LEGISLATIVE COMMITTEE MEETING

AGENDA

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

March 8, 2017

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

Wednesday, March 8, 2017:

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

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

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

<table>
<thead>
<tr>
<th>Assembly Bills</th>
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<tbody>
<tr>
<td>AB 12</td>
<td>AB 508</td>
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<td>AB 422</td>
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<td>SB 799</td>
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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.
AGENDA ITEM: 8.01
DATE: March 8, 2017

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

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

NEXT STEPS: None

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT: Kay Weinkam
Phone: (916) 574-7600
BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: October 5, 2016
TIME: 12:27 p.m.-12:30 p.m.
LOCATION: DoubleTree by Hilton
2233 Ventura Street
Fresno, California 93721

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

MEMBERS ABSENT: Donna Gerber
Imelda Ceja-Butkiewicz

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

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

8.0.01 Review and Approve Minutes
• May 12, 2016
• August 5, 2016

Approval deferred until the January 2017 meeting.

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

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

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Title</th>
<th>Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB 840 (Ridley-Thomas)</td>
<td>Nurses and Nursing Assistants: overtime</td>
<td>217</td>
</tr>
<tr>
<td>AB 1386 (Low)</td>
<td>Emergency medical care: epinephrine autoinjectors</td>
<td>374</td>
</tr>
<tr>
<td>AB 1748 (Mayes)</td>
<td>Pupils: pupil health: opioid antagonist</td>
<td>557</td>
</tr>
<tr>
<td>AB 2105 (Rodriguez)</td>
<td>Workforce development: allied health professions</td>
<td>410</td>
</tr>
</tbody>
</table>
AB 2272 (Thurmond)  Occupational safety and health standards: plume  Vetoed
AB 2744 (Gordon)  Healing arts: referrals  Chapter 360
AB 2859 (Low)  Professions and vocations: retired category: licenses  Chapter 473

SB 482 (Lara)  Controlled substances: CURES database  Chapter 708
SB 1039 (Hill)  Professions and vocations  Chapter 799
SB 1076 (Hernandez)  General acute care hospitals: observation services  Chapter 723
SB 1139 (Lara)  Health Professions: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayments  Chapter 786

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

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

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

Submitted by: _____________________________________________
Stacie Berumen, Assistant Executive Officer

Approved by: ______________________________________________
Michael D. Jackson, President
BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: January 11, 2017

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

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

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

MEMBERS ABSENT: Donna Gerber
Trande Phillips, RN

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

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

8.0.01 Review and Approve Minutes
- May 12, 2016
- August 11, 2016
- October 6, 2016

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

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

8.1 2015-2016 Goals and Objectives: Summary of Accomplishments
Information only item.

8.2 2015-2016 Legislative Session Summary
Information only item.
8.3 2017-2018 Suggested Goals and Objectives for the Current Legislative Session; Recommendation to Full Board

Motion: Approve recommending the goals and objectives to the full board, by Imelda Ceja-Butkiewicz

Second: Barbara Yaroslavsky

| IC-B: Yes | EW: Yes | BY: Yes |

8.4 Public Comment for Items Not on the Agenda
Ms. Saskia Kim introduced herself to the Committee as the Regulatory Policy Specialist for the California Nurses Association.

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

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

Approved by: ______________________________________________
Imelda Ceja-Butkiewicz, Acting Chair
AGENDA ITEM: 8.1
DATE: March 8, 2016

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

REQUESTED BY: Donna Gerber, Chair

BACKGROUND:

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<td>AB 882</td>
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<td>AB 1100</td>
<td>AB</td>
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</tbody>
</table>

