STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF REGISTERED NURSING
PO Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 F (916) 574-8637 | www.rn.ca.gov

LEGISLATIVE COMMITTEE MEETING

AGENDA

DoubleTree by Hilton
2233 Ventura Street
Fresno, California 93721
(559) 268-1000

October 6, 2016

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

Thursday, October 6, 2016:

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

8.01 Review and Vote on Whether to Approve Previous Meeting Minutes:

- May 12, 2016
- August 5, 2016

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

Assembly Bills			Senate Bills	
AB 12	AB 1306	AB 2209	SB 319	SB 960
AB 26	AB 1351	AB 2272	SB 323	SB 1039
AB 85	AB 1352	AB 2399	SB 390	SB 1076
AB 172	AB 1386	AB 2507	SB 408	SB 1139
AB 611	AB 1748	AB 2606	SB 464	SB 1155
AB 637	AB 1939	AB 2701	SB 466	SB 1194
AB 840	AB 1992	AB 2744	SB 467	SB 1195
AB 1060	AB 2079	AB 2859	SB 482	SB 1217
	AB 2105		SB 531	SB 1334
			SB 800	SB 1348

8.2 Public Comment for Items Not on the Agenda

8.3 Adjournment

NOTICE:

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

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

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

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: May 12, 2016

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

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

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

MEMBERS ABSENT: None

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

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

8.1 Review and Approve Minutes

- March 10, 2016

Motion: Approve, by Cynthia Klein			
Second: Trande Phillips			
DG: Yes	**IC-B:** Yes	**CK:** Yes	**TP:** Yes

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

8.2.1 The Committee took action on the following bills:

AB 1748 Mayes: Pupils: pupil health: opioid antagonist

No public comment.

Motion: Watch, by IC-B

Second: DG			
DG: Yes	**IC-B:** Yes	**CK:** Yes	**TP:** Yes

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

No public comment.

Motion: Continue Support, by IC-B			
Second: TP			
DG: Yes	**IC-B:** Yes	**CK:** Yes	**TP:** Yes

SB 1039 **Hill: Professions and Vocations**

Comments from two members of the public.

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

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

Comments from five members of the public.

Motion: Continue Oppose, by TP			
Second: DG			
DG: Yes	**IC-B:** Yes	**CK:** absent	**TP:** Yes

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

AB 1939 **Patterson: Licensing requirements (Watch)**
AB 2079 **Calderon: Skilled nursing facilities: staffing (Watch)**
AB 2209 **Bonilla: Health care coverage: clinical care pathways (Watch)**
AB 2507 **Gordon: Telehealth: access (Watch)**
AB 2606 **Grove: Crimes against children, elders, dependent adults, and persons with disabilities (Watch)**
AB 2744 **Gordon: Healing arts: referrals (Watch)**

SB 960 **Hernandez: Medi-Cal: telehealth: reproductive health care (Watch)**
SB 1139 **Lara: Health professions: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments (Watch)**

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

SB 1334 **Stone: Crime reporting: health practitioners: reports (Watch)**

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

8.3 Public Comment for Items Not on the Agenda

There were no public comments.

The meeting adjourned at 2:12 p.m.

Submitted by: _____

Kay Weinkam, Nursing Education Consultant and Legislative Liaison

Approved by: _____

Donna Gerber, Chair

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: August 11, 2016

TIME: 1:15 p.m. - 2:14 p.m.

LOCATION: Four Points by Sheraton
Los Angeles International Airport
9750 Airport Boulevard
Los Angeles, California 90045

MEMBERS PRESENT: Donna Gerber, Chair
Barbara Yaroslavsky
Raymond Mallel

MEMBERS ABSENT: Imelda Ceja-Butkiewicz
Trande Phillips, RN

STAFF PRESENT: Dr. Joseph Morris, Executive Officer
Stacie Berumen, Assistant Executive Officer
Kay Weinkam, Nursing Education Consultant

Donna Gerber called the meeting to order at 1:15 p.m. following the adjournment of the Nursing Practice Committee. President Michael Jackson appointed Mr. Mallel to the Committee for today's meeting in order that a quorum be present.

8.1 Review and Approve Minutes

- May 12, 2016

Approval deferred until the October meeting.

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

8.2.1 The Committee took action on the following bills:

AB 26 Jones-Sawyer: Medical cannabis

No public comment.

Motion: Watch, by Donna Gerber
Second: Barbara Yaroslavsky

Votes: DG: Yes	**RM:** Yes	**BY:** Yes	

AB 2105 Rodriguez: Workforce development: allied health professions

No public comment.

Motion: Watch, by Donna Gerber			
Second: Raymond Mallel			
Votes: DG: Yes	**RM:** Yes	**BY:** Yes	

AB 2272 Thurmond: Occupational safety and health standards: plume

Ms. Gerber left the room during this presentation and vote.

