, or omission in
13 practice, or rendering of unauthorized professional services. The
14 report shall be sent within 30 days after the written settlement
15 agreement has been reduced to writing and signed by all parties
16 thereto or within 30 days after service of the arbitration award on
17 the parties.

18 (b) *Every state or local governmental agency that self-insures*
19 *a person licensed pursuant to Chapter 13 (commencing with*
20 *Section 4980), Chapter 14 (commencing with Section 4991), or*
21 *Chapter 16 (commencing with Section 4999.10) shall send a*
22 *complete report to the Board of Behavioral Science Examiners as*
23 *to any settlement or arbitration award over ten thousand dollars*
24 *(\$10,000) of a claim or action for damages for death or personal*
25 *injury caused by that person's negligence, error, or omission in*
26 *practice, or rendering of unauthorized professional services. The*
27 *report shall be sent within 30 days after the written settlement*
28 *agreement has been reduced to writing and signed by all parties*
29 *thereto or within 30 days after service of the arbitration award on*
30 *the parties.*

31 (c) *Every state or local governmental agency that self-insures*
32 *a person licensed pursuant to Chapter 9 (commencing with Section*
33 *4000) shall send a complete report to the California State Board*
34 *of Pharmacy as to any settlement or arbitration award over ten*
35 *thousand dollars (\$10,000) of a claim or action for damages for*
36 *death or personal injury caused by that person's negligence, error,*
37 *or omission in practice, or rendering of unauthorized professional*
38 *services. The report shall be sent within 30 days after the written*
39 *settlement agreement has been reduced to writing and signed by*

1 *all parties thereto or within 30 days after service of the arbitration*
2 *award on the parties.*

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

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

37 (b) *Every settlement, judgment, or arbitration award over ten*
38 *thousand dollars (\$10,000) of a claim or action for damages for*
39 *death or personal injury caused by negligence, error or omission*
40 *in practice, or by the unauthorized rendering of professional*

1 services, by a marriage and family therapist, a clinical social
2 worker, or a professional clinical counselor licensed pursuant to
3 Chapter 13 (commencing with Section 4980), Chapter 14
4 (commencing with Section 4991), or Chapter 16 (commencing
5 with Section 4999.10), respectively, who does not possess
6 professional liability insurance as to that claim shall within 30
7 days after the written settlement agreement has been reduced to
8 writing and signed by all the parties thereto or 30 days after service
9 of the judgment or arbitration award on the parties be reported
10 to the agency that issued the license, certificate, or similar
11 authority. A complete report shall be made by appropriate means
12 by the person or his or her counsel, with a copy of the
13 communication to be sent to the claimant through his or her
14 counsel if he or she is so represented, or directly if he or she is
15 not. If, within 45 days of the conclusion of the written settlement
16 agreement or service of the judgment or arbitration award on the
17 parties, counsel for the claimant (or if he or she is not represented
18 by counsel, the claimant himself or herself) has not received a
19 copy of the report, he or she shall himself or herself make a
20 complete report. Failure of the marriage and family therapist,
21 clinical social worker, or professional clinical counselor or
22 claimant (or, if represented by counsel, his or her counsel) to
23 comply with this section is a public offense punishable by a fine
24 of not less than fifty dollars (\$50) nor more than five hundred
25 dollars (\$500). Knowing and intentional failure to comply with
26 this section, or conspiracy or collusion not to comply with this
27 section or to hinder or impede any other person in that compliance,
28 is a public offense punishable by a fine of not less than five
29 thousand dollars (\$5,000) nor more than fifty thousand dollars
30 (\$50,000).

31 (c) Every settlement, judgment, or arbitration award over ten
32 thousand dollars (\$10,000) of a claim or action for damages for
33 death or personal injury caused by negligence, error or omission
34 in practice, or by the unauthorized rendering of professional
35 services, by a person licensed pursuant to Chapter 9 (commencing
36 with Section 4000) who does not possess professional liability
37 insurance as to that claim shall within 30 days after the written
38 settlement agreement has been reduced to writing and signed by
39 all the parties thereto or 30 days after service of the judgment or
40 arbitration award on the parties be reported to the California

1 *State Board of Pharmacy. A complete report shall be made by*
2 *appropriate means by the person or his or her counsel, with a copy*
3 *of the communication to be sent to the claimant through his or her*
4 *counsel if he or she is so represented, or directly if he or she is*
5 *not. If, within 45 days of the conclusion of the written settlement*
6 *agreement or service of the judgment or arbitration award on the*
7 *parties, counsel for the claimant (or if he or she is not represented*
8 *by counsel, the claimant himself or herself) has not received a*
9 *copy of the report, he or she shall himself or herself make a*
10 *complete report. Failure of the person licensed pursuant to Chapter*
11 *9 (commencing with Section 4000) (or, if represented by counsel,*
12 *his or her counsel) to comply with this section is a public offense*
13 *punishable by a fine of not less than fifty dollars (\$50) nor more*
14 *than five hundred dollars (\$500).*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 12, 2016**

BILL ANALYSIS

AUTHOR:	Stone	BILL NUMBER:	SB 1334
SPONSOR:	California Clinical Forensic Medical Training Center	BILL STATUS:	Senate Committee on Appropriations
SUBJECT:	Crime reporting: health practitioners: reports	DATE LAST AMENDED:	April 19, 2016

SUMMARY:

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

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

ANALYSIS:

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

Amended analysis as of 3/28:

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

Amended analysis as of 4/19:

The bill deletes “human trafficking” from the subject and adds “reports.”

This bill would delete the offense of human trafficking from the list of offenses that constitute assaultive or abusive conduct.

BOARD POSITION: Watch (4/14/16)

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

SUPPORT:

California District Attorneys Association

California State Sheriffs' Association

County Health Executive Association of California

OPPOSE: None to date.

