

**OSTEOPATHIC MEDICAL
BOARD
OF CALIFORNIA**

**Board Meeting, Thursday, September 10, 2020
10:00 a.m.**

**Osteopathic Medical Board of California
1300 National Drive, Suite 150
Sacramento, CA 95834-1991**

OMBC Phone (916) 928-8390

TABLE OF CONTENTS

TAB 1	AGENDA
TAB 2	MEETING MINUTES <ul style="list-style-type: none">▪ May 7, 2020 (Teleconference)
TAB 3	REGULATIONS <ul style="list-style-type: none">▪ AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction: Discussion and Possible Action:
TAB 4	PENDING LEGISLATION <ul style="list-style-type: none">▪ AB 1616 (<i>Low</i>) Department of Consumer Affairs: Boards: Expunged convictions▪ AB 2113 (<i>Low</i>) Refugees, asylees, and immigrants: professional licensing▪ SB 275 (<i>Low</i>) Health Care and Essential Workers Protection Act: personal protective equipment▪ SB 878 (<i>Jones</i>) Department of Consumer Affairs Licensing: applications: wait times
TAB 5	GUIDELINES for the RECOMMENDATION of CANNIBIS for MEDICAL PURPOSES
TAB 6	BUDGET UPDATE – PAUL McDERMOTT
TAB 7	EXECUTIVE DIRECTOR’S REPORT – MARK ITO <ul style="list-style-type: none">▪ Licensing▪ Staffing▪ COVID-19▪ CURES▪ Enforcement Report – Corey Sparks
TAB 8	AGENDA ITEMS FOR NEXT MEETING
TAB 9	FUTURE MEETING DATES

Tab 1



TELECONFERENCE BOARD MEETING NOTICE AND AGENDA

Thursday, September 10, 2020
10:00 a.m. to 5:00 p.m.
(or until the conclusion of business)

Osteopathic Medical Board
1300 National Drive, Suite 150

Sacramento, CA 95834

Call-in Line for Teleconferencing: +1-415-655-0003 (US Toll)

Participant Code: 146 353 5535

Meeting Link:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=med1d6a77c8e7f617506954f110d184be>

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided above. If you have trouble getting on the call to listen or participate, please call 916-928-8390.

AGENDA

Discussion and possible action may be taken on any items listed on the agenda, and items may be taken out of order to facilitate the effective transaction of business.

OPEN SESSION

1. Call to Order and Roll Call / Establishment of a Quorum
2. Public Comment on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a).)
3. Review and Possible Approval of Minutes

- May 7, 2020 Board Meeting
4. Discussion and Possible Action to Initiate Rulemakings to Amend Board Regulations Impacted by AB 2138 (Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction) – Mark Ito:
 - a) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1654 Substantial Relationship Criteria Under Title 16, California Code of Regulations
 - b) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1655 Rehabilitation Criteria for Denial, Suspension, or Revocation of Licensure Under Title 16, California Code of Regulations
 - c) Discussion and Possible Action to Initiate a Rulemaking to Amend Section 1657 Rehabilitation Criteria for Petition for Reinstatement or Modification of Penalty Under Title 16, California Code of Regulations
 - d) Discussion and Possible Action Regarding Comments Received Regarding [AB 2138](#) (Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction)
 5. Discussion and Possible Action on Pending Legislation:
 - [AB 2515](#) (*Nazarian*) Continuing Medical Education: geriatric medicine
 - [AB 613](#) (*Low*) Professions and vocations: regulatory fees
 - [AB 1616](#) (*Low*) Department of Consumer Affairs: Boards: Expunged convictions
 - [AB 2185](#) (*Patterson*) Professions and vocations: applicants licensed in other states: reciprocity
 - [AB 2631](#) (*Cunningham*) License fees: military partners and spouses
 - [AB 3045](#) (*Gray*) Department of Consumer Affairs: boards: veterans: military spouses: licenses
 - [SB 878](#) (*Jones*) Department of Consumer Affairs Licensing: applications: wait times
 6. Discussion and Possible Approval of Guidelines for the Recommendation of Cannabis for Medical Purposes
 7. Budget – Update
 8. Executive Director’s Report – Mark Ito
 - Licensing
 - Staffing
 - COVID-19
 - CURES
 - Enforcement Report / Discipline

9. Future Agenda Items
10. Future Meeting Dates
11. Adjournment

For further information about this meeting, please contact Machiko Chong at 916-928-7636 or in writing at 1300 National Drive, Suite 150, Sacramento, CA 95834. This notice and agenda, as well as any available Board meeting materials, can be accessed on the Board's website at www.ombc.ca.gov

Discussion and action may be taken on any item on the agenda. The time and order of agenda items are approximate and subject to change at the discretion of the Board President to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board, including the teleconference sites, are open to the public. Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President, at his or her discretion, may apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting. (Government Code sections 11125, 11125.7(a).)

Board meetings are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact Machiko Chong, ADA Liaison, at (916) 928-7636 or e-mail at Machiko.Chong@dca.ca.gov or send a written request to the Board's office at 1300 National Drive, Suite 150, Sacramento, CA 95834-1991. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

Tab 2



Osteopathic Medical Board of California

Meeting Minutes

May 7, 2020

**MEMBERS
PRESENT:**

Joseph Zammuto, D.O., *President*
Cheryl Williams, *Vice President*
Cyrus Buhari, D.O., *Secretary Treasurer*
Elizabeth Jensen, D.O., *Board Member*
Claudia Mercado, *Board Member*
Andrew Moreno, *Board Member*
Hemesh Patel, D.O., *Board Member*
Gor Adamyan, *Board Member*

**MEMBERS
ABSENT:**

**STAFF
PRESENT:**

Sabina Knight, *Esq., Legal Counsel, DCA*
Mark Ito, *Executive Director*
Terri Thorfinnson, *Assistant Executive Director*
Machiko Chong, *Executive Analyst*
James Lally, D.O., *Medical Consultant*
Corey Sparks, *Enforcement Analyst*

**MEMBERS OF
THE AUDIENCE:**

Nick Birtcil, *Executive Director, Osteopathic Physicians & Surgeons of California (OPSC)*

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum

The Board Meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Zammuto, D.O. at 10:12 a.m. A quorum was present and due notice was provided to all interested parties.

Board Meeting Minutes – May 7, 2020 (DRAFT)

Agenda Item 2 Public Comment for Items not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment section except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

There were no public comments upon inquiry.

Agenda Item 3 President's Report – Dr. Zammuto

Dr. Zammuto informed the Board that he attended a two-hour teleconference the National Board of Osteopathic Medical Examiners' (NBOME) quarterly meeting.

He stated that they discussed recommendations regarding COVID-19 which seemed to vary by state. The concerns regarding the expansion of practice for nurse practitioners and physician assistants seemed to be the same for each state, with some states having them with independent activities while others have them under the jurisdiction of physicians. Due to the Governor's Executive Order for COVID-19 the physician to supervisor ratio has changed from 1:4 to 1: unlimited.

The group discussed the American Osteopathic Association (AOA) daily COVID-19 updates, and web link for Osteopathic Manipulative Therapy (OMT) and respiratory infections treatment. They also discussed the NBOME increase in specialty matches into residency programs during the current cycle which reflects a 91% match and discussed how some of the testing formats would be changing to a pass or fail model.

He stated that he had access to two letters that we received from the AOA which were sent to the Osteopathic Physicians and Surgeons of California (OPSC) regarding osteopathic malpractice relief and malpractice premiums, which could be sent to the Governor requesting assistance with the matters.

Agenda Item 4 Review and Possible Approval of Minutes

Dr. Zammuto called for a motion for approval of the meeting minutes of the January 16, 2020 Board Meeting.

Motion to approve the January 16, 2020 Board meeting minutes with no corrections. Motion – Dr. Buhari, Second – Mr. Adamyan

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Mr. Moreno, Dr. Patel, Mrs. Williams, Dr. Zammuto
 - **Nay** – None

- **Abstention** – None
- **Absent** – None
- Motion carried to approve the January 16, 2020 Board meeting minutes with no corrections.

Agenda Item 5 Executive Director’s Report – Mark Ito

Mr. Ito updated the Board on licensing statistics, staffing, budget conditions, and CURES. Additionally, he provided a student survey that was created by Board staff and sent out to all postgraduate training programs that have attended the Board’s quarterly meetings to gain a better understanding of how the visiting students’ experiences at the meetings. All items discussed were included in the Board packet.

Enforcement/Discipline – The Board’s Lead Enforcement Analyst, Corey Sparks, presented the enforcement report to the Board and provided written materials showing various enforcement data.

Agenda Item 6 Proposed Regulations – Mark Ito

- Required Continuing Medical Education - Title 16, California Code of Regulations (CCR) section 1635.
- Continuing Medical Education Progress Report - Title 16, CCR section 1636.
- Sanctions for Noncompliance for ease and accessibility – Title 16, CCR section 1641.

Mr. Ito provided the Board members with background information regarding the regulatory packet being presented and notified them of the minor changes that were needed in order to move forward with processing the regulatory packet.

Dr. Zammuto called for a motion to amend Title 16, CCR § 1635 (e) as presented with additional amendments to subsection (e).

Motion to approve the proposed text for a 45 day public comment period and delegate to the ED the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the ED the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. Motion – Dr. Buhari, **Second – Dr. Jensen**

- Roll Call Vote was taken
 - **Aye** – Mr. Adamyan, Dr. Buhari, Dr. Jensen, Ms. Mercado, Dr. Patel, Mrs. Williams, Dr. Zammuto
 - **Nay** – None
 - **Abstention** – None

- **Absent** – Mr. Moreno
- Motion carried to amend Title 16, CCR § 1635 (e) as presented with additional amendments to subsection (e).

Agenda Item 7 Review of Medical Board of California Guidelines for the Recommendation of Cannabis for Medical Purposes and FSMB Telehealth Guidelines

Andrew Moreno who sits on the subcommittee with Claudia Mercado created to establish Guidelines for the Recommendation of Cannabis for Medical Purposes for the Board, requested that all discussion regarding the proposed language for the recommendation be tabled until the following board meeting. The subcommittee learned that the California Marijuana Research Program had also created guidelines and needed additional time to research and review the report that had been compiled.

Agenda Item 8 Pending Legislation

Mr. Ito informed the Board that most of the legislative items on the agenda were either no longer moving forward and/or did not apply to the Board. Mr. Ito provided a brief overview of each legislative item.

Agenda Item 9 Agenda Items for Next Meeting

- Review of Guidelines for the Recommendation of Cannabis for Medical Purposes (*Proposed Language*)
- Strategic Plan Update
- Pending Legislation

Agenda Item 10 Future Meeting Dates

- Thursday, September 10, 2020 @ 10:00 am – San Diego, CA
- Thursday, January 14, 2021 @ 10:00 am – *TBD*
- Thursday, May 13, 2021 @ 10:00 am – *TBD*

Nick Birtcil, *Executive Director, Osteopathic Physicians & Surgeons of California (OPSC)* recommended that the Board consider possibly hosting its January 2021 meeting at the OPSC annual conference, as the physicians and members of the public were very receptive to the Board's presence. He noted that the optimal time to attend would be on either the Friday or Saturday of the conference.

****CLOSED SESSION****

Pursuant to Government Code section 11126, subdivision (a)(1), the Board will meet in closed session for discussion and to deliberate on the performance evaluation of the Executive Director.

The Board met in closed session at 11:30

Agenda Item 11 Adjournment

There being no further business or public comment, Dr. Zammuto adjourned the meeting at 12:15 p.m.