Motion: Support, by Raymond Mallel			
Second: Barbara Yaroslavsky			
Votes: DG: absent	**RM:** Yes	**BY:** Yes	

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

AB 1306 Burke: Healing arts: certified nurse-midwives: scope of practice (Support)

AB 1386 Low: Emergency medical care: epinephrine autoinjectors (Watch)
Public comment: Kathryn Hughes, SEIU Nurse Alliance

AB 1748 Mayes: Pupils: pupil health: opiod antagonist (Watch)

AB 2079 Calderon: Skilled nursing facilities: staffing (Watch)

AB 2744 Gordon: Healing arts: referrals (Watch)

AB 2859 Low: Professions and vocations: retired category: licenses (Watch)

SB 482 Lara: Controlled substances: CURES database (Support)

SB 1039 Hill: Professions and vocations (Support/Watch)

SB 1076 Hernandez: General acute care hospitals: observation services (Watch)
Ms. Gerber left the room during discussion and consideration of this bill.
Public comment: Jane Schroeder, CNA

SB 1139 Lara: Health professions: medical residency programs: undocumented immigrants: scholarships, loans, and loan repayments (Watch)

SB 1155 **Morrell: Professions and vocations: licenses: military service (Watch)**

SB 1195 **Hill: Professions and vocations: board actions (Oppose)**
Public comment: Jane Schroeder, CNA

SB 1348 **Cannella: Licensure applications: military experience (Watch)**

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

The meeting adjourned at 2:14 p.m.

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

Approved by: _____
Donna Gerber, Chair

Respectfully update and clarify BRN's opposition letter regarding SB 1195 (or an amended vehicle in the current legislative session)

- BRN supports the deletion of the section that prohibited an RN EO.
- BRN is opposed to a wholesale transfer of authority from the BRN to the DCA Director because it is not necessary, is not what the Attorney General's office recommended as a reasonable response to "North Carolina Dental", it's overly broad, and has unintended consequences that would negatively affect the BRN's mission to protect patient consumers.
- BRN understands that SB 1195 purports to define California's response to the NC Dental Board court decision; but happily there are vast differences between NC and CA. We agree with the Ca Attorney General's opinion that California Boards already have significant oversight and State supervision as well as Legislative oversight. We agree with the view expressed by the AG that "the free market and consumer oriented principles underlying "NC Dental" are nothing new to CA and no bureaucratic paradigms need to be radically shifted as a result."
- BRN agrees with the CA AG citation that "The B&P Code gives broad powers to the DCA Director to protect the interests of consumers at every level. The Director has the power to investigate the work of the boards and to obtain their data and records; to investigate alleged misconduct in licensing examinations and qualifications reviews; to require reports; to receive consumer complaints and to initiate audits and reviews of disciplinary cases and complaints about licensees."
- BRN agrees with the Section of SB 1195 that makes it clear that treble damages are included in the indemnification of Board Members who are licensees.
- BRN believes that licensing RNs and regulating nursing education are vitally important for maintaining the high standards of consumer protection in California. But we are concerned that SB 1195 inadvertently sets up an overly cumbersome and expensive (time and money) bureaucratic infrastructure and focus on process and supervision that will have a dampening effect on patient/consumer protection that is provided by licensure regulation and nursing educational standards. We are very concerned that this will pit real health and safety benefits in CA against "potential" impacts on "competition".

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: May 7, 2015

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

LOCATION: The Dana on Mission
Sunset Room
1710 W Mission Bay Drive
San Diego, CA 92109

MEMBERS PRESENT: Cynthia Klein, RN
Jeanette Dong
Trande Phillips, RN

STAFF PRESENT: Louise Bailey, Executive Officer
Ronnie Whitaker, Legislative and Regulatory Analyst

Cynthia Klein called the meeting to order at 3:03 p.m.

8.1 Review and Approve Minutes
The minutes of March 5, 2015 were approved.

Motion: Cynthia Klein		**Second:** Trande Phillips	**Approve with amendments**
CK: Yes	**ICB: ----------**	**JD: Abstain**	**TP: Yes**

8.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

AB 12 Cooley: Administrative regulations: review

Motion: Cynthia Klein		**Second:** Trande Phillips	**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**

AB 85 Wilk: Open meetings

Motion: Janette Dong		**Second:** Cynthia Klein	**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**

AB 611 **Dahle: Controlled substances: prescriptions: reporting**

Motion: Cynthia Klein		**Second:** Janette Dong		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

AB 1060 **Bonilla: Professions and vocations: licensure**

Motion: Trande Phillips		**Second:** Cynthia Klein		**Support if amended**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

Two public comments.

SB 323 **Hernandez: Nurse practitioners: scope of practice**

Motion: Cynthia Klein		**Second:** Trande Phillips		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

Five public comments.

SB 466 **Hill: Nursing: Board of Registered Nursing**

Motion: Cynthia Klein		**Second:** Janette Dong		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

One public comment.

SB 800 **Committee on Business, Professions and Economic Development: Healing Arts**

Motion: Janette Dong		**Second:** Cynthia Klein		**Support**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

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

There were seven public comments.
Katherine Hughes, SEIU National Nurse Alliance
Linda Walsh, President, CNMA
Melanie Martin
Tricia Hunter, MN, RN, ANA/C
Donna Emanuele, President, CANP
Linda Calderon, CNM, UNAC
Deann McEwen, RN, CNA

The meeting adjourned at 3:52 p.m.

Submitted by: _____
for **Ronnie Whitaker, Legislative and Regulatory Analyst**

Approved by: _____
Cynthia Klein, RN

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: August 6, 2015

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

LOCATION: DoubleTree by Hilton San Francisco Airport
Sierra Ballroom
835 Airport Boulevard
Burlingame, CA 94010

MEMBERS PRESENT: Cynthia Klein, RN, Acting Chair
Trande Phillips, RN

MEMBERS ABSENT: Jeanette Dong
Imelda Ceja-Butkiewicz

STAFF PRESENT: Louise Bailey, Executive Officer
Stacie Berumen, Assistant Executive Officer

Cynthia Klein called the meeting to order at 3:00 p.m.