NEXT STEP: Place on Board agenda

FINANCIAL IMPLICATIONS, IF ANY: As reflected by proposed legislation

PERSON TO CONTACT: Kay Weinkam, M.S., RN, CNS
(916) 574-7600
<table>
<thead>
<tr>
<th>BILL #</th>
<th>AUTHOR</th>
<th>SUBJECT</th>
<th>COMM POSITION (date)</th>
<th>BOARD POSITION (date)</th>
<th>BILL STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB 12</td>
<td>Cooley</td>
<td>State government: administrative regulations: review</td>
<td>Watch (2/8/17)</td>
<td>Assembly A&amp;AR</td>
<td></td>
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<tr>
<td>AB 40</td>
<td>Santiago</td>
<td>CURES database: health information technology system</td>
<td>Watch (2/8/17)</td>
<td>Assembly B&amp;P</td>
<td></td>
</tr>
<tr>
<td>AB 77</td>
<td>Fong</td>
<td>Regulations: effective dates and legislative review</td>
<td>Watch (2/8/17)</td>
<td>Assembly A&amp;AR</td>
<td></td>
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<tr>
<td>HR 6</td>
<td>Burke</td>
<td>Relative to women’s reproductive health</td>
<td></td>
<td>Adopted</td>
<td></td>
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<tr>
<td>AB 208</td>
<td>Eggman</td>
<td>Deferred entry of judgment: pretrial diversion</td>
<td></td>
<td>Assembly Public Safety</td>
<td></td>
</tr>
<tr>
<td>AB 402</td>
<td>Thurmond</td>
<td>Occupational safety and health standards: plume</td>
<td></td>
<td>Assembly L&amp;E</td>
<td></td>
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<tr>
<td>AB 422</td>
<td>Arambula</td>
<td>California State University: Doctor of Nursing Practice Degree Program</td>
<td></td>
<td>Assembly Higher Ed</td>
<td></td>
</tr>
<tr>
<td>AB 508</td>
<td>Santiago</td>
<td>Health care practitioners: student loans</td>
<td></td>
<td>Assembly B&amp;P</td>
<td></td>
</tr>
<tr>
<td>AB 882</td>
<td>Arambula</td>
<td>Pupil health care services: school nurses</td>
<td></td>
<td>Introduced</td>
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<tr>
<td>AB 1110</td>
<td>Burke</td>
<td>Pupil health: vision exams</td>
<td></td>
<td>Introduced</td>
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<tr>
<td>AB 1190</td>
<td>Obernolte</td>
<td>Department of Consumer Affairs: BreEZe system: annual report</td>
<td></td>
<td>Introduced</td>
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<tr>
<td>AB 1612</td>
<td>Burke</td>
<td>Nursing: nurse-midwives</td>
<td></td>
<td>Introduced</td>
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</tbody>
</table>

**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.
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<td>SB 27</td>
<td>Morrell</td>
<td>Professions and vocations: licenses: military service</td>
<td></td>
<td>Watch (2/8/17)</td>
<td>Senate BP&amp;ED</td>
</tr>
<tr>
<td>SB 227</td>
<td>Monning</td>
<td>Vocational nurse: feeding tube services: neurodegenerative conditions</td>
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<td>Senate BP&amp;ED</td>
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<tr>
<td>SB 247</td>
<td>Moorlach</td>
<td>Licensing requirements</td>
<td></td>
<td></td>
<td>Senate Rules</td>
</tr>
<tr>
<td>SB 496</td>
<td>De León</td>
<td>Department of Consumer Affairs: regulatory boards: removal of board members</td>
<td></td>
<td></td>
<td>Introduced</td>
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<tr>
<td>SB 554</td>
<td>Stone</td>
<td>Nurse practitioners: independent practice</td>
<td></td>
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<td>Introduced</td>
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<tr>
<td>SB 746</td>
<td>Portantino</td>
<td>Pupil health: physical exam</td>
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<td>Introduced</td>
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<tr>
<td>SB 799</td>
<td>Hill</td>
<td>Board of Registered Nursing: sunset extension</td>
<td></td>
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House Resolution No. 6

Introduced by Assembly Members Burke and Cristina Garcia

January 9, 2017

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

1 WHEREAS, January 22, 2017, marks the 44th anniversary of
2 the United States Supreme Court’s landmark decision in Roe v.
3 Wade, which affirmed that every woman has a fundamental right
4 to control her own reproductive decisions and to decide whether
5 to end or to continue pregnancy, and is an occasion deserving of
6 celebration; and
7 WHEREAS, Roe v. Wade has been the cornerstone of women’s
8 ability to control their reproductive lives, allowing every woman
9 in America the right to decide when, if, and with whom to have
10 children, and how many children to have; and
11 WHEREAS, Women’s ability to control their reproductive lives
12 has helped and facilitated their participation in the economic and
13 social life of our nation; and
14 WHEREAS, Roe v. Wade has drastically reduced the maternal
15 mortality rate for women terminating their pregnancies in the
United States. In the years prior to the decision, illegal abortion accounted for approximately 17 percent of all reported deaths attributable to pregnancy and childbirth, and many women were severely injured as a result of “back alley” abortion procedures; and

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

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

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

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

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.
SUMMARY:
The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures.