Tab 3

**AB 2138: Licensing Boards: Denial of Application:
Revocation or Suspension of Licensure: Criminal
Conviction: Discussion and Possible Action**



MEMORANDUM

DATE	September 10, 2020
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Discussion and Possible Action to Initiate Rulemakings to Amend Board Regulations Impacted by AB 2138

Background

At its May 16, 2019 meeting, the Osteopathic Medicine Board (Board) approved regulatory language to implement AB 2138 (Chiu, Chapter 995, Statutes of 2018). Key provisions of that bill, which becomes effective on July 1, 2020, are:

1. Only permits a board to deny a license on grounds that an applicant has been convicted of a crime or has been subject to formal discipline if either of these are met (Business and Professions Code (BPC), § 480, subd. (a)):
2. The conviction was within 7 years of the date of the application and is substantially related to the qualifications, functions, or duties of the profession. The 7-year limit does not apply to convictions for a serious felony (defined in Penal Code, § 1192.7), or for those who must register as a sex offender as described in Penal Code section 290, subdivisions (d)(2) or (3).
3. The applicant has been subject to formal discipline by a licensing board within the past 7 years for professional misconduct that would have been cause for disciplinary action by the board and is substantially related to the profession. (The prior disciplinary action cannot be used to deny if it was based on a dismissed or expunged conviction.)
4. Prohibits a board from requiring that an applicant for licensure disclose information about his or her criminal history. However, a board is permitted to request it for the purpose of determining substantial relationship or evidence of rehabilitation. In such a case, the applicant must be informed that the disclosure is voluntary and failure to disclose will not be a factor in a board's decision to grant or deny an application. (BPC, § 480, subd. (f)(2).)

5. Requires each board to develop criteria to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession.

These criteria are required to be considered when considering the denial, suspension, or revocation of a license. By law, boards are required to adopt regulations that include all of the following criteria (BPC, § 481):

1. The nature and gravity of the offense.
 2. The number of years elapsed since the date of the offense.
 3. The nature and duties of the profession in which the applicant seeks licensure or is licensed.
6. Prohibits a board from denying a license based on a conviction without considering evidence of rehabilitation. (BPC, § 481)
 7. Requires each board to develop criteria to evaluate rehabilitation when considering denying, suspending, or revoking a license. A showing of rehabilitation shall be considered if the applicant or licensee has been completed their criminal sentence without a violation of parole or probation, or if the board finds its criteria for rehabilitation has been met. (BPC, § 482)

To successfully adopt, amend or repeal a regulation, the Board is required to meet the following standards in the Administrative Procedure Act (APA): (1) necessity, (2) authority, (3) clarity, (4) consistency, (5) reference, and (6) nonduplication. (Gov. Code, § 11349.1)

Status of the Regulation Proposal

The Board noticed the regulation proposal on March 13, 2020, and gave the public forty-five (45) days to provide public comment ending on April 28, 2020. No public hearing was requested or conducted. A public comment was received on April 28, 2020 (see **Attachment A**).

Additionally, OAL requested certain language changes be made to the template. These language changes are non-substantive and do not require the Board to vote to modify the text.

Corrections and Recommended Edits to the Language

16 CCR 1654 Substantial Relationship Criteria

Subdivision (b) - correct "board" to read "Board" to match the definition in 16 CCR 1399.302 which defines "Board" with a capital B to mean the Osteopathic Medicine Board.

Subdivision (b) (1) & (2) - correct the punctuation here to conform to the punctuation of the same list in the statute.

16 CCR 1655 Rehabilitation Criteria for Denial, Suspension or Revocation

Subdivision (a) (1), (2), (3) (4) & (5) - correct the punctuation to conform to the punctuation of the same list in the statute.

16 CCR 1657 Rehabilitation Criteria for Petition for Reinstatement or Modification of Penalty

(a) - Add a subdivision marker "(a)" Also, replace the term "eligibility" with the term "fitness."

(a)(1), (2) & (3) – Add in "professional misconduct" for clarity. The Board has the power to deny a license on the grounds of professional misconduct under the AB 2138 amendments to BPC 480 (see BPC section 480(a)(2)). Therefore, the regulation is clearer with the term "professional misconduct" so the list reads "acts, professional misconduct, and or crimes."

(a)(1), (2), (3), (4), (5). & (6) - correct the punctuation here to conform to the punctuation of the same list in the statute.

This Memo and the proposed regulatory language are provided to the Board for information only as an update on the regulatory process. No Board action is needed.

OAL views these changes as non-substantive, and because the Executive Director was instructed to "take all steps necessary to promulgate the regulation" this includes the power to make non-substantive changes without having to return the proposed regulatory language to the Board for a vote. The Board could make a motion to direct the Executive Officer to make these non-substantive changes that OAL has requested as a part of completing the regulatory process as authorized by motion at the Board's May 16, 2019, meeting. However, such a motion is not required, and could be mistaken for a Modification of the Text which requires sending the notice back out to the public for a 15-day comment period, so Board action via a vote is not recommended.

Summary of Comments Received and Proposed Responses

Faride Perez-Aucar of Root and Rebound Reentry Advocates and Vinuta Naik, of Community Legal Services of East Palo Alto, submitted a letter commenting on the Board's implementation of Assembly Bill 2138, dated April 28, 2020 ("the letter" attached hereto as **Attachment A**). Perez-Aucar and Naik submitted all comments below on behalf of their respective organizations and A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Criminal Justice Clinic, UC Irvine School of Law, East Bay Community Law Center, Legal Aid at Work, Legal Services for Prisoners with

Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Rubicon Programs, and Underground Scholars Initiative. Below is a summary of each comment and a recommended response. The responses were prepared in consultation with, and based upon, direction given by the Board's Executive Officer.

1. Initial Comment: General Statement/ Purpose of the Letter

Summary: The letter states that the organizations supporting the letter believe the proposal should go further in order to fully implement the intention and spirit of the AB 2138 text. They believe there is a lack of clarity in the licensure process for individuals who have been impacted by the criminal justice system, coupled with the limited number of organizations that support low-income and indigent people seeking occupational licensure, leads many to give up. They believe the proposed regulations leave gaps and fail to implement Business and Professions Code (BPC) sections 480, 481, 482, and 493 and fall short of the intent of the bill to combat discrimination against people with records who have demonstrated rehabilitation and are seeking a professional career.

Proposed Response: The Board rejects these comments about the general purpose of the proposed regulatory changes. The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138 (BPC § 481). In particular, consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board with a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of the profession in which the applicant seeks licensure or is licensed.

Further, clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

2. Specific Complaints re: Section 1654, and Sections 1655 and 1657

Summary: In response to the specific objection that the Section 1654 would deem certain listed violations of statutes to be substantially related to the qualifications, functions, or duties of an osteopathic doctor without requiring the Board to evaluate those crimes on an individual basis using the three criteria listed in BPC section 481, the amendments made by AB 2138 to BPC section 481 only require boards to consider the listed criteria “when considering the denial, suspension, or revocation of a license,” and do not preclude a board from determining outside of that context that certain violations necessarily bear a substantial relationship to the qualifications, functions, or duties of the regulated profession, and do not, therefore, need to be considered on an individual basis. Although the substantial relationship criteria listed in BPC section 481 offers safeguards against arbitrary or inconsistent determinations, rulemaking proceedings under the California Administrative Procedure Act are subject to separate safeguards against that possibility, including notice and comment procedures. Section 1654 would deem the violations of statute set out in Section 1654 to be substantially related to the qualifications, functions, or duties of an osteopathic doctor to ensure greater consistency in Board substantial relationship determinations; to save the Board duplicative determinations in the case of violations that are necessarily grounds for denying, suspending, or revoking a license for the reasons stated in the Initial Statement of Reasons; and to save applicants and licensees who have been convicted of those crimes the time and resources they may otherwise expend debating the existence of a substantial relationship, so that they may focus on providing evidence of rehabilitation. The Board has chosen to not reiterate various subdivisions of BPC section 480 to avoid duplicating statutory language, as is further discussed in the response to Comment #2, below.

In response to the specific objection that the Sections 1655 and 1657 rely too much on law enforcement reports and determination of an applicant’s progress mischaracterizes the two-step guidance concerning rehabilitation these regulations provide the Board, which is further discussed in the response to Comment #5, below.

3. Comment #1

Summary: The letter says the proposed regulations should include the 7-year washout period for consideration of convictions or discipline which are not considered serious felonies under the Penal Code § 1192.7. (See BPC, § 480, subd. (a).)

Proposed Response: The Board rejects this comment. The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480, subdivision (a)(1). As this is already included in statute, adding this provision is duplicative of section 480 and therefore it is not necessary to repeat it in the regulations.

4. Comment #2

Summary: The letter asks that proposed regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a Certificate of Rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41 or 1263.42, or an arrest which led to an infraction/citation or a disposition other than conviction, or juvenile adjudication. (See BPC, § 480, subd. (b) – (d).)

Proposed Response: The Board rejects this comment. BPC section 480, subdivision (c) already clearly states that a license may not be denied based on a conviction, or its underlying acts, if it has been dismissed or expunged pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, or 1203.42. In addition, BPC section 480, subdivision (b) prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480, subdivision (d) prohibits license denial based on arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. As noted above, Business and Professions Code section 480, subdivisions (b), (c), and (d) explicitly prohibit denial of a license in those specific circumstances. Since these provisions are already specifically covered in statute, adding them again in regulation would be duplicative. Therefore, it is not necessary to repeat them in regulations.

5. Comment #3

Summary: The letter states that the regulations fail to include that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (See BPC, § 480, subd. (f)(2).)

Proposed Response: The Board rejects this comment. Business and Professions Code section 480, subdivision (f)(2) already covers this in detail. It would therefore be duplicative of the statute and not necessary to repeat this in the regulations.

6. Comment #4

Summary: The letter states that the regulations fail to include that the Board must notify the applicant in writing if the applicant is denied or disqualified from licensure. The letter states the Board must have procedures in place for the applicant to challenge a decision or to request re-consideration, and that the applicant has a right to appeal the Board's decision and the process of requesting a complete conviction history. (See BPC, § 480, subd(f)(3).)

Proposed Response: The Board rejects this comment. Business and Professions Code sections 480(f)(3), 485 through 487, and the California Administrative Procedure Act commencing at Government Code sections 11500 and following already contains these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. It would therefore be duplicative of these statutes and not necessary to repeat this in the regulations.

6. Comment #5

Summary: The letter states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter states that merely looking to law enforcement will not adequately show how an applicant would do on the job. The letter further says rehabilitation can and does take many forms that extend beyond mere law enforcement supervision. The letter recommends that the Board provide examples of evidence of mitigating circumstances and rehabilitation efforts to better define rehabilitation and to assist both the Board and licensing applicants.

Proposed Response: The Board rejects this comment. Business and Professions Code section 482 requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated.

Therefore, sections 4256, 4258, and 4259 of the proposal would provide two-step rehabilitation guidance for the Board in complying with this law:

- First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to sections 4256, 4258, and 4259 to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria the Board is proposing include length of the parole or probation, whether it was shortened or lengthened and the reasons, and any modifications to the parole or probation that may have been made. This represents the first step and includes probation or parole reports, because these are an indication of how well compliance was achieved. However, if the Board does not find rehabilitation based solely on sentence

completion, there is still a second step that must be considered. An applicant can show rehabilitation as proposed in subdivision (b) of the regulations.

- The second step, if rehabilitation is not demonstrated solely based on the sentence completion, is that the Board must consider certain other criteria to evaluate rehabilitation. This includes nature and severity of the crime, time elapsed since the crime, evidence of any subsequent crimes or conduct, compliance with probation or parole, and evidence of rehabilitation submitted by the applicant or licensee. A general category permitting submission of any rehabilitation evidence allows an applicant to demonstrate volunteer or charity work, furthered education, successful employment, or any other activities that they choose to submit to be considered by the Board. The Board can and already does give serious consideration to these factors when considering whether an applicant or licensee is rehabilitated.