8.1 Review and Approve Minutes
The minutes of May 7, 2015 were deferred to October 2016 meeting due to meeting as a sub-committee.

8.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

AB 1351 Eggman: Deferred entry of judgement: pretrial diversion

Motion: Cynthia Klein		**Second:** Trande Phillips		**Oppose Unless Amended**
CK: Yes	**ICB: ----------**	**JD: ----------**	**TP: Yes**	

AB 1352 Eggman: Deferred entry of judgment: withdrawal of plea

Motion: Cynthia Klein	**Second:** Trande Phillips	**Oppose Unless**

			Amended
CK: Yes	**ICB: ----------**	**JD: ----------**	**TP: Yes**

SB 464 **Hernandez: Healing arts: self-reporting tools**

Motion: Cynthia Klein		**Second:** Trande Phillips	**Support**
CK: Yes	**ICB: ----------**	**JD: ----------**	**TP: Yes**

SB 466 **Hill: Nursing: Board of Registered Nursing**

Motion: Cynthia Klein		**Second:** Trande Phillips	**Watch**
CK: Yes	**ICB: ----------**	**JD: ----------**	**TP: Yes**

SB 467 **Hill: Professions and vocations**

Motion: Cynthia Klein		**Second:** Trande Phillips	**Watch**
CK: Yes	**ICB: ----------**	**JD: ----------**	**TP: Yes**

8.3 Update on Regulatory Proposal to Increase Fees in California Code of Regulations, Article 1, Section 1417, Fees

The emergency rulemaking file is expected to be submitted to the Office of Administrative Hearings on August 11, 2015. The OAH has 10 days to make a decision regarding the emergency rulemaking file.

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

The meeting adjourned at 3:33 p.m.

Submitted by: _____
Stacie Berumen, Assistant Executive Officer

Approved by: _____
Cynthia Klein, RN

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: October 8, 2015

TIME: 2:06 p.m. - 2:24 p.m.

LOCATION: Embassy Suites Santa Ana
Orange County Airport North
1325 E. Dyer Road
Santa Ana, CA 92705

MEMBERS PRESENT: Imelda Ceja-Butkiewicz, Chair
Trande Phillips, RN

MEMBERS ABSENT: Cynthia Klein, RN
Jeanette Dong

STAFF PRESENT: Louise Bailey, Executive Officer

Imelda Ceja-Butkiewicz called the meeting to order at 2:06 p.m.

8.1 Review and Approve Minutes
The minutes of May 7, 2015 and August 6, 2015were deferred to the January 2016 meeting due to meeting as a sub-committee.

8.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

AB 85 **Wilk: Open meetings**
Bill Status: Vetoed on 9/28/15.
Committee Position: No action taken.

AB 172 **Rodriguez: Emergency departments: assaults and batteries**
Bill Status: Governor's Desk
Committee Position: No action taken.

AB 1351 **Eggman: Deferred entry of judgment: pretrial diversion**
Bill Status: Governor's Desk
Committee Position: No action taken.

AB 1352 **Eggman: Deferred entry of judgment: withdrawal of plea**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 319 **Beall: Child welfare services: public health nursing**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 464 **Hernandez: Healing arts: self-reporting tools**
Bill Status: Chapter 387, Statutes of 2015
Committee Position: No action taken.

SB 466 **Hill: Nursing: Board of Registered Nursing**
Bill Status: Chapter 489, Statutes of 2015
Committee Position: No action taken.

SB 467 **Hill: Professions and vocations**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 800 **Committee on Business, Profession and Economic Development: Healing arts**
Bill Status: Chapter 426, Statutes of 2015
Committee Position: No action taken.

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

The meeting adjourned at 2:24 p.m.

Submitted by: _____
Stacie Berumen, Assistant Executive Officer

Approved by: _____
Imelda Ceja-Butkiewicz, Chair

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: January 10, 2016

TIME: 12:39 p.m. - 12:50 p.m.

LOCATION: Hilton Sacramento Arden West
2200 Harvard Street
Sacramento, CA 95815

MEMBERS PRESENT: Imelda Ceja-Butkiewicz, Chair
Trande Phillips, RN
Cynthis Klein, RN

MEMBER ABSENT: Jeanette Dong

STAFF PRESENT: Stacie Berumen, Assistant Executive Officer

Imelda Ceja-Butkiewicz called the meeting to order at 12:39 p.m.

8.1 Review and Approve Minutes

- May 7, 2015

Motion: Trande Phillips to accept the minutes			
Second: Cindy Klein			
ICB: Abstain	**TP:** Yes	**CK:** Yes	

- August 6, 2015

Motion: Trande Phillips to accept the minutes			
Second: Cindy Klein			
ICB: Abstain	**TP:** Yes	**CK:** Yes	

- October 8, 2015

Motion: Trande Phillips to accept the minutes			
Second: Imelda Ceja-Butkiewicz			
ICB: Yes	**TP:** Yes	**CK:** Abstain	

8.2 **Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.**

AB 85 **Wilk: Open meetings**
Bill Status: Vetoed on 9/28/15.
Committee Position: No action taken.

AB 172 **Rodriguez: Emergency departments: assaults and batteries**
Bill Status: Governor's Desk
Committee Position: No action taken.

AB 1351 **Eggman: Deferred entry of judgment: pretrial diversion**
Bill Status: Governor's Desk
Committee Position: No action taken.