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

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

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

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

The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order
of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions.

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

Amended analysis as of 2/7:
The bill now deletes the language that appears in the third paragraph, above under Analysis, related to the schedule of when regulations and orders of repeal become effective.

BOARD POSITION: Watch (2/8/17)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
Fresno Chamber of Commerce

OPPOSE:
None on file.
introduced by assembly member fong  
(principal coauthor: assembly member gallagher)  

january 4, 2017  

an act to amend sections 11343.4 and 11349.3 of the government code, relating to regulations.  

legislative counsel's digest  

ab 77, as amended, fong. regulations: effective dates and legislative review.  
the administrative procedure act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the office of administrative law. that act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. the act defines a major regulation as a regulation that the agency determines has an expected economic impact on california business enterprises and individuals estimated to exceed $50,000,000. the act requires the office to transmit a copy of a regulation to the secretary of state for filing if the office approves the regulation or fails to act on it within 30 days. the act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the fish and game commission requires a different effective date to conform with federal law.
This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature passes enacts a statute to override the regulation.


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

SECTION 1. Section 11343.4 of the Government Code, as amended by Section 26 of Chapter 546 of the Statutes of 2016, is amended to read:

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

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

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

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

(d) The Legislature enacts a statute to override the regulation.

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

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

(1) January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
(2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.

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

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

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

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

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

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

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

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

5. When the Legislature enacts a statute to override the regulation.

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

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

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

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval.
Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written decision detailing the reasons for disapproval. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with this chapter.

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

(d) The office shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to subdivision (b).
BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017

BILL ANALYSIS

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

SUMMARY:

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

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

ANALYSIS:

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

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

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

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

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

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

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


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

SECTION 1. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, 11357, 11364, or 11365, paragraph (2) of subdivision (b) of Section 11375, Section 11377, or Section 11550 of the Health and Safety Code, or subdivision (b) of Section 23222 of the Vehicle Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if
the narcotic drug was secured by a fictitious prescription and is
for the personal use of the defendant and was not sold or furnished
to another, or subdivision (d) of Section 653f if the solicitation
was for acts directed to personal use only, or Section 381 or
subdivision (f) of Section 647 of the Penal Code, if for being under
the influence of a controlled substance, or Section 4060 of the
Business and Professions Code, and it appears to the prosecuting
attorney that, except as provided in subdivision (b) of Section
11357 of the Health and Safety Code, all of the following apply
to the defendant:

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

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

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

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

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

(6) The defendant has no prior felony conviction within

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

(b) The prosecuting attorney shall review his or her file to
determine whether or not paragraphs (1) to (6), (4), inclusive, of
subdivision (a) apply to the defendant. Upon the agreement of the
prosecuting attorney, law enforcement, the public defender, and
the presiding judge of the criminal division of the superior court,
or a judge designated by the presiding judge, this procedure shall
be completed as soon as possible after the initial filing of the
charges. If the defendant is found eligible, the prosecuting attorney
shall file with the court a declaration in writing or state for the
record the grounds upon which the determination is based, and
shall make this information available to the defendant and his or
her attorney. This procedure is intended to allow the court to set
the hearing for deferred entry of judgment, pretrial diversion at the
arraignment. If the defendant is found ineligible for deferred entry
of judgment, pretrial diversion, the prosecuting attorney shall file
with the court a declaration in writing or state for the record the
grounds upon which the determination is based, and shall make
this information available to the defendant and his or her attorney.
The sole remedy of a defendant who is found ineligible for deferred
entry of judgment, pretrial diversion is a postconviction appeal.