AMENDED IN SENATE APRIL 19, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1334

Introduced by Senator Stone

February 19, 2016

An act to amend Section 11160 of the Penal Code, relating to crime reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as amended, Stone. Crime reporting: health practitioners: ~~human trafficking. reports.~~

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

This bill would require a health care practitioner who provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, to additionally make a report to a law enforcement agency. ~~The bill would also add the crime of human trafficking to the list of crimes that constitute assaultive or abusive conduct for purposes of the above reporting requirements and the reporting requirements added by this bill.~~ By increasing the scope of an existing crime, this bill would impose a state-mandated local program.

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

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

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 11160 of the Penal Code is amended to
 2 read:

3 11160. (a) (1) A health practitioner employed in a health
 4 facility, clinic, physician’s office, local or state public health
 5 department, or a clinic or other type of facility operated by a local
 6 or state public health department who, in his or her professional
 7 capacity or within the scope of his or her employment, provides
 8 medical services for a physical condition to a patient who he or
 9 she knows, or reasonably suspects, is a person described as follows,
 10 shall immediately make a report in accordance with subdivision
 11 (b):

12 (A) A person suffering from a wound or other physical injury
 13 inflicted by his or her own act or inflicted by another where the
 14 injury is by means of a firearm.

15 (B) A person suffering from a wound or other physical injury
 16 inflicted upon the person where the injury is the result of assaultive
 17 or abusive conduct.

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

26 (b) A health practitioner employed in a health facility, clinic,
 27 physician’s office, local or state public health department, or a
 28 clinic or other type of facility operated by a local or state public
 29 health department shall make a report regarding persons described
 30 in subdivision (a) to a local law enforcement agency as follows:

1 (1) A report by telephone shall be made immediately or as soon
2 as practically possible.

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

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

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

20 (A) The name of the injured, assaulted, or abused person, if
21 known.

22 (B) The injured, assaulted, or abused person's whereabouts.

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

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

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

31 (d) For the purposes of this section, "assaultive or abusive
32 conduct" includes any of the following offenses:

33 (1) Murder, in violation of Section 187.

34 (2) Manslaughter, in violation of Section 192 or 192.5.

35 (3) Mayhem, in violation of Section 203.

36 (4) Aggravated mayhem, in violation of Section 205.

37 (5) Torture, in violation of Section 206.

38 (6) Assault with intent to commit mayhem, rape, sodomy, or
39 oral copulation, in violation of Section 220.

- 1 (7) Administering controlled substances or anesthetic to aid in
- 2 commission of a felony, in violation of Section 222.
- 3 ~~(8) Human trafficking, in violation of Section 236.1.~~
- 4 ~~(9)~~
- 5 (8) Battery, in violation of Section 242.
- 6 ~~(10)~~
- 7 (9) Sexual battery, in violation of Section 243.4.
- 8 ~~(11)~~
- 9 (10) Incest, in violation of Section 285.
- 10 ~~(12)~~
- 11 (11) Throwing any vitriol, corrosive acid, or caustic chemical
- 12 with intent to injure or disfigure, in violation of Section 244.
- 13 ~~(13)~~
- 14 (12) Assault with a stun gun or taser, in violation of Section
- 15 244.5.
- 16 ~~(14)~~
- 17 (13) Assault with a deadly weapon, firearm, assault weapon, or
- 18 machinegun, or by means likely to produce great bodily injury, in
- 19 violation of Section 245.
- 20 ~~(15)~~
- 21 (14) Rape, in violation of Section 261.
- 22 ~~(16)~~
- 23 (15) Spousal rape, in violation of Section 262.
- 24 ~~(17)~~
- 25 (16) Procuring a female to have sex with another man, in
- 26 violation of Section 266, 266a, 266b, or 266c.
- 27 ~~(18)~~
- 28 (17) Child abuse or endangerment, in violation of Section 273a
- 29 or 273d.
- 30 ~~(19)~~
- 31 (18) Abuse of spouse or cohabitant, in violation of Section
- 32 273.5.
- 33 ~~(20)~~
- 34 (19) Sodomy, in violation of Section 286.
- 35 ~~(21)~~
- 36 (20) Lewd and lascivious acts with a child, in violation of
- 37 Section 288.
- 38 ~~(22)~~
- 39 (21) Oral copulation, in violation of Section 288a.
- 40 ~~(23)~~

1 (22) Sexual penetration, in violation of Section 289.

2 ~~(24)~~

3 (23) Elder abuse, in violation of Section 368.

4 ~~(25)~~

5 (24) An attempt to commit any crime specified in paragraphs
6 (1) to ~~(24)~~ (23), inclusive.

7 (e) If two or more persons who are required to report are present
8 and jointly have knowledge of a known or suspected instance of
9 violence that is required to be reported pursuant to this section,
10 and if there is an agreement among these persons to report as a
11 team, the team may select by mutual agreement a member of the
12 team to make a report by telephone and a single written report, as
13 required by subdivision (b). The written report shall be signed by
14 the selected member of the reporting team. A member who has
15 knowledge that the member designated to report has failed to do
16 so shall thereafter make the report.

17 (f) The reporting duties under this section are individual, except
18 as provided in subdivision (e).

19 (g) A supervisor or administrator shall not impede or inhibit the
20 reporting duties required under this section and a person making
21 a report pursuant to this section shall not be subject to sanction for
22 making the report. However, internal procedures to facilitate
23 reporting and apprise supervisors and administrators of reports
24 may be established, except that these procedures shall not be
25 inconsistent with this article. The internal procedures shall not
26 require an employee required to make a report under this article
27 to disclose his or her identity to the employer.

28 (h) For the purposes of this section, it is the Legislature's intent
29 to avoid duplication of information.

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

O