AB 1352 **Eggman: Deferred entry of judgment: withdrawal of plea**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 319 **Beall: Child welfare services: public health nursing**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 464 **Hernandez: Healing arts: self-reporting tools**
Bill Status: Chapter 387, Statutes of 2015
Committee Position: No action taken.

SB 466 **Hill: Nursing: Board of Registered Nursing**
Bill Status: Chapter 489, Statutes of 2015
Committee Position: No action taken.

SB 467 **Hill: Professions and vocations**
Bill Status: Governor's Desk
Committee Position: No action taken.

SB 800 **Committee on Business, Profession and Economic Development: Healing arts**
Bill Status: Chapter 426, Statutes of 2015
Committee Position: No action taken.

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

The meeting adjourned at 2:24 p.m.

Submitted by: _____
Stacie Berumen, Assistant Executive Officer

Approved by: _____
Imelda Ceja-Butkiewicz, Chair

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE MEETING MINUTES

DATE: March 10, 2016

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

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

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

MEMBER ABSENT: None

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

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

8.0 Review and Approve Minutes

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

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

AB 1939 Patterson: Licensing requirements
No public comment.

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

AB 2079 Calderon: Skilled nursing facilities: staffing

No public comment.

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

AB 2209 Bonilla: Health care coverage: clinical care pathways

No public comment.

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

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

No public comment.

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

AB 2507 Gordon: Telehealth: access

One public comment.

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

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

One public comment.

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

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

No public comment.

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

ICB: Yes	**TP:** Yes	**CK:** Yes	**DG:** Yes

AB 2744 **Gordon: Healing arts: referrals**

No public comment.

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

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

No public comment.

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

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

No public comment.

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

SB 1039 **Hill: Professions and vocations**

Two public comments.

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

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

No public comments.

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

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

No public comment.

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

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

No public comment.

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

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

No public comment.

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

SB 1348 **Cannella: Licensure applications: military experience**

No public comment.

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

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

There were no public comments.

The meeting adjourned at 12:15 p.m.

Submitted by: Kay Weinkam

Kay Weinkam, Nursing Education Consultant

Approved by: Imelda C. Butkiewicz

Imelda Ceja-Butkiewicz, Chair

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1
DATE: October 6, 2016

ACTION REQUESTED: Discuss Bills of Interest to the Board and Adopt or Modify Positions on the Bills Introduced during the 2015-2016 Legislative Session

REQUESTED BY: Donna Gerber, Public Member, Chairperson

BACKGROUND:

Assembly Bills

AB 12	AB 1351	AB 2272
AB 26	AB 1352	AB 2399
AB 85	AB 1386	AB 2507
AB 172	AB 1748	AB 2606
AB 611	AB 1939	AB 2701
AB 637	AB 1992	AB 2744
AB 840	AB 2079	AB 2859
AB 1060	AB 2105	
AB 1306	AB 2209	

Senate Bills

SB 319	SB 960
SB 323	SB 1039
SB 390	SB 1076
SB 408	SB 1139
SB 464	SB 1155
SB 466	SB 1194
SB 467	SB 1195
SB 482	SB 1217
SB 531	SB 1334
SB 800	SB 1348

NEXT STEP: Place on Board agenda

FINANCIAL IMPLICATIONS, IF ANY: As reflected by proposed legislation

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BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
October 6, 2016

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review	Watch (5/17/15)	Watch (6/4/15)	Senate APPR
AB 26	Jones-Sawyer	Medical cannabis	Watch (8/11/16)	Watch (2/11/16)	Senate Rules
AB 85	Wilk	Open meetings	Watch (5/17/15)	Oppose (6/4/15)	Vetoed 9/28/15
AB 172	Rodriguez	Emergency departments: assaults and batteries		Support (6/4/15)	Vetoed 10/10/15
AB 611	Dahle	Controlled substances: prescriptions: reporting	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
AB 637	Campos	Physician Orders for Life Sustaining Treatment forms		Watch (4/2/15)	Chapter 217, Statutes of 2015
AB 840	Ridley-Thomas	Nurses and certified nursing assistants: overtime		Support (4/2/15)	Governor
AB 1060	Bonilla	Professions and vocations: licensure	Support if Amended (5/7/15)	Support if Amended (6/4/15)	No longer applicable to the Board
AB 1306	Burke	Healing arts: certified nurse-midwives: scope of practice		Support (6/4/15)	Failed Assembly Concurrence
AB 1351	Eggman	Deferred entry of judgment: pretrial diversion	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Vetoed 10/8/15
AB 1352	Eggman	Deferred entry of judgment: withdrawal of plea	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Chapter 646, Statutes of 2015
AB 1386	Low	Emergency medical care: epinephrine auto-injectors		Watch (2/11/16)	Chapter 374, Statutes of 2016
AB 1748	Mayes	Pupils: pupil health: opioid antagonist	Watch (5/12/16)	Watch (4/14/16)	Chapter 557, Statutes of 2016
AB 1939	Patterson	Licensing requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 1992	Jones	Pupil health: physical examinations		Watch (4/14/16)	Assembly B&P
AB 2079	Calderon	Skilled nursing facilities: staffing	Watch (3/10/16)	Watch (4/14/16)	Senate Inactive File