There are many possible ways of showing rehabilitation, and many unique scenarios of mitigating circumstances. Attempting to specifically list some but not others may be limiting or misleading to the applicant and the staff of the Board. In addition, the circumstances of each enforcement case are unique and what is sufficient evidence of rehabilitation for one case may not suffice for another or may not be relevant for all types of crimes (e.g., attendance at Alcoholics Anonymous is a common demonstration of rehabilitation for alcohol-related crimes but is not a good example of rehabilitation for a crime where alcohol was not involved). The Board believes that the regulation adequately addresses the rehabilitation issues while allowing the applicant to provide evidence that specifically addresses their rehabilitative efforts relative to a crime or conduct on a case-by-case basis.

8. Comment #6

Summary: The letter states that the regulations fail to mention requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial or disqualification of licensure, provided evidence of mitigation or rehabilitation, and the final disposition of the application, and demographic information. (See BPC, § 480, subd. (g)(1), (2).)

Proposed Response: The Board rejects this comment. These requirements are already stated in statute (BPC, § 480, subd. (g)(1) and (2)). It would therefore be duplicative of the statute and not necessary to repeat this in the regulations.

Recommendation

Staff recommends the Board to reject the proposed comments, provide the responses to the comments as indicated in the meeting materials and complete the regulatory process as authorized by motion at the Board's May 16, 2019, meeting.

PROPOSED LANGUAGE

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 16. Osteopathic Medical Board of California

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Article 12. Substantial Relationship and Rehabilitation Criteria; Petitions for Modification of Penalty or Reinstatement.

§ 1654. SUBSTANTIAL RELATIONSHIP CRITERIA.

(a) For purposes of denial, suspension, or revocation of a certificate pursuant to Section 141 or Code Division 1.5 (commencing with Code Section 475), a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a certificate under the Osteopathic Act, if to a substantial degree, it evidences present or potential unfitness of a person holding the certificate to perform the functions of a physician and surgeon in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include but not be limited to those involving the violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision or term of the Osteopathic Act or the Medical Practice Act or the conviction of a crime involving fiscal dishonesty.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board shall consider the following criteria:

- (1) The nature and gravity of the offense.
- (2) The number of years that have elapsed since the date of the offense.
- (3) How the offense relates to the nature and duties of a physician and surgeon.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- (1) Any violation of Article 6, Chapter 1, Division 2 of the Code.
- (2) Any violation of the provisions of the Osteopathic Act or the Medical Practice Act.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats.1923, p. xciii), Section 1; and Sections 481, 2018, and 3600-1, Business and Professions Code. Reference: Sections 480, 481, 490, and 493, Business and Professions Code.

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 16. Osteopathic Medical Board of California

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Article 12. Substantial Relationship and Rehabilitation Criteria; Petitions for Modification of Penalty or Reinstatement.

§ 1655. REHABILITATION CRITERIA FOR DENIAL, SUSPENSION OR REVOCATION.

(a) When considering the denial of a certificate under Section 480 of the Code, or the suspension or revocation of a certificate under Section 490 of the Code, or on the grounds that the person has been convicted of a crime, the ~~the~~ Board shall consider whether the applicant or licensee made a showing of rehabilitation and is presently fit for a license, if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the ~~the~~ Board shall consider the following criteria:~~the board in evaluating the rehabilitation of such person and the eligibility for a certificate or permit, will consider the following criteria:~~

- (1) The nature~~Nature~~ and gravity~~severity~~ of the offense(s);~~;~~
- (2) The length(s) of the applicable parole or probation period(s);~~Total criminal record.~~
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified;~~Time elapsed since commission of the act(s) or offense(s).~~
- (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's or licensee's rehabilitation;~~Whether the certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.~~
- (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification;~~if applicable, evidence of expungement proceedings pursuant to Penal Code Section 1203.4.~~
- ~~(6) Evidence, if any, of rehabilitation submitted by the certificate or permit holder.~~

~~(b) If subdivision (a) is inapplicable~~ If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, ~~or the Board determines~~ that the applicant or certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (a), ~~the denial is based on professional misconduct, or the denial is based on one or more grounds specified in section 3600.2 of the Code,~~ the Board shall apply the following criteria in evaluating the applicant or certificate holder's rehabilitation. The Board shall find that the applicant or certificate holder made a showing of rehabilitation and is presently ~~eligible~~ fit for a license if, after considering the following criteria, the Board finds that the applicant or certificate holder is rehabilitated:

(1) The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial or discipline.

(2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial or discipline.

(3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant or certificate holder has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against them.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) Evidence, if any, of rehabilitation submitted by the applicant or certificate holder.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 482, 2018, and 3600-1, Business and Professions Code. Reference: Sections 141, 475, 480, 481, 482, 488, 490, 493, and 3600-2, Business and Professions Code.

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 16. Osteopathic Medical Board of California

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Article 12. Substantial Relationship and Rehabilitation Criteria; Petitions for Modification of Penalty or Reinstatement.

§ 1657. REHABILITATION CRITERIA FOR PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY.

When considering a petition for reinstatement or a petition for modification of penalty, the Board, in evaluating the rehabilitation of the applicant and his or her present fitness ~~eligibility~~ for a certificate or permit, may consider all activities of the petitioner since the disciplinary action was taken and shall also consider the following criteria:

- (1) The nature and gravity~~severity~~ of the act(s), professional misconduct, or crime(s) for which the petitioner was disciplined~~ed~~.
- (2) Evidence of any act(s) or crime(s) committed subsequent to act(s), professional misconduct, or crime(s) for which the petitioner was disciplined which also could be considered as grounds for denial under ~~Code~~ Section 480 of the Business and Professions Code~~ed~~.
- (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (1) or (2) above~~ed~~.
- (4) ~~Whether~~ The extent to which the petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed~~ed~~.
- (5) Petitioner's activity during the time the certificate was in good standing~~ed~~.
- (6) Evidence, if any, of the rehabilitation submitted by the petitioner~~ed~~.
- (7) Petitioner's professional ability and general reputation for truth.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 480, 482, 2018, and 3600-1, Business and Professions Code.

Reference: Sections 141, 481, 482, 488, 490, 493, and 2307, Business and Professions Code.

Tab 4



MEMORANDUM

DATE	September 10, 2020
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Pending Legislation – Agenda Item 5

Listed below are the key bills that the Board has been following:

AB 1616 Department of Consumer Affairs: expunged convictions
 Low (R)

SUMMARY: This bill would require a board within the Department of Consumer Affairs that has posted on its internet website that a person’s license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board’s internet website. The bill would require the Board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person’s license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would require a person in either case to pay a \$50 fee to the Board, unless another amount is determined by the Board to be necessary to cover the cost of administering the bill’s provisions.

INTRODUCED: February 22, 2019
LAST AMENDED: July 7, 2020
DISPOSITION: Pending
LOCATION: Committee on Business, Professions, and Economic Development
STATUS: July 7, 2020 – In Senate, referred to the Committee on Business, Professions, and Economic Development

AB 2113 Refugees, asylees, and immigrants: professional licensing
 Low (R)

SUMMARY: This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

INTRODUCED: February 6, 2020
LAST AMENDED: August 4, 2020
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: August 20, 2020 – Read second time. Ordered to third reading.

SB 275 Health Care and Essential Workers Protection Act: personal protective equipment
Leyva (D) and Pan (D)

SUMMARY: This bill would require health care employers, including certain physicians' offices, to maintain a specified supply of personal protective equipment.

INTRODUCED: February 13, 2019
LAST AMENDED: August 25, 2020
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: August 25, 2020 – In Assembly. Ordered to Third Reading.

SB 878 Department of Consumer Affairs: Licensing: applications: wait times
Jones (R)

SUMMARY: This bill, beginning July 1, 2021, would require each board within the Department of Consumer Affairs that issues licenses, on at least a quarterly basis, to prominently display on its internet website wither the current average timeframes for processing initial and renewal license applications or the combined current average timeframe for processing both initial and renewal license applications.

INTRODUCED: January 22, 2020
LAST AMENDED: June 18, 2020
DISPOSITION: Pending
LOCATION: Committee on Appropriations
STATUS: August 19, 2020 – In Assembly. Read second time. Ordered to consent calendar.

AB 1616

AMENDED IN SENATE JULY 7, 2020
AMENDED IN ASSEMBLY JANUARY 6, 2020
AMENDED IN ASSEMBLY APRIL 1, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1616

**Introduced by Assembly Member Low
(Coauthor: Assembly Member Eduardo Garcia)**

February 22, 2019

An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, as amended, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its internet website that a person’s license was revoked because the person was convicted of a ~~crime to~~, *crime*, within ~~6 months~~ *90 days* of receiving ~~the~~ *an* expungement order for the underlying offense from the person, *if the person reapplies for licensure or is relicensed*, to post notification of the expungement order and the date thereof on the board’s internet ~~website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person’s license was revoked~~ *website*. *The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, as specified: to remove within the same period the initial posting on its internet website that the person’s license was revoked and information previously posted regarding arrests, charges, and convictions.* The bill would require a person *in either case* to pay a ~~fee, to be \$50 fee to the board, unless another amount is determined by the department, to the board for~~ *board to be necessary to cover the cost of administering the bill’s provisions.*

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

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

- 1 SECTION 1. Section 493.5 is added to the Business and
- 2 Professions Code, to read:
- 3 493.5. (a) A board within the department that has posted on
- 4 its internet website that a person’s license was revoked because
- 5 the person was convicted of a crime, upon receiving from the
- 6 person a certified copy of an expungement order granted pursuant
- 7 to Section 1203.4 of the Penal Code for the underlying offense,
- 8 shall, ~~within six months~~ *90 days* of receiving the expungement
- 9 order, unless it is otherwise prohibited by law, or by other terms
- 10 or conditions, do either of the following:
- 11 (1) If the person reapplies for licensure or has been relicensed,
- 12 post notification of the expungement order and the date thereof on
- 13 its internet website.
- 14 (2) If the person is not currently licensed and does not reapply
- 15 for licensure, ~~remove the initial posting on its internet website that~~
- 16 ~~the person’s license was revoked.~~ *revoked and information*
- 17 *previously posted regarding arrests, charges, and convictions.*

1 (b) A person described in subdivision (a) shall pay to the board
2 a fee in ~~an~~ *the amount to be of fifty dollars (\$50), unless another*
3 *amount is determined by the ~~department~~ board to be necessary to*
4 *cover the administrative cost, ensuring that the amount does not*
5 *exceed the reasonable cost of administering this section. The fee*
6 *shall be deposited by the board into the appropriate fund and shall*
7 *be available only upon appropriation by the Legislature.*

8 (c) For purposes of this section “board” means an entity listed
9 in Section 101.

10 (d) If any provision in this section conflicts with Section 2027,
11 Section 2027 shall prevail.

O

Assembly Bill No. 2113

Passed the Assembly August 30, 2020

Chief Clerk of the Assembly

Passed the Senate August 27, 2020

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2020, at _____ o'clock ____M.

Private Secretary of the Governor

AB 2113

CHAPTER _____

An act to add Section 135.4 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2113, Low. Refugees, asylees, and special immigrant visa holders: professional licensing: initial licensure process.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits a board within the department from denying licensure to an applicant based upon their citizenship or immigration status.

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

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

SECTION 1. Section 135.4 is added to the Business and Professions Code, to read:

135.4. (a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited

licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.

(c) A board may adopt regulations necessary to administer this section.