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

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

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

SEC. 2. Section 1000.1 of the Penal Code is amended to read:
1000.1. (a) If the prosecuting attorney determines that this chapter may be applicable to the defendant, he or she shall advise the defendant and his or her attorney in writing of that determination. This notification shall include all of the following:
(1) A full description of the procedures for deferred entry of judgment, pretrial diversion.

(2) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the program, and the court in the process.

(3) A clear statement that in lieu of trial, the court may grant deferred entry of judgment, pretrial diversion with respect to any crime offense specified in subdivision (a) of Section 1000 that is charged, provided that the defendant pleads not guilty to each of these charges, the charge or charges, waives the right to a speedy trial and waives time for the pronouncement of judgment, to a speedy preliminary hearing, if applicable, and that upon the defendant’s successful completion of a program, as specified in subdivision (c) of Section 1000, the positive recommendation of the program authority and the motion of the defendant, prosecuting attorney, the court, or the probation department, but no sooner than six months and no later than three years one year from the date of the defendant’s referral to the program, the court shall dismiss the charge or charges against the defendant.

(4) A clear statement that upon any failure of treatment or condition under the program, or any circumstance specified in Section 1000.3, the prosecuting attorney or the probation department or the court on its own may make a motion to the court for entry of judgment and the court shall render a finding of guilt to the charge or charges pled, enter judgment, to terminate pretrial diversion and schedule a sentencing hearing, further proceedings as otherwise provided in this code.

(5) An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment, pretrial diversion program and the defendant’s rights relative to answering questions about his or her arrest and deferred entry of judgment, pretrial diversion following successful completion of the program.

(b) If the defendant consents and waives his or her right to a speedy trial or and a speedy preliminary hearing, if applicable, the court may refer the case to the probation department or the court may summarily grant deferred entry of judgment if the defendant pleads guilty to the charge or charges and waives time for the pronouncement of judgment, pretrial diversion. When directed by the court, the probation department shall make an investigation
and take into consideration the defendant’s age, employment and
service records, educational background, community and family
ties, prior controlled substance use, treatment history, if any,
demonstrable motivation, and other mitigating factors in
determining whether the defendant is a person who would be
benefited by education, treatment, or rehabilitation. The probation
department shall also determine which programs the defendant
would benefit from and which programs would accept the
defendant. The probation department shall report its findings and
recommendations to the court. The court shall make the final
determination regarding education, treatment, or rehabilitation for
the defendant. If the court determines that it is appropriate, the
court shall grant deferred entry of judgment pretrial diversion if
the defendant pleads not guilty to the charge or charges and waives
time for the pronouncement of judgment, right to a speedy trial
and to a speedy preliminary hearing, if applicable.
(c) (1) No statement, or any information procured therefrom,
made by the defendant to any probation officer or drug treatment
worker, that is made during the course of any investigation
conducted by the probation department or treatment program
pursuant to subdivision (b), and prior to the reporting of the
probation department’s findings and recommendations to the court,
shall be admissible in any action or proceeding brought subsequent
to the investigation.
(2) No
statement, or any information procured therefrom, with
respect to the specific offense with which the defendant is charged,
that is made to any probation officer or drug program worker
subsequent to the granting of deferred entry of judgment, pretrial
diversion shall be admissible in any action or proceeding, including
a sentencing hearing, proceeding.
(d) A defendant’s plea of guilty participation in pretrial
diversion pursuant to this chapter shall not constitute a conviction
for any purpose unless a judgment of guilty is entered pursuant to
Section 1000.3, or an admission of guilt for any purpose.
SEC. 3. Section 1000.2 of the Penal Code is amended to read:
1000.2. (a) The court shall hold a hearing and, after
consideration of any information relevant to its decision, shall
determine if the defendant consents to further proceedings under
this chapter and if the defendant should be granted deferred entry
of judgment. pretrial diversion. If the court does not deem the
defendant a person who would be benefited by deferred entry of
judgment, or if the defendant does not consent to participate,
participate in pretrial diversion, the proceedings shall continue as
in any other case.