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

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
October 6, 2016

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 2105	Rodriguez	Workforce development: allied health professions	Watch (8/11/16)	Watch (4/14/16)	Chapter 410, Statutes of 2016
AB 2209	Bonilla	Health care coverage: clinical pathways	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2272	Thurmond	Occupational safety and health standards: plume	Support (8/11/16)		Governor
AB 2399	Nazarian	Pregnancy: prenatal blood testing	Watch (3/10/16)	Watch (4/14/16)	Senate Health
AB 2507	Gordon	Telehealth: access	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2606	Grove	Crimes against children, elders, dependent adults, and persons with disabilities	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2701	Jones	Department of Consumer Affairs: boards: training requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly B&P
AB 2744	Gordon	Healing arts: referrals	Watch (3/10/16)	Watch (4/14/16)	Chapter 360, Statutes of 2016
AB 2859	Low	Professions and vocations: retired category: licenses	Watch (3/10/16)	Watch (4/14/16)	Chapter 473, Statutes of 2016

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BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
October 6, 2016

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 319	Beall	Child welfare services: public health: nursing		Watch (4/2/15)	Chapter 535, Statutes of 2015
SB 323	Hernandez	Nurse practitioners: scope of practice	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
SB 390	Bates	Home health agencies: skilled nursing services		Watch (4/2/15)	Senate Health
SB 408	Morrell	Midwife assistants		Oppose (6/4/15)	Chapter 280, Statutes of 2015
SB 464	Hernandez	Healing arts: self-reporting tools	Support (8/6/15)		Chapter 387, Statutes of 2015
SB 466	Hill	Nursing: Board of Registered Nursing	Watch (8/6/15)	Watch (9/3/15)	Chapter 489, Statutes of 2015
SB 467	Hill	Professions and vocations	Watch (8/6/15)	Watch (9/3/15)	Chapter 656, Statutes of 2015
SB 482	Lara	Controlled substances: CURES database	Support (5/12/16)	Support (6/16/16)	Chapter 708, Statutes of 2016
SB 531	Bates	Board of Behavioral Sciences		Watch (4/2/15)	No longer applicable to the Board
SB 800	Committee on BP&ED	Healing arts	Support (5/7/15)	Support (6/4/15)	Chapter 426, Statutes of 2015
SB 960	Hernandez	Medi-Cal: telehealth: reproductive health care	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1039	Hill	Professions and vocations	Support/ Watch (5/12/16)	Support/ Watch (6/16/16)	Chapter 799, Statutes of 2016
SB 1076	Hernandez	General acute care hospitals: observation services		Watch (6/16/16)	Chapter 723, Statutes of 2016
SB 1139	Lara	Health professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayments	Watch (5/12/16)	Watch (6/16/16)	Chapter 786, Statutes of 2016
SB 1155	Morrell	Professions and vocations: licenses: military service	Watch (3/10/16)	Watch (6/16/16)	Assembly APPR
SB 1194	Hill	Professions and vocations: board actions and regulations			Assembly B&P
SB 1195	Hill	Professions and vocations: board actions	Oppose (5/12/16)	Oppose (6/16/16)	Senate Inactive File

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BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
October 6, 2016

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 1217	Stone	Healing arts: reporting requirements: professional liability resulting in death or personal injury	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED
SB 1334	Stone	Crime reporting: health practitioners: reports	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1348	Cannella	Licensure applications: military experience	Watch (3/10/16)	Watch (4/14/16)	Chapter 174, Statutes of 2016

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Assembly Bill No. 1386

CHAPTER 374

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

[Approved by Governor September 16, 2016. Filed with Secretary of State September 16, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

auto-injector" for purposes of these provisions and other related provisions that authorize the use of epinephrine auto-injectors, as specified.

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

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

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

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

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

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

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

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

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

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

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

(2) The designations "Section 1797.197a Responder" and "First Aid Purposes Only."

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

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

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

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

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

SEC. 2. Section 1714.23 of the Civil Code is amended to read:

1714.23. (a) For purposes of this section, the following definitions shall apply:

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

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

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

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

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

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

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

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

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

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

(e) An authorizing physician and surgeon is not subject to professional review, liable in a civil action, or subject to criminal prosecution for the issuance of a prescription or order in accordance with Section 1797.197a of the Health and Safety Code unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

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

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

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

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

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

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

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

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

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

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

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency epinephrine

auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by an authorizing physician and surgeon.

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

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

(A) Techniques for recognizing symptoms of anaphylaxis.

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

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

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

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

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

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

Centers for Disease Control and Prevention and the most recent guidelines for medication administration issued by the department.

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

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

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

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

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

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

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

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

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

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

(j) A school district, county office of education, or charter school shall ensure that each employee who volunteers under this section will be provided

defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

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

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

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

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

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

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

(2) "Authorized entity" means any for-profit, nonprofit, or government entity or organization that employs at least one person or utilizes at least one volunteer or agent that has voluntarily completed a training course as described in subdivision (c).

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

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

(5) "Prehospital emergency medical care person" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 1797.189.

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

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

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

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

(4) The person using the epinephrine auto-injector has successfully completed a course of training with an authorized training provider, as

described in subdivision (c), and has current certification of training issued by the provider.

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

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

(c) (1) The authorized training providers shall be approved, and the minimum standards for training and the use and administration of epinephrine auto-injectors pursuant to this section shall be established and approved, by the authority. The authority may designate existing training standards for the use and administration of epinephrine auto-injectors by prehospital emergency medical care personnel to satisfy the requirements of this section.