Approved _____, 2020

Governor

SB 275

AMENDED IN ASSEMBLY AUGUST 30, 2020
AMENDED IN ASSEMBLY AUGUST 25, 2020
AMENDED IN ASSEMBLY AUGUST 24, 2020
AMENDED IN ASSEMBLY JULY 27, 2020
AMENDED IN ASSEMBLY JUNE 17, 2020
AMENDED IN ASSEMBLY FEBRUARY 13, 2020
AMENDED IN ASSEMBLY JANUARY 6, 2020

SENATE BILL

No. 275

Introduced by Senators Pan and Leyva
(Coauthor: Assembly Member Gonzalez)

February 13, 2019

An act to ~~add Section 12098.12 to the Government Code, to add Section 131021 to the Health and Safety Code, and to add Section 6403.1 to, and to add and repeal Section 6403.2 of, to the Labor Code, relating to personal protective equipment, and making an appropriation therefor.~~ *equipment.*

LEGISLATIVE COUNSEL'S DIGEST

SB 275, as amended, Pan. Health Care and Essential ~~Workers Protection Act~~: *Workers*: personal protective equipment.

Existing law establishes the State Department of Public Health to implement various programs throughout the state relating to public health, including licensing and regulating health facilities and control of infectious diseases.

This ~~bill, the Health Care and Essential Workers Protection Act~~, *bill* would require the State Department of Public Health ~~to~~ *and the Office*

of Emergency Services, in coordination with other state agencies, to, upon appropriation and as necessary, establish a personal protective equipment (PPE) stockpile to ensure an adequate supply of new PPE for health care workers and essential workers, as defined, and would require the stockpile to be at least sufficient for a 45-day pandemic or other health emergency. stockpile. The bill would require the department to establish guidelines for the procurement of the PPE stockpile, procurement, management, and distribution of PPE, taking into account, among other things, the amount of each type of PPE that would be required for all health care workers and essential workers in the state during the a 90-day pandemic or other health emergency, which would represent the amount of PPE to be maintained in the stockpile. emergency.

Existing law requires every employer to furnish and use safety devices and safeguards, and to adopt and use practices that are reasonably adequate to render the employment and place of employment safe and healthful.

The bill would would, commencing January 1, 2023, or one year after the adoption of specified regulations, whichever is later, require health care employers, including clinics, health facilities, and home health agencies, to maintain an inventory of new, unexpired PPE for use in the event of a declared state of emergency and would require the inventory to be at least sufficient for 30 or 45 days of surge consumption, as defined, according to specified deadlines. determined by regulation, as specified. The bill would also specify the surge consumption requirements for health care employers that are safety net providers, as defined. The bill would assess a civil penalty on a health care employer, including a safety net provider, employer who violates that requirement, as specified. The bill would declare a health care employer's failure to ensure its health care workers use the PPE supplied to them and to provide PPE to its health care workers upon request to be an independent violation of the bill's requirements. The bill would authorize the Department of Industrial Relations to exempt a health care employer from the above-required civil penalties if the department determines that supply chain limitations make meeting the mandated level of supplies for a specific type of PPE infeasible and the health care employer has made a reasonable attempt to obtain PPE, as specified. On or before January 15, 2021, the bill would require a health care employer to report to the Department of Industrial Relations under penalty of perjury its highest 7-day consecutive average consumption

of PPE during the 2019 calendar year. ~~By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. PPE, or if the health care employer has made a showing that they are not in possession of the mandated level of supplies due to reasons beyond their control, as specified.~~

~~The bill would require the Department of Industrial Relations to adopt regulations, in consultation with the State Department of Public Health, setting forth requirements for determining 45-day surge capacity levels, as specified, for a health care employer's PPE inventory, and would authorize the Department of Industrial Regulations to incorporate by reference existing guidance from the department and from the federal Occupational Safety and Health Administration regarding standards for PPE usage. The bill would require the department to establish similar surge capacity requirements for safety net providers: inventory.~~

~~The bill would also establish the Personal Protective Equipment Advisory Committee (committee) to be composed of 18 or more members, as specified, appointed by the Secretary of Labor. The bill would require the Department of Industrial Relations to submit a report to the Legislature, on or before May 30, 2021, including, among other recommendations, recommendations regarding the type and amount of PPE needed by health care employers to ensure compliance with public health and safety standards and would require the committee to provide recommendations to the department necessary for the report. The bill would require the Department of Industrial Relations to submit an additional report to the Legislature, on or before January 1, 2031, on the effectiveness of the health care employer inventory requirement. Committee, consisting of representatives from skilled nursing facilities, physicians, and labor organizations that represent health care workers, among other groups, to make recommendations for the development of guidelines for the procurement, management, and distribution of PPE, as specified.~~

~~Existing law establishes the Made in California Program within the Governor's Office of Business and Economic Development, to encourage consumer product awareness and to foster purchases of high-quality products made in California. Existing law creates the Made in California Fund within the State Treasury, consisting of donations and other moneys to be used for the purposes of the Made in California Program, as specified.~~

~~This bill would require the office, as a part of the Made in California Program, to encourage in-state production of PPE in order to assist the~~

~~State Department of Public Health and providers in complying with the bill's requirements. The bill would create the Health Care Workforce Protection Account within the Made in California Fund, consisting of donations and other moneys, for the exclusive purpose of promoting the production of PPE. The bill would continuously appropriate the donated moneys in the account for the purpose of implementing those provisions, thereby making an appropriation. The bill would require any other funds deposited and maintained in the account to be available for the same purpose, upon appropriation by the Legislature. The bill would declare that its provisions are severable.~~

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

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

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

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

- 1 ~~SECTION 1. This act shall be known, and may be cited, as the~~
- 2 ~~Health Care and Essential Workers Protection Act.~~
- 3 ~~SEC. 2. Section 12098.12 is added to the Government Code,~~
- 4 ~~to read:~~
- 5 ~~12098.12. (a) (1) As part of the Made in California Program,~~
- 6 ~~the office shall encourage the in-state production of personal~~
- 7 ~~protective equipment, (PPE) in order to assist the State Department~~
- 8 ~~of Public Health in complying with Section 131021 of the Health~~
- 9 ~~and Safety Code and to assist providers in complying with Section~~
- 10 ~~6403.1 of the Labor Code.~~
- 11 ~~(2) For purposes of this section, "personal protective equipment"~~
- 12 ~~and "providers" have the same meanings as defined in subdivision~~
- 13 ~~(e) of Section 131021 of the Health and Safety Code.~~
- 14 ~~(b) The office may accept monetary donations or other donations~~
- 15 ~~from businesses, nonprofit organizations, or individuals for the~~
- 16 ~~purpose of implementing this section. These donations shall be~~
- 17 ~~deposited in the account established in subdivision (c).~~
- 18 ~~(c) The Health Care Workforce Protection Account is hereby~~
- 19 ~~created within the Made in California Fund established by~~
- 20 ~~subdivision (h) of Section 12098.10. Moneys deposited into the~~

1 ~~account shall be used exclusively for the promotion of in-state~~
2 ~~production of PPE for the purposes described in this section,~~
3 ~~Section 131021 of the Health and Safety Code, and Section 6403.1~~
4 ~~of the Labor Code. The office shall use funds deposited into the~~
5 ~~account to provide grants, loans, loan guarantees, and other~~
6 ~~incentives for projects that increase capacity for the in-state~~
7 ~~manufacturing of PPE. Notwithstanding Section 13340, funds~~
8 ~~deposited and maintained in the account that were donated pursuant~~
9 ~~to subdivision (b) are continuously appropriated, without regard~~
10 ~~to fiscal years, to the director for the purposes of implementing~~
11 ~~this section. Any other funds deposited and maintained in the~~
12 ~~account shall be available, subject to appropriation by the~~
13 ~~Legislature, for purposes of implementing this section.~~

14 ~~SEC. 3.~~

15 *SECTION 1.* Section 131021 is added to the Health and Safety
16 Code, to read:

17 131021. (a) The Legislature finds that having access to a
18 statewide stockpile of personal protective equipment in the event
19 of a pandemic or other health emergency is vital to the health and
20 safety of its health care and essential workers, as well as the general
21 population, which both relies on this workforce and is susceptible
22 to disease transmission should members of this workforce
23 needlessly be infected with transmissible disease. ~~Moreover, the~~
24 ~~Legislature finds that having in-state production capacity for~~
25 ~~personal protective equipment is vital to ensuring access to that~~
26 ~~equipment in the event of a pandemic or other health emergency,~~
27 ~~in light of likely national and global supply chain disruption.~~

28 (b) ~~The department shall establish a personal protective~~
29 ~~equipment (PPE) stockpile to ensure an adequate supply of PPE~~
30 ~~for health care workers and essential workers in the state that is at~~
31 ~~least sufficient for a 45-day pandemic or other health emergency.~~
32 ~~PPE in the stockpile shall be new and not previously worn or used.~~

33 (c)

34 (b) The following definitions apply for purposes of this section:

35 (1) “Department” means the State Department of Public Health.

36 (2) “Office” means the Office of Emergency Services.

37 (2)

38 (3) “Essential workers” means primary and secondary school
39 workers, workers at detention facilities, as defined in Section 9500
40 of the Penal Code, in-home support providers, childcare providers,

1 government workers whose work with the public continues
2 throughout the crisis, and workers in other positions that the
3 ~~department, in its sole discretion, State Public Health Officer or~~
4 ~~the Director of the Office of Emergency Services~~ deems vital to
5 public health and safety, as well as economic and national security.

6 ~~(3)~~

7 (4) “Health care worker” means any worker who provides direct
8 patient care and services directly supporting patient care, including,
9 but not limited, to physicians, pharmacists, clinicians, nurses, aides,
10 technicians, janitorial and housekeeping staff, food services
11 workers, and nonmanagerial administrative staff.

12 ~~(4)~~

13 (5) “Personal protective equipment” or “PPE” means protective
14 equipment for eyes, face, head, and extremities, protective clothing,
15 respiratory devices, and protective shields and barriers, including,
16 but not limited to, N95 and other filtering facepiece respirators,
17 elastomeric air-purifying respirators with appropriate particulate
18 filters or cartridges, powered air purifying respirators, disinfecting
19 and sterilizing devices and supplies, medical gowns and apparel,
20 face masks, surgical masks, face shields, gloves, shoe coverings,
21 and the equipment identified by or otherwise necessary to comply
22 with Section 5199 of Title 8 of the California Code of Regulations.

23 ~~(5)~~

24 (6) “Provider” means a licensed clinic, as described in Chapter
25 1 (commencing with Section 1200), an outpatient setting, as
26 described in Chapter 1.3 (commencing with Section 1248) of, a
27 health facility as described in Chapter 2 (commencing with Section
28 1250) of, or a county medical facility, as described in Chapter 2.5
29 (commencing with Section 1440) of, Division 2, a home health
30 agency, a physician’s office, a professional medical corporation,
31 a medical partnership, a medical foundation, a rural health clinic,
32 as defined in Section 1395x(aa)(2) of Title 42 of the United States
33 Code, or a federally qualified health center, as defined in Section
34 1395x(aa)(4) of Title 42 of the United States Code, and any other
35 entity that provides medical services in California.

36 ~~(6)~~

37 (7) “Stockpile” means the personal protective equipment
38 stockpile created pursuant to subdivision ~~(b)~~: (c).

39 (c) *Within one year of the effective date of this section, the*
40 *department and office, in coordination with other state agencies,*

1 *shall establish a PPE stockpile, upon appropriation and as*
2 *necessary.*

3 ~~(d) The department shall consider the recommendations of the~~
4 ~~Personal Protective Equipment Advisory Committee created in~~
5 ~~Section 6403.2 of the Labor Code and establish guidelines for~~
6 ~~procurement of PPE for the stockpile. also establish guidelines~~
7 ~~for procurement, management, and distribution of PPE from the~~
8 ~~department. The department and office shall consider the~~
9 ~~recommendations of the Personal Protective Equipment Advisory~~
10 ~~Committee created pursuant to subdivision (f) in developing these~~
11 ~~guidelines. At a minimum, the guidelines shall take into account~~
12 ~~all of the following:~~

13 (1) The various types of PPE that may be required during a
14 pandemic or other health emergency.