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

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

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

1000.3. (a) If it appears to the prosecuting attorney, the court,
or the probation department that the defendant is performing
unsatisfactorily in the assigned program, or that the defendant is
not benefiting from education, treatment, or rehabilitation, or that
the defendant is convicted of a misdemeanor an offense that reflects
the defendant’s propensity for violence, or that the defendant is
convicted of a felony, or the defendant has engaged in criminal
conduct rendering him or her unsuitable for deferred entry of
judgment, the prosecuting attorney, the court on its own, or the
probation department may make a motion for entry of judgment.

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

If
(c) If the court finds that the defendant is not performing
satisfactorily in the assigned program, or that the defendant is not
benefiting from education, treatment, or rehabilitation, or the court
finds that the defendant has been convicted of a crime as indicated
above, or that the defendant has engaged in criminal conduct
rendering him or her unsuitable for deferred entry of judgment, in subdivision (a), the court shall render a finding of guilt to schedule the charge or charges pled, enter judgment, and schedule a sentencing hearing matter for further proceedings as otherwise provided in this code.

If

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

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

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

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

(b) The defendant shall be advised that, regardless of his or her successful completion of the deferred entry of judgment pretrial diversion program, the arrest upon which the judgment pretrial diversion was deferred based may be disclosed by the Department
of Justice in response to any peace officer application request and
that, notwithstanding subdivision (a), this section does not relieve
him or her of the obligation to disclose the arrest in response to
any direct question contained in any questionnaire or application
for a position as a peace officer, as defined in Section 830.

SEC. 6. Section 1000.5 of the Penal Code is amended to read:
1000.5. (a) (1) The presiding judge of the superior court, or
a judge designated by the presiding judge, together with the district
attorney and the public defender, may agree in writing to establish
and conduct a preguilty plea drug court program pursuant to the
provisions of this chapter, wherein criminal proceedings are
suspended without a plea of guilty for designated defendants. The
drug court program shall include a regimen of graduated sanctions
and rewards, individual and group therapy, urine analysis, testing commensurate with treatment needs, close court monitoring
and supervision of progress, educational or vocational counseling
as appropriate, and other requirements as agreed to by the presiding
judge or his or her designee, the district attorney, and the public
defender. If there is no agreement in writing for a pre guilty plea
program by the presiding judge or his or her designee, the district
attorney, and the public defender, the program shall be operated
as a deferred entry of judgment pretrial diversion program as
provided in this chapter.

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

(b) The provisions of Section 1000.3 and Section 1000.4
regarding satisfactory and unsatisfactory performance in a program
shall apply to pre guilty plea programs, except as provided in
Section 11375.7 of the Health and Safety Code. If the court finds
that (1) the defendant is not performing satisfactorily in the
assigned program, (2) the defendant is not benefiting from
education, treatment, or rehabilitation, (3) the defendant has been
convicted of a crime specified in Section 1000.3, or (4) the
defendant has engaged in criminal conduct rendering him or her
unsuitable for the pre guilty plea program, the court shall reinstate
the criminal charge or charges. If the defendant has performed
satisfactorily during the period of the preguilty plea program, at
the end of that period, the criminal charge or charges shall be
dismissed and the provisions of Section 1000.4 shall apply.

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

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

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

(2) The

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

(b) If the conditions specified in paragraphs (1) and (2) of
subdivision (a) are met, participation in a methadone or LAAM
treatment program the use by a participant of medications to treat
substance use disorders shall not be the sole reason for exclusion
from a deferred entry pretrial diversion or preguilty plea program.

A methadone or LAAM patient who uses medications
to treat substance use disorders and participates in a preguilty
plea or deferred entry pretrial diversion program shall comply
with all court program rules.

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

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director’s health care practitioner’s authorized representative, that the person is currently enrolled and in good standing in the program under their care.

(d) Urinalysis results that only establish that a person described in this section has ingested medication duly prescribed to that person by his or her physician or—prescribed by a licensed methadone or LAAM program psychiatrist, or medications used to treat substance use disorders, shall not be considered a violation of the terms of the deferred entry of judgment pretrial diversion or pre guilty plea program under this chapter.