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

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

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

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

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

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

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

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

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

(A) Fraud.

(B) Incompetence.

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

(D) Conviction of any crime that is substantially related to the qualifications, functions, or duties of training program directors or instructors. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 5. 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.

O

Assembly Bill No. 1748

CHAPTER 557

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

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions.

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

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

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

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

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

SECTION 1. Section 4119.8 is added to the Business and Professions Code, to read:

4119.8. (a) Notwithstanding any other law, a pharmacy may furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school pursuant to Section 49414.3 of the Education Code if all of the following are met:

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

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

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

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

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

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

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

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

(3) "Opioid antagonist" means naloxone hydrochloride or another drug approved by the federal Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body, and has been approved for the treatment of an opioid overdose.

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

(5) "Volunteer" or "trained personnel" means an employee who has volunteered to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to

be suffering, from an opioid overdose, has been designated by a school, and has received training pursuant to subdivision (d).

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

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

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

(e) (1) The Superintendent shall establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist that satisfies the requirements of paragraph (2). Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of naloxone hydrochloride or other opioid antagonists that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment, including, but not limited to, the California Society of Addiction Medicine, the Emergency Medical Services Authority, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, and others.

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

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

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

(C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

O

Assembly Bill No. 2105

CHAPTER 410

An act to amend Section 14017 of the Unemployment Insurance Code, relating to workforce development.

[Approved by Governor September 21, 2016. Filed with Secretary of State September 21, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2105, Rodriguez. Workforce development: allied health professions.

Existing law establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires the board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding expanding job training and employment for allied health professions.

This bill would require the Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.

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

SECTION 1. Section 14017 of the Unemployment Insurance Code is amended to read:

14017. (a) In efforts to expand job training and employment for allied health professions, the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, shall do the following:

(1) Identify opportunities for "earn and learn" job training opportunities that meet the industry's workforce demands and that are in high-wage, high-demand jobs.

(2) Identify and develop specific requirements and qualifications for entry into "earn and learn" job training models.

(3) Establish standards for "earn and learn" job training programs that are outcome oriented and accountable. The standards shall measure the results from program participation, including a measurement of how many complete the program with an industry-recognized credential that certifies

that the individual is ready to enter the specific allied health profession for which he or she has been trained.

(4) Develop means to identify, assess, and prepare a pool of qualified candidates seeking to enter "earn and learn" job training models.

(b) (1) The board, on or before December 1, 2015, shall prepare and submit to the appropriate policy committees of the Legislature a report on the findings and recommendations of the board.

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

(c) (1) The Department of Consumer Affairs shall engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report prepared by the board pursuant to subdivision (b), entitled Expanding Earn and Learn Models in the California Health Care Industry. The stakeholder process shall include all of the following:

(A) The department convening allied health workforce stakeholders, which shall include, but are not limited to, the department's relevant licensure boards, the Division of Apprenticeship Standards, representatives appointed by the board of governors from the California community college system, the California Workforce Development Board, and the State Department of Public Health, and which may include other relevant entities such as the Office of Statewide Health Planning and Development, employer and worker representatives, and community-based organizations.

(B) Addressing issues that include, but are not limited to, prelicensure classifications in allied health occupations that would allow students, in a supervised setting, to gain experience in their chosen field before obtaining licensure, and the payment of wages while in a workplace-based training program.

(C) The department ensuring that existing standards of consumer protection are maintained.

(D) Sharing any statutory barriers identified through this process with the relevant committees of the Legislature.

(2) The process described in paragraph (1) shall be completed by, and this subdivision shall be inoperative on, January 1, 2020.

O

Assembly Bill No. 2744

CHAPTER 360

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

[Approved by Governor September 14, 2016. Filed with Secretary of State September 14, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, Gordon. Healing arts: referrals.

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

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services through a third-party advertiser, does not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The bill would require that the fee paid to the third-party advertiser be commensurate with the service provided by the third-party advertiser. The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service provided by the licensee is not appropriate for the purchaser, or if the purchaser elects not to receive the service for any reason and requests a refund, as specified. The bill would require that a licensee disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. The bill would specify that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions. The bill would require a third-party advertiser to make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region and to disclose, in any advertisement offering a discount price for a service, the regular, nondiscounted price for that service.

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

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training

services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

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

(g) Notwithstanding the other subdivisions of this section or any other provision of law, the payment or receipt of consideration for advertising, wherein a licensee offers or sells services through a third-party advertiser, shall not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The fee paid to the third-party advertiser shall be commensurate with the service provided by the third-party advertiser. If the licensee determines, after consultation with the purchaser of the service, that the service provided by the licensee is not appropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the third-party advertiser and the licensee. The licensee shall disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. This subdivision shall not apply to basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code, or essential health benefits, as defined in Section 1367.005 of the Health and Safety Code and Section 10112.27 of the Insurance Code. The entity that provides the advertising shall be able to demonstrate that the licensee consented in writing to the requirements of this subdivision. A third-party advertiser shall make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region. In any advertisement offering a discount price for a service, the licensee shall also disclose the regular, nondiscounted price for that service.

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

O

Assembly Bill No. 2859

CHAPTER 473

An act to add Section 464 to the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 22, 2016. Filed with Secretary of State September 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines "board" for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons. The bill also would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive. The bill would not apply to a board that has other statutory authority to establish a retired license.