15 (2) The shelf life of each type of PPE ~~to be obtained for the~~
16 ~~stockpile that may be obtained from the department~~ and how to
17 annually restock a portion of each type of PPE to ensure the
18 ~~stockpile consists~~ *procurements consist* of unexpired PPE.

19 (3) The amount of each type of PPE that would be required for
20 all health care workers and essential workers in the state during a
21 ~~45-day 90-day~~ pandemic or other health emergency, ~~which shall~~
22 ~~be the amount of PPE maintained in the stockpile.~~ *emergency.*

23 (4) *Lessons learned from previous pandemics and state*
24 *emergencies, including but not limited to, supply procurement,*
25 *management, and distribution.*

26 (5) *Guidance on how to define essential workers based upon*
27 *different hazards.*

28 (6) *Geographical distribution of PPE storage.*

29 (7) *Guidance on how to establish policies and standards for*
30 *PPE surge capacity to ensure that workers have access to an*
31 *adequate supply of PPE during a pandemic or other health*
32 *emergency.*

33 (8) *The policies and funding that would be required for the state*
34 *to establish a PPE stockpile.*

35 (9) *How distribution from any procurement shall be prioritized*
36 *in the event that there is insufficient PPE to meet the needs of*
37 *providers or employers of essential workers, including*
38 *consideration of the following:*

39 ~~(e) The department shall consider the recommendations of the~~
40 ~~Personal Protective Equipment Advisory Committee established~~

1 pursuant to Section 6403.2 of the Labor Code. Based on the
2 committee's recommendations as to the types of PPE and the
3 determination of how to calculate the appropriate amount of PPE
4 for the state stockpile, the department shall procure 20 percent of
5 the full stockpile three years after enactment of the act that adds
6 this section, only if the Office of Emergency Services determines
7 that prices of PPE have returned to a normal level, adjusted for
8 inflation. The department shall procure an additional 20 percent
9 of the full stockpile in each of the subsequent four years, so that
10 the department has procured 100 percent of the stockpile in five
11 years.

12 (f) ~~At least 25 percent of PPE in the stockpile shall be~~
13 ~~manufactured in California. Distribution of the 25 percent required~~
14 ~~to be manufactured in California shall be exclusively made via~~
15 ~~resale, whether sold during a state of emergency pursuant to~~
16 ~~paragraph (1) of, or sold in the normal course of business pursuant~~
17 ~~to paragraph (2) of, subdivision (g). The Governor shall have the~~
18 ~~authority to waive this requirement for one year if the Governor~~
19 ~~determines that the state cannot procure enough PPE to meet the~~
20 ~~in-state manufacturing requirements. The Governor shall notify~~
21 ~~the Legislature within 15 days of this determination.~~

22 (1) ~~PPE that qualifies as being "substantially made" in California~~
23 ~~pursuant to Section 12098.10 of the Government Code~~
24 ~~presumptively counts towards the 25-percent threshold.~~

25 (2) ~~PPE manufactured outside of California presumptively~~
26 ~~counts towards the 25-percent threshold if the following~~
27 ~~qualifications are met:~~

28 (A) ~~The company manufacturing the product has manufacturing~~
29 ~~facilities in the state.~~

30 (B) ~~The company is party to a community benefits agreement~~
31 ~~related to the in-state manufacturing facilities.~~

32 (C) ~~The in-state manufacturing facilities provide services related~~
33 ~~to the PPE, including, but not limited to, packaging or distribution.~~

34 (g) ~~The department shall distribute PPE from the stockpile only~~
35 ~~under either of the following two circumstances:~~

36 (1) ~~If the Governor declares a state of emergency, or a local~~
37 ~~emergency is declared, for which PPE will be required.~~

38 (2) ~~To sell PPE from the stockpile, provided that the department~~
39 ~~acquires new PPE to offset any shortage resulting from the sale.~~

1 ~~(h) The department shall establish guidelines regarding~~
2 ~~distribution of PPE from the stockpile, including, but not limited~~
3 ~~to, the timing and amount of PPE distribution and identifying~~
4 ~~geographic areas in critical need of PPE, as well as the terms of~~
5 ~~sale should the department determine sale is appropriate. The~~
6 ~~guidelines shall provide, at a minimum, that in the event there is~~
7 ~~insufficient PPE to meet needs, the department may consider~~
8 ~~prioritizing distribution for providers and employers of essential~~
9 ~~workers that meet any of the following qualifications:~~

10 ~~(1)~~

11 ~~(A) The provider or employer is in a location with a high share~~
12 ~~of low-income residents.~~

13 ~~(2)~~

14 ~~(B) The provider or employer is in a medically underserved~~
15 ~~area, as designated by the United States Department of Health and~~
16 ~~Human Services, Health Resources and Services Administration.~~

17 ~~(3)~~

18 ~~(C) The provider or employer disproportionately serves a~~
19 ~~medically underserved population, as designated by the United~~
20 ~~States Department of Health and Human Services, Health~~
21 ~~Resources and Services Administration.~~

22 ~~(4)~~

23 ~~(D) The provider or employer is in a county with a high infection~~
24 ~~rate or high hospitalization rate related to the declared emergency.~~

25 ~~(i) Before January 1, 2024, the department shall provide the~~
26 ~~Department of Finance with an estimate of the cost to fully stock~~
27 ~~the stockpile and to maintain the stockpile for the subsequent five~~
28 ~~years. The department shall update these estimates on an annual~~
29 ~~basis.~~

30 ~~(e) The development of the guidelines shall be informed by the~~
31 ~~recommendations of the Personal Protective Equipment Advisory~~
32 ~~Committee pursuant to subdivision (f). The guidelines shall not~~
33 ~~establish policies or standards that are less protective or~~
34 ~~prescriptive than any federal, state, or local law on PPE standards.~~

35 ~~(f) The Personal Protective Equipment Advisory Committee is~~
36 ~~hereby established. The advisory committee shall consist of the~~
37 ~~following:~~

38 ~~(1) One representative of an association representing multiple~~
39 ~~types of hospitals and health systems.~~

- 1 (2) *One representative of an association representing skilled*
- 2 *nursing facilities.*
- 3 (3) *One representative of an association representing primary*
- 4 *care clinics.*
- 5 (4) *One representative of a statewide association representing*
- 6 *physicians.*
- 7 (5) *Two representatives of labor organizations that represent*
- 8 *health care workers.*
- 9 (6) *Two representatives of labor organizations that represent*
- 10 *essential workers, as defined by paragraph (3) of subdivision (b).*
- 11 (7) *One representative from the personal protective equipment*
- 12 *manufacturing industry.*
- 13 (8) *One consumer representative.*
- 14 (9) *One representative from an association representing*
- 15 *counties.*
- 16 (10) *One representative from the State Department of Public*
- 17 *Health.*
- 18 (11) *One representative from the Office of Emergency Services.*
- 19 (12) *One representative from the Emergency Medical Services*
- 20 *Authority.*
- 21 (13) *One representative from the State Department of Social*
- 22 *Services.*
- 23 (g) *The Director of the Office of Emergency Services or their*
- 24 *designee shall appoint the representatives from paragraphs (1)*
- 25 *through (9), inclusive.*
- 26 (h) *The Personal Protective Equipment Advisory Committee*
- 27 *shall make recommendations to the office and department*
- 28 *necessary to develop the guidelines required pursuant to*
- 29 *subdivision (d).*
- 30 ~~SEC. 4.~~
- 31 SEC. 2. Section 6403.1 is added to the Labor Code, to read:
- 32 6403.1. (a) The Legislature hereby finds that having access
- 33 to a health care employer-level inventory of personal protective
- 34 equipment in the event of a pandemic or other health emergency
- 35 is vital to the health and safety of its health care workforce, as well
- 36 as the general population, who both rely on the state’s health care
- 37 workforce for care and are susceptible to disease transmission
- 38 should members of the health care workforce needlessly be infected
- 39 with transmissible disease.
- 40 (b) For purposes of this section:

1 (1) “Department” means the Department of Industrial Relations.

2 (2) (A) “Health care employer” means ~~a licensed clinic, as~~
3 ~~described in Chapter 1 (commencing with Section 1200) of, an~~
4 ~~entity described in subdivision (i) or (l) of Section 1206 of, an~~
5 ~~outpatient setting, as described in Chapter 1.3 (commencing with~~
6 ~~Section 1248) of, a health facility, as described in Chapter 2~~
7 ~~(commencing with Section 1250), with the exception of facilities~~
8 ~~described in subdivisions (d), (e), (g), (h), and (m) of Section 1250~~
9 ~~of, the Health and Safety Code, or a county medical facility, as~~
10 ~~described in Chapter 2.5 (commencing with Section 1440) of,~~
11 ~~Division 2 of the Health and Safety Code, a home health agency,~~
12 ~~a medical practice that is operated or maintained as part of an~~
13 ~~integrated health system or health facility, a rural health clinic, as~~
14 ~~defined in Section 1395x(aa)(2) of Title 42 of the United States~~
15 ~~Code, or a federally qualified health center, as defined in Section~~
16 ~~1395x(aa)(4) of Title 42 of the United States Code: *a person or*~~
17 ~~*organization that employs workers in the public or private sector*~~
18 ~~*to provide direct patient care in a general acute care hospital*~~
19 ~~*setting as defined in subdivision (a) of Section 1250 of the Health*~~
20 ~~*and Safety Code, a health facility as defined in paragraphs (1)*~~
21 ~~*and (2) of subdivision (c) of Section 1250 of the Health and Safety*~~
22 ~~*Code, a medical practice that is operated or maintained as part*~~
23 ~~*of an integrated health system or health facility, or a dialysis clinic*~~
24 ~~*licensed in accordance with paragraph (2) of subdivision (b) of*~~
25 ~~*Section 1204 of the Health and Safety Code.*~~

26 (B) “Health care employer” does not include an independent
27 medical practice that is owned and operated, or maintained as a
28 clinic or office, by one or more licensed physicians and used as
29 an office for the practice of their profession, within the scope of
30 their license, regardless of the name used publicly to identify the
31 place or establishment unless the medical practice is operated or
32 maintained exclusively as part of an integrated health system or
33 health facility or is an entity described in subdivision (l) of Section
34 1206 of the Health and Safety Code.

35 (3) ~~“Safety net provider” means a health care employer, as~~
36 ~~described in paragraph (2), that is a licensed clinic, as described~~
37 ~~in subdivision (a) of Section 1204 of the Health and Safety Code,~~
38 ~~an intermittent clinic exempt from licensure under subdivision (h)~~
39 ~~of, or a tribal clinic exempt from licensure under subdivision (e)~~
40 ~~of, Section 1206 of the Health and Safety Code, or an outpatient~~

1 ~~setting conducted, maintained, or operated by a federally~~
2 ~~recognized Indian tribe, tribal organization, or urban Indian~~
3 ~~organization, as defined in Section 1603 of Title 25 of the United~~
4 ~~States Code, or a rural health clinic, as defined in Section~~
5 ~~1395x(aa)(2) of, or a federally qualified health center, as defined~~
6 ~~in Section 1395x(aa)(4) of, Title 42 of the United States Code.~~

7 ~~(4)~~

8 (3) “PPE” and “health care worker” have the same meanings
9 as defined in subdivision (c) of Section 131021 of the Health and
10 Safety Code.