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

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

1000.65. This chapter does not affect a pretrial diversion program provided pursuant to Chapter 2.7 (commencing with Section 1001).
SUMMARY:
Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

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

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

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

The bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. The bill would require
the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer’s instructions.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:
Introduced by Assembly Member Thurmond

February 9, 2017

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

LEGISLATIVE COUNSEL’S DIGEST

AB 402, as introduced, Thurmond. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would, by June 1, 2018, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties. The bill would require the division, in developing regulations to do certain things, including evaluating the use of certain standards adopted by specified organizations as a benchmark. The bill would also require the division, when developing the proposed regulations, to take into consideration
recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health. The bill would, by June 1, 2019, require the division to submit to the board a proposed regulation. The bill would, by July 1, 2020, require the board to adopt a proposed regulation.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer’s instructions.

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

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

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

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


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

SECTION 1. Section 144.9 is added to the Labor Code, to read:

(a) As used in this section:

(1) “Division” means the Division of Occupational Safety and Health.

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

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

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

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

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

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

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

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

(A) Evaluate using as a benchmark the standards titled “Systems for evacuation of plume generated by medical devices” (ISO 16571) adopted by the International Organization for Standardization and the standards titled “Plume scavenging in
surgical, diagnostic, therapeutic, and aesthetic settings” (CSA Z305.13-13) adopted by the CSA Group.

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

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

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

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

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

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

(e) The use of surgical masks shall not satisfy the requirements of this section. The use of respirators shall not satisfy the requirements of this section except when, due to medical necessity,
the plume scavenging system is not able to be located where it
effectively captures plume.

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

SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
SUMMARY:
Existing law, until July 1, 2018, establishes the Doctor of Nursing Practice Degree Pilot Program, under which the California State University is authorized to establish a Doctor of Nursing Practice degree pilot program at 3 campuses to award Doctor of Nursing Practice degrees, subject to specified program and enrollment requirements.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

February 9, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

SECTION 1. Article 9 (commencing with Section 89280) of Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code is repealed.

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

Article 9. Doctor of Nursing Practice Degree Program

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

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

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

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

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

(f) The California State University shall provide any initial funding needed for Doctor of Nursing Practice programs authorized by this article from within existing budgets for academic programs support, without diminishing the quality of program support offered to California State University undergraduate programs. It is the intent of the Legislature that the California State University seek private donations or other nonstate funds to fund startup costs for Doctor of Nursing Practice degree programs.
The California State University shall permit students enrolled in the Doctor of Nursing Practice Degree Pilot Program established pursuant to this article, as it read on December 31, 2017, to complete their coursework on and after January 1, 2018.
SUMMARY:
Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan.

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

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

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

ANALYSIS:
This bill would repeal these provisions.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

This bill would repeal these provisions.

SECTION 1. Section 685 of the Business and Professions Code is repealed.

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

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

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

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

(1) The population served by the health care practitioner.

(2) The health care practitioner’s economic status.

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

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

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

(e) This section shall become operative on July 1, 2003.
SUMMARY:
Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, subject to approval by the governing board of the school district, to perform various pupil health care services.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:
An act relating to pupil health care services.

LEGISLATIVE COUNSEL’S DIGEST

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

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

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


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

SECTION 1. It is the intent of the Legislature that would enact legislation to increase the number of school nurses in every school district in California.
SUMMARY:
Existing law requires a pupil’s vision to be appraised by a school nurse or other authorized person in the pupil’s kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil’s parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist. Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

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

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1110, as introduced, Burke. Pupil health: vision examinations.
Existing law requires a pupil’s vision to be appraised by a school nurse or other authorized person in the pupil’s kindergarten year or upon first enrollment in elementary school, and in grades 2, 5, and 8, unless the appraisal is waived by the pupil’s parents upon presentation of a certificate from a physician and surgeon, a physician assistant, or an optometrist. Existing law requires the State Department of Education to adopt guidelines to implement those provisions.

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

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

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

49455. (a) (1) During the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and at least every second year thereafter until the pupil has completed grade 8, the pupil's vision shall be appraised examined by a physician, optometrist, or ophthalmologist. This examination shall include tests for distance and near visual acuity, eye tracking, binocular vision skills, including both eye teaming and convergence, accommodation, color vision, depth perception, intraocular pressure, pupil evaluation, objective and subjective refraction, and eye health evaluations. The parent or guardian of the school nurse or other authorized person under Section 49452. pupil shall provide results of the vision examination to the school.