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

SECTION 1. Section 464 is added to the Business and Professions Code, to read:

464. (a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

O

Senate Bill No. 482

CHAPTER 708

An act to amend Sections 11165 and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 482, Lara. Controlled substances: CURES database.

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

This bill would require a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours, or the previous business day, before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian and a pharmacist from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, or furnishing a controlled substance to a patient receiving hospice care, to a patient admitted to a specified facility for use while on facility premises, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use. The bill would require, if a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient pursuant to one of those exemptions, the health care practitioner to consult the CURES database before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

This bill would provide that a health care practitioner who fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use and that the department has adequate staff, user support, and education, as specified.

This bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

Existing law requires the operation of the CURES database to comply with all applicable federal and state privacy and security laws and regulations. Existing law authorizes the disclosure of data obtained from the CURES database to agencies and entities only for specified purposes and requires the Department of Justice to establish policies, procedures, and regulations regarding the use, access, disclosure, and security of the information within the CURES database.

This bill would authorize a health care practitioner to provide a patient with a copy of the patient's CURES patient activity report if no additional CURES data is provided. The bill would also prohibit a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances from obtaining data from the CURES database.

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

SECTION 1. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The Department of Justice may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department

shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

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

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

(B) Notwithstanding subparagraph (A), a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances shall not be provided data obtained from CURES.

(3) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data is provided and keep a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.

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

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

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

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

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

(5) Quantity of the controlled substance dispensed.

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

(7) Number of refills ordered.

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

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

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

SEC. 2. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, before July 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled

substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

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

(i) Materially falsifying an application for a subscriber.

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

(iii) Suspended or revoked federal DEA registration.

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

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

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

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 or a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

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

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

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

(f) A health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, is not subject to civil or administrative liability arising

from any false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

SEC. 3. Section 11165.4 is added to the Health and Safety Code, to read:

11165.4. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient.

(ii) If a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required, pursuant to an exemption described in subdivision (c), to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient, he or she shall consult the CURES database to review the patient's controlled substance history before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every four months thereafter if the substance remains part of the treatment of the patient.

(B) For purposes of this paragraph, "first time" means the initial occurrence in which a health care practitioner, in his or her role as a health care practitioner, intends to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

(2) A health care practitioner shall obtain a patient's controlled substance history from the CURES database no earlier than 24 hours, or the previous business day, before he or she prescribes, orders, administers, or furnishes a Schedule II, Schedule III, or Schedule IV controlled substance to the patient.

(b) The duty to consult the CURES database, as described in subdivision (a), does not apply to veterinarians or pharmacists.

(c) The duty to consult the CURES database, as described in subdivision (a), does not apply to a health care practitioner in any of the following circumstances:

(1) If a health care practitioner prescribes, orders, or furnishes a controlled substance to be administered to a patient while the patient is admitted to any of the following facilities or during an emergency transfer between any of the following facilities for use while on facility premises:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(2) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance in the emergency department of a general acute care hospital and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use.

(3) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient as part of the patient's treatment for a surgical procedure and the quantity of the controlled substance does not exceed a nonrefillable five-day supply of the controlled substance to be used in accordance with the directions for use, in any of the following facilities:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) A place of practice, as defined in Section 1658 of the Business and Professions Code.

(4) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient currently receiving hospice care, as defined in Section 1339.40.

(5) (A) If all of the following circumstances are satisfied:

(i) It is not reasonably possible for a health care practitioner to access the information in the CURES database in a timely manner.

(ii) Another health care practitioner or designee authorized to access the CURES database is not reasonably available.

(iii) The quantity of controlled substance prescribed, ordered, administered, or furnished does not exceed a nonrefillable five-day supply of the controlled substance to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

(B) A health care practitioner who does not consult the CURES database under subparagraph (A) shall document the reason he or she did not consult the database in the patient's medical record.

(6) If the CURES database is not operational, as determined by the department, or when it cannot be accessed by a health care practitioner because of a temporary technological or electrical failure. A health care practitioner shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within his or her control.

(7) If the CURES database cannot be accessed because of technological limitations that are not reasonably within the control of a health care practitioner.

(8) If consultation of the CURES database would, as determined by the health care practitioner, result in a patient's inability to obtain a prescription

in a timely manner and thereby adversely impact the patient's medical condition, provided that the quantity of the controlled substance does not exceed a nonrefillable five-day supply if the controlled substance were used in accordance with the directions for use.

(d) (1) A health care practitioner who fails to consult the CURES database, as described in subdivision (a), shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

(2) This section does not create a private cause of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(e) This section is not operative until six months after the Department of Justice certifies that the CURES database is ready for statewide use and that the department has adequate staff, which, at a minimum, shall be consistent with the appropriation authorized in Schedule (6) of Item 0820-001-0001 of the Budget Act of 2016 (Chapter 23 of the Statutes of 2016), user support, and education. The department shall notify the Secretary of State and the office of the Legislative Counsel of the date of that certification.

(f) All applicable state and federal privacy laws govern the duties required by this section.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

O

Senate Bill No. 1076

CHAPTER 723

An act to amend Section 128765 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, Hernandez. General acute care hospitals: observation services.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD) specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.

This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.

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

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

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

SECTION 1. Section 1253.7 is added to the Health and Safety Code, to read:

1253.7. (a) For purposes of this chapter, "observation services" means outpatient services provided by a general acute care hospital and that have been ordered by a provider, to those patients who have unstable or uncertain conditions potentially serious enough to warrant close observation, but not so serious as to warrant inpatient admission to the hospital. Observation services may include the use of a bed, monitoring by nursing and other staff, and any other services that are reasonable and necessary to safely evaluate a patient's condition or determine the need for a possible inpatient admission to the hospital.