11 ~~(c) (1)~~ Except as provided in paragraphs (1) and (2) of
12 subdivision (h), a health care employer shall maintain an inventory
13 of unexpired PPE, as specified in this section, for use in the event
14 of a state of emergency declaration by the Governor, or a local
15 emergency for a pandemic or other health emergency. Personal
16 protective equipment in the inventory shall be new and not
17 previously worn or used. ~~Except as provided in paragraph (2), a~~
18 ~~A health care employer who violates the requirement to maintain~~
19 ~~an inventory of unexpired personal protective equipment prescribed~~
20 ~~by this section shall be assessed a civil penalty of up to twenty-five~~
21 ~~thousand dollars (\$25,000) for each violation, as specified in~~
22 ~~Section 6428.~~

23 ~~(2) A safety net provider that violates the requirement to~~
24 ~~maintain an inventory of unexpired personal protective equipment~~
25 ~~as specified in this section shall be assessed a civil penalty per~~
26 ~~violation, in an amount to be determined by the department, not~~
27 ~~to exceed a total of two thousand five hundred dollars (\$2,500)~~
28 ~~per calendar year.~~

29 ~~(d) (1) On or before January 15, 2021, the department, after~~
30 ~~consultation with the Office of Emergency Services, shall evaluate~~
31 ~~and make a determination as to whether there is a significant supply~~
32 ~~limitation of PPE facing purchasers in California. If the department~~
33 ~~determines there is not a significant supply limitation, commencing~~
34 ~~60 days after this determination, only those health care employers~~
35 ~~licensed under subdivisions (a), (b), and (c) of Section 1250 of the~~
36 ~~Health and Safety Code shall maintain an inventory equal to a~~
37 ~~minimum of six months of daily consumption. For purposes of~~
38 ~~this subdivision, daily consumption shall be based on the highest~~
39 ~~seven-day consecutive daily average consumption of PPE in 2019.~~
40 ~~If the department determines that there is a significant supply~~

1 limitation, the department shall revisit this determination every 30
2 days until there is a determination that there is no longer a
3 significant supply limitation, after which employers described in
4 subdivisions (a), (b), and (e) of Section 1250 of the Health and
5 Safety Code shall have 60 days to maintain an inventory equal to
6 a minimum of six months of daily consumption.

7 (2) The department may determine that a supply limitation only
8 exists for one or more types of PPE, in which case a health care
9 employer shall be required to maintain an inventory only for the
10 types of PPE for which the department has determined there is not
11 a supply limitation.

12 (3) In evaluating whether a significant supply chain limitation
13 exists, the department shall take into account whether health care
14 employers have made requests through their medical health
15 operational area coordinators to obtain PPE.

16 (4) If the department determines there is a significant supply
17 limitation, the department shall make findings with applicable
18 evidence that supply chain limitations exist regarding a particular
19 type of PPE. The findings shall be made in writing, submitted to
20 the Legislature and relevant health care employers and relevant
21 health care unions, and posted on the department's internet website.

22 (5) For the purposes of paragraph (1), health employers licensed
23 under subdivision (e) of Section 1250 of the Health and Safety
24 Code shall only be required to have a 30-day supply of gloves until
25 regulations are adopted pursuant to subdivision (k).

26 (e) (1) Commencing January 1, 2022, or 60 days after
27 regulations are adopted pursuant to subdivision (k), health care
28 employers, except as provided in subdivision (f), shall have an
29 inventory at least sufficient for 30 days of surge consumption, as
30 determined by those regulations.

31 (2)

32 (d) (1) Commencing January 1, 2023, or 365 days after
33 regulations are adopted pursuant to subdivision (k), (h), whichever
34 is later, health care employers shall have an inventory at least
35 sufficient for 45 days of surge consumption, as determined by
36 those regulations. *The regulations shall not establish policies or*
37 *standards that are less protective or prescriptive than any federal,*
38 *state, or local law on PPE standards.*

39 (2) *A health care employer shall provide an inventory of its*
40 *PPE to the Division of Occupational Safety and Health upon*

1 *request. An employer who violates this requirement shall be*
2 *assessed a civil penalty of up to twenty-five thousand dollars*
3 *(\$25,000) for each violation. This subdivision does not apply to a*
4 *health care employer that provides services in a facility or other*
5 *setting controlled or owned by another health care employer that*
6 *is obligated to maintain a PPE inventory and report that inventory*
7 *pursuant to this subdivision for all its owned or controlled facilities*
8 *and settings.*

9 (f)

10 ~~A safety net provider shall do either of the following, starting~~
11 ~~six months after regulations established in subdivision (k) are~~
12 ~~adopted if there is no supply chain limitation on any type of PPE~~
13 ~~as described in subdivision (i), or January 1, 2023, whichever is~~
14 ~~later:~~

15 (1) ~~Have an inventory at least sufficient for 30 days of surge~~
16 ~~consumption, as determined by the regulations adopted pursuant~~
17 ~~to subdivision (k):~~

18 (2) ~~Demonstrate to the department that it has entered into a~~
19 ~~standing contract with a third-party entity that manufactures,~~
20 ~~maintains, or distributes PPE that ensures timely access to an~~
21 ~~inventory at least sufficient for 30 days of consumption, as~~
22 ~~determined by the regulations adopted pursuant to subdivision (k):~~

23 (g) ~~On or before January 15, 2021, a health care employer~~
24 ~~licensed under subdivisions (a), (b), and (c) of Section 1250 of the~~
25 ~~Health and Safety Code shall report to the department under penalty~~
26 ~~of perjury its highest seven-day consecutive daily average~~
27 ~~consumption of PPE during the 2019 calendar year:~~

28 (h)

29 (e) (1) If a health care employer provides services in a facility
30 or other setting controlled or owned by another health care
31 employer who is obligated to maintain a PPE inventory, the health
32 care employer who controls or owns the facility or other setting
33 shall be required to maintain the required PPE for the health care
34 employer providing services in that facility or setting.

35 (2) A health care employer may apply for a waiver of some or
36 all of the PPE inventory requirements of subdivision ~~(e)~~ (d) by
37 writing to the department, which may approve the waiver if the
38 facility has 25 or fewer employees and the employer agrees to
39 close in-person operations during a public health emergency in
40 which increased use of PPE is recommended by the public health

1 officer until sufficient PPE becomes available to return to in-person
2 operations. This provision does not apply to health facilities as
3 described in subdivisions (a), (b), and (c) of Section 1250 of the
4 Health and Safety Code.

5 (3) If a health care employer's inventory of a type of PPE dips
6 below the mandated level of supplies as a result of the health care
7 employer's distribution of that type of PPE to its health care
8 workers or another health care employer's workers during a state
9 of emergency declared by the Governor or a declared local
10 emergency for a pandemic or other health emergency, the health
11 care employer shall not be subject to the civil penalty established
12 by subdivision (c) for 30 days, provided the health care employer
13 replenishes its inventory to the mandated level within 30 days if
14 the department has determined there is not a supply ~~limitation~~
15 ~~pursuant to paragraph (4). If the health care employer's inventory~~
16 ~~of a type of PPE dips below 75 percent of the mandated~~
17 ~~requirement, the health care employer shall notify the department~~
18 ~~in writing if the shortage is due to distribution of that type of PPE~~
19 ~~to health care workers. Safety net providers shall not be required~~
20 ~~to notify the department when their inventory goes below the~~
21 ~~required level.~~ *limitation.*

22 (i)
23 (f) The department may exempt a health care employer from a
24 civil penalty prescribed by subdivision (c) if the department
25 determines that supply chain limitations make meeting the
26 mandated level of supplies infeasible and a health care employer
27 has made a reasonable attempt, in the discretion of the department,
28 to obtain PPE. ~~The department may grant an exemption only until~~
29 ~~the supply chain limitation has been resolved and the department~~
30 ~~shall revisit that determination every 30 days. This paragraph shall~~
31 ~~apply only to the specific type of PPE that is impacted by supply~~
32 ~~chain limitations. PPE, or if the health care employer makes a~~
33 ~~showing that meeting the mandated level of supplies is not possible~~
34 ~~due to issues beyond their control, such as if the equipment was~~
35 ~~ordered from a manufacturer or distributor but the order was not~~
36 ~~fulfilled, or if the equipment was damaged or stolen.~~

37 (j) (1)
38 (g) Consistent with existing law, a designated health care
39 employer shall supply appropriate PPE to its health care workers,
40 ensure that its health care workers use the PPE supplied to them,

1 and provide appropriate PPE to its health care workers upon their
2 request. This paragraph is declaratory of existing law.

3 ~~(2) Each day that a health care employer fails to comply with~~
4 ~~paragraph (1) shall constitute an independent violation of this~~
5 ~~section.~~

6 ~~(3) Notwithstanding paragraph (2) and existing law, a safety~~
7 ~~net provider who violates paragraph (1) shall be assessed a civil~~
8 ~~penalty per violation, in an amount to be determined by the~~
9 ~~department, not to exceed a total of two thousand five hundred~~
10 ~~dollars (\$2,500) per calendar year.~~

11 ~~(k)~~

12 ~~(h) (1) The department, by regulation and in consultation with~~
13 ~~the State Department of Public Health, shall set forth requirements~~
14 ~~for determining 45-day surge capacity levels for health care~~
15 ~~employer inventory as required by paragraph (1) of subdivision~~
16 ~~(e); (d), including, but not limited to, the types and amount of PPE~~
17 ~~to be maintained by the health care employer based on the type~~
18 ~~and size of each health care employer, as well as the composition~~
19 ~~of health care workers in its workforce. The regulations shall~~
20 ~~require each health care employer to maintain sufficient PPE for~~
21 ~~all health care workers. The regulations shall consider the~~
22 ~~recommendations of the Personal Protective Equipment Advisory~~
23 ~~Committee established pursuant to Section 6403.2. For employers~~
24 ~~described in subdivision (a), (b), or (c) of Section 1250 of the~~
25 ~~Health and Safety Code, the requirement to maintain an inventory~~
26 ~~of at least six months of daily consumption pursuant to subdivision~~
27 ~~(d) shall be a minimum level, and regulations establishing surge~~
28 ~~capacity levels shall not require less than this amount. The~~
29 ~~regulations may incorporate by reference existing guidance of the~~
30 ~~department and of the federal Occupational Safety and Health~~
31 ~~Administration regarding standards for PPE usage, including, but~~
32 ~~not limited to, the guidance at Sections 3380 and 5199 of Title 8~~
33 ~~of the California Code of Regulations and Subpart I (commencing~~
34 ~~with Section 1910.132) of Part 1910 of Title 29 of the Code of~~
35 ~~Federal Regulations, as in effect on May 19, 2020.~~

36 ~~(2) The department, by regulation and in consultation with the~~
37 ~~State Department of Public Health and the Personal Protective~~
38 ~~Equipment Advisory Committee, shall set forth requirements for~~
39 ~~calculating capacity levels for safety net providers' inventory as~~
40 ~~required by subdivision (f), including, but not limited to, the types~~

1 and amount of PPE to be maintained by the health care employer
2 that is a safety net provider, based on anonymized facility
3 information regarding the type and size of each health care
4 employer and its workforce.