(b) A school shall not deny admission to a pupil or take any other adverse action against a pupil if his or her parent or guardian fails to provide the results of the vision examination to the school.

(c) (1) If the results of the vision examination are not provided to the school, then during the kindergarten year or upon first enrollment or entry, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other person authorized under Section 49452.

(2) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.

(b+)

(3) The appraisal shall include tests for visual acuity, including near vision, vision and color vision; however, vision. However, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade: grade 1.

(e) The appraisal may be waived, if the pupil's parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business
and Professions Code, or an optometrist setting out the results of
a determination of the pupil’s vision, including visual acuity and
color vision.

(d) A pupil’s vision may be appraised by using an eye chart or
any other scientifically validated photoscreening test.
Photoscreening tests shall be performed, performed under an
agreement with, or the supervision of, an optometrist or
ophthalmologist, by the school nurse, or by a trained
individual who meets requirements established by the department.

(e) Continual and regular observation of the pupil’s eyes,
appearance, behavior, visual performance, and perception that may
indicate vision difficulties shall be done by the school nurse and
the classroom teacher.

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

(g) The department shall adopt—guidelines regulations to
implement this section, including training—requirements
requirements, and a method of testing for near vision—shall provide
participation data.
BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
March 8, 2017

BILL ANALYSIS

AUTHOR: Obernolte
BILL NUMBER: AB 1190

SPONSOR: 
BILL STATUS: Assembly
May be acted upon on or after March 21st

SUBJECT: Department of Consumer Affairs: BreEZe system: annual report
DATE LAST AMENDED: Introduced February 17, 2017

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:
Introduced by Assembly Member Obernolte

February 17, 2017

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

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

SECTION 1. Section 210.5 is added to the Business and Professions Code, immediately following Section 210, to read:

210.5. (a) On or before July 1 of each year, commencing July 1, 2018, the department shall submit an annual report to the Legislature that includes all of the following:

1. The department’s plan for implementing the BreEZe system at the regulatory entities in the department’s third phase of the implementation project, including, but not limited to, a timeline for implementation.
2. The total estimated costs of implementation of the BreEZe system at the regulatory entities in the department’s third phase of the implementation project and the results of any cost-benefit analysis the department conducted for the third phase of the implementation project.
3. A description of whether and to what extent the BreEZe system will achieve any operational efficiencies resulting from implementation by the boards and regulatory entities within the department’s jurisdiction.

(b) The report described in subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) For purposes of this section, “the regulatory entities in the department’s third phase of the implementation project” includes all of the following:

1. Acupuncture Board.
2. Board for Professional Engineers, Land Surveyors, and Geologists.
5. Bureau for Private Postsecondary Education.
6. California Architects Board.
7. California Board of Accountancy.
8. California State Board of Pharmacy.
10. Contractors’ State License Board.
11. Court Reporters Board of California.
12. Landscape Architects Technical Committee.
(14) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(15) State Athletic Commission.
(16) State Board of Chiropractic Examiners.
(17) State Board of Guide Dogs for the Blind.
(18) Structural Pest Control Board.
(19) Telephone Medical Advice Services Bureau.
BILL ANALYSIS

SUMMARY:
The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications.

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL’S DIGEST

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

The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to issue a certificate to practice nurse-midwifery to a licensee who meets specified qualifications. That act authorizes the board to appoint a committee of qualified physicians and nurses to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

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


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

1 SECTION 1. Section 2746.2 of the Business and Professions Code is amended to read:
2 2746.2. Each applicant shall show by evidence satisfactory to
3 the board that he or she has met the educational standards
established by the board or has at least the equivalent thereof. The board is authorized to appoint a committee of qualified physicians and nurses, including, but not limited to, obstetricians and nurse-midwives, to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, requirements and associated matters.
SUMMARY:
Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians for the regulation and licensure of vocational nurses and authorizes a licensed vocational nurse to perform certain medical procedures under the direction of a physician and surgeon.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:
Introduced by Senator Monning