(b) When a patient in an inpatient unit of a hospital or in an observation unit, as defined in subdivision (c), is receiving observation services, or following a change in a patient's status from inpatient to observation, the patient shall receive written notice, as soon as practicable, that he or she is on observation status. The notice shall state that while on observation status, the patient's care is being provided on an outpatient basis, which may affect his or her health care coverage reimbursement.

(c) For purposes of this chapter, "observation unit" means an area in which observation services are provided in a setting outside of any inpatient unit and that is not part of an emergency department of a general acute care hospital. A hospital may establish one or more observation units that shall be marked with signage identifying the observation unit area as an outpatient area. The signage shall use the term "outpatient" in the title of the designated area to indicate clearly to all patients and family members that the observation services provided in the center are not inpatient services. Identifying an observation unit by a name or term other than that used in this subdivision does not exempt the general acute care hospital from compliance with the requirements of this section.

(d) Notwithstanding subdivisions (d) and (e) of Section 1275, an observation unit shall comply with the same licensed nurse-to-patient ratios as supplemental emergency services. This subdivision is not intended to alter or amend the effect of any regulation adopted pursuant to Section 1276.4 as of the effective date of the act that added this subdivision.

SEC. 2. Section 128765 of the Health and Safety Code is amended to read:

128765. (a) The office shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its Internet Web site, with the exception of discharge and encounter data that shall be available for public inspection unless the office determines, pursuant to applicable law, that an individual patient's rights of confidentiality would be violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office's Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. Upon request, these shall include summaries of observation services data, in a format prescribed by the office. The summaries shall be posted on the office's Internet Web site. The office may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to ensure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director with an annual report on changes that can be made to improve the public's access to data.

SEC. 3. 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.

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Senate Bill No. 1139

CHAPTER 786

An act to add Sections 2064.3 and 2064.4 to the Business and Professions Code, and to add Section 128371 to the Health and Safety Code, relating to health professionals.

[Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, Lara. Health professionals: medical degree programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayment.

(1) Existing law, known as the Medical Practice Act, provides for licensing and regulation of physicians and surgeons by the Medical Board of California and imposes various requirements in that regard. Existing law requires an applicant for a license as a physician and surgeon to successfully complete a specified medical curriculum, a clinical instruction program, and a training program. Existing law provides that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as part of a clinical service program, subject to certain conditions.

This bill would prohibit a student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to a specified statute, or a person who fits into both of those categories, who meets the requirements for admission to a medical degree program at any public or private postsecondary educational institution that offers such a program from being denied admission to that program based on his or her citizenship status or immigration status. The bill would also prohibit such a student from being denied admission, based on his or her citizenship status or immigration status, to a healing arts residency training program whose participants are not paid. These provisions would not apply, except as provided, to a nonimmigrant alien, as defined in a specified provision of federal law.

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

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

SECTION 1. Section 2064.3 is added to the Business and Professions Code, to read:

2064.3. (a) Notwithstanding any other law, except as specified in subdivision (b), no student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, or a person who is both without lawful immigration status and exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, who meets the requirements for admission to a medical degree program at any public or private postsecondary educational institution that offers that program shall be denied admission to that program based on his or her citizenship status or immigration status.

(b) Except for students granted status pursuant to Section 1101(a)(15)(T) or (U) of Title 8 of the United States Code, this section shall not apply to a nonimmigrant alien within the meaning of paragraph (15) of subdivision (a) of Section 1101 of Title 8 of the United States Code, as that paragraph exists on January 1, 2017.

SEC. 2. Section 2064.4 is added to the Business and Professions Code, to read:

2064.4. (a) Notwithstanding any other law, except as specified in subdivision (b), no student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, or a person who is both without lawful immigration status and exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, who meets the requirements for admission to a healing arts residency training program whose participants are not paid shall be denied admission to that program based on his or her citizenship status or immigration status.

(b) Except for students granted status pursuant to Section 1101(a)(15)(T) or (U) of Title 8 of the United States Code, this section shall not apply to a nonimmigrant alien within the meaning of paragraph (15) of subdivision (a) of Section 1101 of Title 8 of the United States Code, as that paragraph exists on January 1, 2017.

SEC. 3. Section 128371 is added to the Health and Safety Code, to read:

128371. (a) The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

(b) A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

(c) For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide his or her social security number, if one has been issued, or an individual tax identification number that has been or will be submitted.

(d) This section shall apply to all of the following:

(1) Programs supported through the Health Professions Education Fund pursuant to Section 128355.

(2) The Registered Nurse Education Fund created pursuant to Section 128400.

(3) The Mental Health Practitioner Education Fund created pursuant to Section 128458.

(4) The Vocational Nurse Education Fund created pursuant to Section 128500.

(5) The Medically Underserved Account for Physicians created pursuant to Section 128555.

(6) Loan forgiveness and scholarship programs created pursuant to Section 5820 of the Welfare and Institutions Code.

(7) The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.

(8) To the extent permitted under federal law, the program administered by the office pursuant to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly known as the California State Loan Repayment Program.

(9) The programs administered by the office pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and California's Student/Resident Experiences and Rotations in Community Health, commonly known as the Cal-SEARCH program.

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