5 ~~(f) A health care employer shall provide an inventory of its PPE
6 to the Division of Occupational Safety and Health upon request.
7 An employer who violates this requirement shall be assessed a
8 civil penalty of up to twenty-five thousand dollars (\$25,000) for
9 each violation. This subdivision does not apply to health care
10 employers that are safety net providers or to a health care employer
11 that provides services in a facility or other setting controlled or
12 owned by another health care employer that is obligated to maintain
13 a PPE inventory and report that inventory pursuant to this
14 subdivision for all its owned or controlled facilities and settings.~~

15 ~~SEC. 5. Section 6403.2 is added to the Labor Code, to read:~~

16 ~~6403.2. (a) The Personal Protective Equipment Advisory
17 Committee is hereby established. The Secretary of Labor or their
18 designee shall appoint the membership of the advisory committee.
19 The advisory committee shall consist of 18 or more individuals
20 who have experience in health care, public health, workers' rights,
21 or emergency preparedness and shall consist of the following:~~

22 ~~(1) One representative of an association representing multiple
23 types of hospitals and health systems.~~

24 ~~(2) One representative of an association representing skilled
25 nursing facilities.~~

26 ~~(3) Two representatives of an association representing primary
27 care clinics, with one of those members representing clinics
28 specializing in family planning that are safety net providers.~~

29 ~~(4) One representative of a statewide association representing
30 physicians from multiple specialties and modes of practice.~~

31 ~~(5) Three representatives of labor organizations that represent
32 health care workers.~~

33 ~~(6) Three representatives of labor organizations that represent
34 essential workers, as defined by paragraph (2) of subdivision (e)
35 of Section 131021 of the Health and Safety Code, with one of the
36 members from a labor union representing agricultural workers.~~

37 ~~(7) One representative of an association representing home
38 health agencies.~~

39 ~~(8) One consumer representative.~~

- 1 ~~(9) One representative from the Department of Industrial~~
2 ~~Relations.~~
- 3 ~~(10) One representative from the State Department of Public~~
4 ~~Health.~~
- 5 ~~(11) One representative from the Office of Emergency Services.~~
- 6 ~~(12) One representative from an association representing~~
7 ~~counties.~~
- 8 ~~(13) One public member with expertise in emergency~~
9 ~~preparedness and employee health and safety.~~
- 10 ~~(14) One representative from the Department of General~~
11 ~~Services.~~
- 12 ~~(15) One representative from an association representing~~
13 ~~ambulatory surgery centers.~~
- 14 ~~(b) The Personal Protective Equipment Advisory Committee~~
15 ~~shall make recommendations to the department and the State~~
16 ~~Department of Public Health necessary for the department to~~
17 ~~provide the report required pursuant to subdivision (c).~~
- 18 ~~(c) On or before May 30, 2021, the department shall submit a~~
19 ~~report to the Legislature based on the recommendations of the~~
20 ~~Personal Protective Equipment Advisory Committee. The report~~
21 ~~shall include recommendations on implementation of the various~~
22 ~~requirements of the committee and shall include, but not be limited~~
23 ~~to, recommendations relating to both of the following:~~
- 24 ~~(1) The type and amount of PPE needed by health care employer~~
25 ~~type, during a public health emergency, to ensure compliance to~~
26 ~~public health and safety standards.~~
- 27 ~~(2) The type and amount of PPE required for the state stockpile~~
28 ~~created pursuant to Section 131021 of the Health and Safety Code.~~
- 29 ~~(3) Guidance on best practices for how health care employers~~
30 ~~may make fit testing available for their workforce to be properly~~
31 ~~fitted for PPE.~~
- 32 ~~(4) Actions that the state can take to encourage a resilient supply~~
33 ~~chain and to incentivize in-state production of PPE. The committee~~
34 ~~shall create an additional working group, made up of interested~~
35 ~~members of the committee and subject matter experts in supply~~
36 ~~chain and distribution management or other areas of expertise, to~~
37 ~~provide guidance on actions the state can take to create a state-run~~
38 ~~group purchasing organization by 2023.~~
- 39 ~~(5) Guidance on best practices for provider inventory storage.~~

1 ~~(6) Strategies to increase transparency for both the state stockpile~~
2 ~~and health care employers' inventory.~~

3 ~~(7) With regard to health care employers, other than health~~
4 ~~facilities described in Chapter 2 (commencing with Section 1250)~~
5 ~~of Division 2 of the Health and Safety Code, the report in this~~
6 ~~subdivision shall take into consideration the following factors:~~

7 ~~(A) Patient volume during a pandemic emergency.~~

8 ~~(B) The ability of an employer to utilize telemedicine to~~
9 ~~minimize in-person contact.~~

10 ~~(C) The intent of the Legislature that the inventory required for~~
11 ~~these employers be composed primarily of PPE that the employer~~
12 ~~would utilize in the normal course of business.~~

13 ~~(d) On or before January 1, 2031, the department and the State~~
14 ~~Department of Public Health shall submit a report to the Legislature~~
15 ~~on the effectiveness of the health care employer inventory~~
16 ~~requirement and make recommendations, if any, that will improve~~
17 ~~health care worker safety and health care employer preparedness~~
18 ~~during a pandemic or other health emergency. The report shall~~
19 ~~also review the effectiveness of the state stockpile.~~

20 ~~(1) A report to be submitted pursuant to subdivision (c) or (d)~~
21 ~~shall be submitted in compliance with Section 9795 of the~~
22 ~~Government Code.~~

23 ~~(2) Pursuant to Section 10231.5 of the Government Code, this~~
24 ~~section is repealed on January 1, 2035.~~

25 ~~SEC. 6.~~

26 ~~SEC. 3.~~ The provisions of this act are severable. If any
27 provision of this act or its application is held invalid, that invalidity
28 shall not affect other provisions or applications that can be given
29 effect without the invalid provision or application.

30 ~~SEC. 7.~~ No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O

SB 878

AMENDED IN SENATE JUNE 18, 2020

SENATE BILL

No. 878

Introduced by Senator Jones

January 22, 2020

An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 878, as amended, Jones. Department of Consumer ~~Affairs~~ Licensing: applications: wait times. *Affairs: license: application: processing timeframes.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This ~~bill~~ *bill*, beginning July 1, 2021, would require each board within the department that issues ~~licenses~~ *licenses, on at least a quarterly basis*, to prominently display *on its internet website either the current timeframe average timeframes for processing initial and renewal license applications on its internet website, as provided, or the combined current average timeframe for processing both initial and renewal license applications. The bill would also require each board to prominently display on its internet website either the current average timeframes for processing each license type that the board administers or the combined current average timeframe for processing all license types that the board administers.*

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

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

1 SECTION 1. Section 139.5 is added to the Business and
2 Professions Code, to read:

3 139.5. ~~Each~~ *Beginning July 1, 2021, each* board, as defined in
4 ~~section~~ *Section 22*, within the department that issues a license shall
5 do both of the ~~following~~: *following on at least a quarterly basis:*

6 (a) ~~Prominently display~~ *the on its internet website one of the*
7 *following:*

8 (1) ~~The current timeframe~~ *average timeframes* for processing
9 initial and renewal license ~~applications on its internet website.~~
10 *applications.*

11 (2) *The combined current average timeframe for processing*
12 *both initial and renewal license applications.*

13 (b) ~~With respect to the information displayed on the website,~~
14 ~~specify the~~ *Prominently display on its internet website one of the*
15 *following:*

16 (1) ~~The current average timeframe~~ *timeframes* for processing
17 each license ~~category.~~ *type that the board administers.*

18 (2) *The combined current average timeframe for processing all*
19 *license types that the board administers.*

Tab 5

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Tab 6

0264 - Osteopathic Medical Board of California
Analysis of Fund Condition
Budget Act of 2020 with Preliminary FM 12 Actuals
(Dollars in Thousands)

	Actual 2018-19	CY 2019-20	BY 2020-21
BEGINNING BALANCE	\$2,837	\$3,344	\$5,002
Prior Year Adjustment	\$178	\$0	\$0
Adjusted Beginning Balance	\$3,015	\$3,344	\$5,002
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS			
Revenues			
4121200 - Delinquent fees	\$14	\$14	\$15
4127400 - Renewal fees	\$2,044	\$1,770	\$1,939
4129200 - Other regulatory fees	\$40	\$29	\$31
4129400 - Other regulatory licenses and permits	\$406	\$488	\$584
4143500 - Miscellaneous services to the public	\$0	\$24	\$35
4150500 - Interest from interfund loans	\$0	\$44	\$0
4163000 - Income from surplus money investments	\$71	\$78	\$0
4170400 - Sale of fixed assets	\$0	\$3	\$0
4171400 - Escheat of unclaimed checks and warrants	\$0	\$244	\$0
Totals, Revenues	\$2,575	\$2,694	\$2,604
General Fund Transfers and Other Adjustments	\$0	\$1,500	\$0
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$2,575	\$4,194	\$2,604
TOTAL RESOURCES	\$5,590	\$7,538	\$7,606
EXPENDITURES AND EXPENDITURE ADJUSTMENTS	Actual 2018-19	CY 2019-20	BY 2020-21
Expenditures:			
1111 Program Expenditures (State Operations)	\$2,060	\$2,323	\$3,074
9892 Supplemental Pension Payments (State Operations)	\$25	\$53	\$53
9900 Statewide Pro Rata	\$161	\$160	\$148
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$2,246	\$2,536	\$3,275
FUND BALANCE			
Reserve for economic uncertainties	\$3,344	\$5,002	\$4,331
Months in Reserve	15.8	18.3	15.4

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.
Expenditure growth projected at 3% beginning BY +1.
CY revenue and expenditures are projections.

Department of Consumer Affairs

Expenditure Projection Report

Osteopathic Medical Board

Reporting Structure(s): 11112600 Support

Fiscal Month: 12

Fiscal Year: 2019 - 2020

Run Date: 07/31/2020

PERSONAL SERVICES

Fiscal Code	Line Item	Budget	Projections to Year End	Balance
5100 PERMANENT POSITIONS		\$929,000	\$811,356	\$117,644
5100000000	Earnings - Perm Civil Svc Empl	\$853,000	\$720,252	\$132,748
5105000000	Earnings-Exempt/Statutory Empl	\$76,000	\$91,104	-\$15,104
5100 TEMPORARY POSITIONS		\$0	\$500	-\$500
5105-5108 PER DIEM, OVERTIME, & LUMP SUM		\$3,000	\$2,100	\$900
5150 STAFF BENEFITS		\$569,000	\$468,015	\$100,985
PERSONAL SERVICES		\$1,501,000	\$1,281,971	\$219,029
OPERATING EXPENSES & EQUIPMENT				
Fiscal Code	Line Item	Budget	Projections to Year End	Balance
5301 GENERAL EXPENSE		\$140,000	\$67,958	\$72,042
5302 PRINTING		\$8,000	\$11,609	-\$3,609
5304 COMMUNICATIONS		\$19,000	\$3,259	\$15,741
5306 POSTAGE		\$7,000	\$0	\$7,000
5308 INSURANCE		\$0	\$29	-\$29
53202-204 IN STATE TRAVEL		\$14,000	\$20,216	-\$6,216
5322 TRAINING		\$6,000	\$385	\$5,615
5324 FACILITIES		\$110,000	\$60,746	\$49,254
53402-53403 C/P SERVICES (INTERNAL)		\$785,000	\$337,527	\$447,473
5340310000	Legal - Attorney General	\$582,000	\$319,976	\$262,024
5340320000	Office of Adminis Hearings	\$102,000	\$17,500	\$84,500
53404-53405 C/P SERVICES (EXTERNAL)		\$159,000	\$62,163	\$96,837
5342 DEPARTMENT PRORATA		\$434,000	\$456,319	-\$22,319
5342 DEPARTMENTAL SERVICES		\$0	\$1,173	-\$1,173
5344 CONSOLIDATED DATA CENTERS		\$2,000	\$2,325	-\$325
5346 INFORMATION TECHNOLOGY		\$4,000	\$3,019	\$981
5362-5368 EQUIPMENT		\$16,000	\$13,924	\$2,076
OPERATING EXPENSES & EQUIPMENT		\$1,704,000	\$1,040,651	\$663,349
OVERALL TOTALS		\$3,205,000	\$2,322,622	\$882,378

27.53%

Tab 7

EXECUTIVE DIRECTOR'S REPORT



MEMORANDUM

DATE	September 10, 2020
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Executive Director’s Report – Agenda Item 8

This report provides the Board Members with information on the following topics:

- Licensing Statistics
- Staffing
- COVID-19
- CURES
- Enforcement Report/Discipline

Licensing Statistics:

The table below shows the OMBC’s total licensee count as of June 30, 2020. The table shows the number of licensees practicing and residing in California, and the total number of licensees under the OMBC’s jurisdiction. The total number of licensees under the OMBC’s jurisdiction is 12,436.