February 2, 2017

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

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


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

1  SECTION 1.  Section 2860.8 is added to the Business and Professions Code, to read:
2  2860.8.  A licensed vocational nurse may perform the following feeding tube services in a home setting for a patient diagnosed by a physician and surgeon as having Amyotrophic Lateral Sclerosis (ALS) or any other neurodegenerative condition:
3     (a) Feeding.
4     (b) Hydration.
1  (c) Cleaning stoma.
SUMMARY:
Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:
An act relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

SB 247, as introduced, Moorlach. Licensing requirements.
Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.
This bill would state the intent of the Legislature to enact legislation that would reduce occupational licensing requirements.

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

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

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL’S DIGEST

SB 496, as introduced, De León. Department of Consumer Affairs: regulatory boards: removal of board members.
Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her, on specific grounds, including continued neglect of duties required by law.
This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

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

SECTION 1. Section 106 of the Business and Professions Code is amended to read:

106. The Governor has power to remove from office at any time, any member of any board appointed by him or her for continued neglect of duties required by law, which may include the failure to attend board meetings, or for incompetence, or
unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him or her by any other provision of law, to remove any member of any board.
BILL ANALYSIS

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

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

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

This bill would authorize a nurse practitioner who holds a certification from a national certifying body, recognized by the board, to be certified by the board as an independent nurse practitioner and to perform certain nursing functions without the supervision of a physician and surgeon, if the independent nurse practitioner meets specified requirements and practices in underserved geographic areas, as determined by the board. The bill would prohibit a person from advertising or hold himself or herself out as an “independent nurse practitioner” unless the person is certified by the board as an independent nurse practitioner pursuant to...
this bill. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

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


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

SECTION 1. Article 8.5 (commencing with Section 2837.50) is added to Chapter 6 of Division 2 of the Business and Professions Code, to read:

Article 8.5. Independent Nurse Practitioners

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

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

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

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

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

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

(2) Specific aspects of the nursing practice of a nurse practitioner as set forth in Article 8 (commencing with Section 2834), including, but not limited to, standardized procedures, as set forth in Section 2725, that may be independently performed by an independent nurse practitioner. Functions identified by the board
pursuant to this paragraph may be performed by an independent
nurse practitioner, certified pursuant to this article, without the
supervision of a physician and surgeon. An independent nurse
practitioner shall be authorized to practice independently pursuant
to this paragraph only in underserved geographic areas, as
determined by the board.
(d) No person shall advertise or hold himself or herself out as
an “independent nurse practitioner” unless the person is certified
by the board as an independent nurse practitioner pursuant to this
article.
SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
SUMMARY:
Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for a pupil to participate in an interscholastic athletic program of a school.

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as introduced, Portantino. Pupil health: physical examinations.
Existing law authorizes a physician and surgeon or physician assistant to perform a physical examination that is required for a pupil to participate in an interscholastic athletic program of a school.
This bill would additionally authorize a doctor of chiropractic, naturopathic doctor, or nurse practitioner practicing in compliance with the respective laws governing their profession to perform that physical examination.

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

SECTION 1. Section 49458 of the Education Code is amended to read:

49458. When a school district or a county superintendent of schools requires a physical examination as a condition of participation in an interscholastic athletic program, the physical examination may be performed by a physician and surgeon or doctor of chiropractic practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. Code, doctor of chiropractic practicing in
compliance with Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, naturopathic doctor practicing in compliance with Chapter 8.2 (commencing with Section 3610) of Division 2 of the Business and Professions Code, or nurse practitioner practicing in compliance with Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.
SUMMARY:
Existing law, the Nursing Practice Act, establishes the Board of Registered Nursing within the Department of Consumer Affairs and sets forth its powers and duties regarding the licensure and regulation of registered nurses. Existing law requires the board to appoint an executive officer to perform duties delegated by the board.

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

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

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

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

LEGISLATIVE COUNSEL’S DIGEST

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

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

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

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


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

SECTION 1. Section 2701 of the Business and Professions Code is amended to read:

2701. (a) There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

(b) For purposes of this chapter, “board,” or “the board,” refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or the
California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

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

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

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

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

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

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

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