License Status	Practicing/Residing in CA	Total Licensees
Active/Current	9,232	10,534
Inactive/Current	59	539
Delinquent	596	1,363
Total:	9,887	12,436

The table below shows the Licensing Unit’s workload for fiscal year 2018-19 and 2019-20. The licensing workload for the OMBC continues to increase and we are looking into different ways to increase efficiency in the Licensing Unit. Creating efficiencies will allow the OMBC to process this increasing workload within our existing resources. Additionally, effective January 1, 2020, the Board began accepting applications for the Postgraduate Training License (PTL).

Licensing Workload		
	Fiscal Year 2018-19	Fiscal Year 2019-20
	Total	Total
DO Apps Received	999	983
DO Apps Approved	804	1,020
DO Certificates Issued	773	997
PTL Apps Received	N/A	641
PTL Apps Approved	N/A	232
Licenses Renewed	5,038	4,456
Fictitious Name Permits Received	137	119
Fictitious Name Permits Approved	94	112
Fictitious Name Permits Renewed	670	678

The number of days to approve a complete license application during the current fiscal year is 95 days.

Staffing:

The OMBC has 13.5 total authorized positions. The Board has one vacant position, which is the Administrative Governmental Program Analyst (AGPA) who processes the enforcement workload associated with the PTL. The Board is in the process of advertising for this position and hopes to have it filled within the next two months.

COVID-19:

On March 19, 2020, Governor Newsom issued Executive Order N-33-20. This Executive Order provided a stay at home order for the citizens of California, except as needed to maintain continuity of operations. Board management determined that all Board staff are considered essential at this time considering the nature of the profession. The Board's office is operational and open to the public. Board management set up a telecommuting schedule for staff that doesn't compromise the Board's workload. Staff are required to intermittently work from the office while maintaining the appropriate social distancing guidelines.

On March 30, 2020, Governor Newsom issued Executive Order N-39-20. This Executive Order authorized the Director of the Department of Consumer Affairs (DCA) to waive any of the professional licensing requirements and amend scopes of practice in Division 2 of the Business and Professions Code and regulations. The following waivers impact the OMBC:

- **DCA 20-53 Continuing Education** – Active licensees that expire between March 31, 2020 and October 31, 2020 are temporarily exempt from completing or demonstrating compliance with any continuing education requirements in order to renew a license. These licensees must satisfy any waived renewal requirements within six months of the order, unless further extended. Additionally, these waivers do not apply to any continuing education required pursuant to a disciplinary order against a license. This waiver withdrew and rescinded the previous CME waivers, dated March 31, 2020 and July 1, 2020.
- **DCA 20-02 Reinstatement of Licensure** – Inactive licensees who are seeking to reactivate their license are temporarily exempt from completing or demonstrating compliance with any continuing education requirements. Additionally, these licensees do not need to pay any fees in order to reactivate their license. These licenses are valid for a maximum of six months, or when the State of Emergency ceases to exist, whichever is sooner. Additionally, licenses that were surrendered or revoked pursuant to disciplinary proceedings or any licensee who entered an inactive status following an initiation of a disciplinary proceeding are not eligible for this waiver.

- **DCA 20-50 Postgraduate Training License Deadline** – Individuals who were enrolled in an approved postgraduate training program in California on January 1, 2020 were required to obtain a postgraduate training license from the Osteopathic Medical Board of California by June 30, 2020. This waiver extends this requirement to October 31, 2020.

CURES:

The CURES May 2020 Statistics report is attached to this report. As of May 2020, there are 7,590 osteopathic physicians registered as CURES users. Osteopathic physicians ran 85,861 separate patient activity reports while accessing the system 41,306 times.

This report also identifies the number of Scheduled prescriptions filled by dispensers on page 5.

ENFORCEMENT REPORT

OMBC Enforcement Report

September 10, 2020

The following OMBC Enforcement Report covers a 12-month period starting from July 1, 2019 through June 30, 2020. The OMBC Enforcement Report is divided into five sections: Intake, Investigations, Enforcement, Performance Measures, and Probation. The data is collected from the Breeze Enforcement Reports and DCA QBIRT (IBM Cognos Analytics).

COMPLAINT INTAKE

	3Q 2019			4Q 2019			1Q 2020			2Q 2020			
TOTAL INTAKE	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals
Received	51	82	45	54	52	28	46	58	44	66	48	40	614
Assigned	98	50	59	67	33	48	27	57	45	46	17	23	570
Aging	69	40	34	41	50	43	56	52	60	31	36	83	50
Pending	65	97	82	69	88	68	87	88	87	107	138	155	155

Data Table 1: Complaint Intake with Convictions/Arrests

In Data Table 1 above, under TOTAL INTAKE, OMBC received 614 complaints (17 convictions/arrests). 570 cases were assigned to desk investigations. The aging for intake measures the period from the date the complaint was received (date stamped) to the date the complaint was assigned. In Figure 1.1 below we see pending complaints were hovered below 100 from July 2019 until March 2020 when it started to increase and reached 150 cases at the end of June 2020. Received complaints and Assigned complaints averaged around 50 during this period.

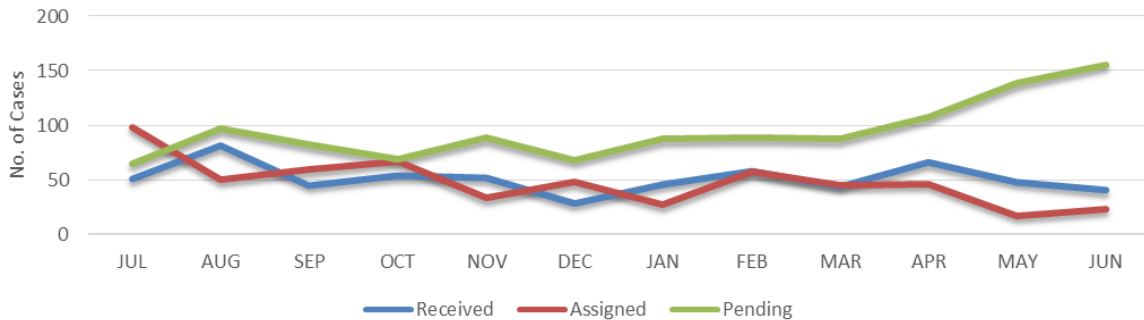


Figure 1.1: Intake Totals Per Month

INVESTIGATIONS

Desk (internal) Investigations

	3Q 2019			4Q 2019			1Q 2020			2Q 2020			
Desk Inv.	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Totals
Assigned	98	50	59	68	33	48	27	57	45	46	17	23	571
Completed	54	57	47	65	43	54	49	45	25	37	35	26	537
Aging	56	94	51	77	78	112	104	125	195	53	88	82	93
Pending	194	187	201	205	196	190	168	183	202	212	195	193	193

Data Table 2: Desk Investigations

For all desk investigations during this period, Data Table 2 above breaks down the monthly totals for how many complaints were assigned and completed; the monthly aging and cases pending. During this period, a total of 571 cases were assigned to desk investigations and 537 were completed. The average number of days to complete a desk investigation was 93 days. In Figure 2.2, the

OMBC Enforcement Report

September 10, 2020

assigned and completed caseloads averaged around 50 per month during this period. Pending desk investigations averaged in the 200's during this period with a slight decrease in the month of January.

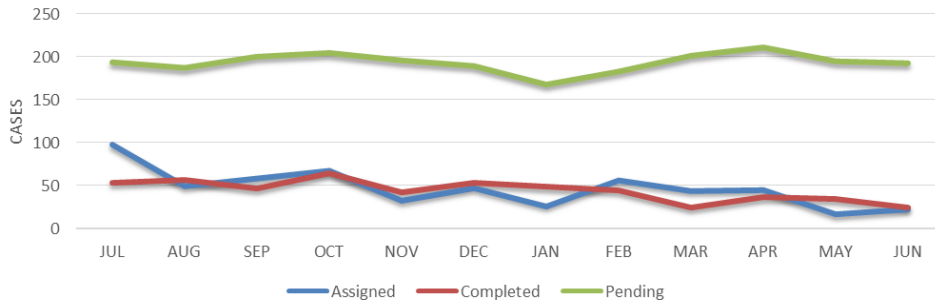


Figure 2.1: Desk Investigations Monthly Totals

Division of Investigation (DOI) Field Investigations

	3Q 2019			4Q 2019			1Q 2020			2Q 2020			Totals
Field Inv.	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
Assigned	2	2	4	5	4	2	5	3	3	5	2	1	38
Completed	1	5	2	3	4	3	5	4	1	1	0	2	31
Aging	107	526	363	550	209	365	374	452	128	366	0	82	320
Pending	46	44	46	48	48	47	47	47	49	53	55	55	54

Data Table 3: Field Investigations

Data Table 3 above breaks down the monthly totals for cases assigned to the Division of Investigations. Completed cases are either closed with insufficient evidence or referred to the Attorney General's office for disciplinary action. During this 12-month period, 38 cases were assigned to field investigations; 31 were completed; and 54 cases were pending at the end of 2Q 2020. The average number of days to complete a field investigation was 320.

The case complexity is the breakdown of the specific allegations. In Figure 3.1, for all completed field investigations (31 cases), there were 8 excessive prescribing cases (26%); 6 Unprofessional conduct (19%); 1 sexual misconduct cases (3%); 1 Criminal (3%); 7 fraud cases (23%); 1 Impairment (3%); 3 negligent/injury cases (10%); 4 substance abuse cases (13%); and no Unlicensed practice (0%).

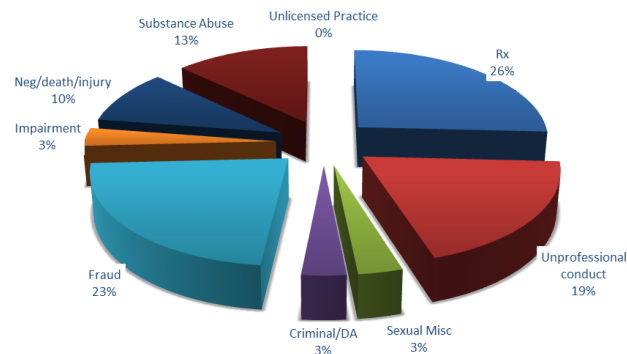


Figure 3.1 Complexity for completed Field Investigations

OMBC Enforcement Report

September 10, 2020

Aging for Desk and Field Investigations

All Inv Aging	3Q 2019			4Q 2019			1Q 2020			2Q 2020			Totals
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
90 days	44	37	39	49	25	27	20	16	13	32	18	14	334
91-180 days	3	6	2	7	8	21	20	21	6	0	11	5	110
181-1 yr	5	2	1	5	2	3	5	4	2	2	4	5	40
1 yr-2 yrs	0	3	0	3	2	1	4	0	1	1	1	0	16
2 yrs-3 yrs	1	3	0	1	3	2	3	3	5	1	1	0	23
Totals	53	51	42	65	40	54	52	44	27	36	35	24	523

Data Table 4: All Investigations Aging

In Data Table 4 and Figure 4.1 we see the aging matrix for the number of all investigations that were closed per month within a specific time-period. 334 cases (62%) were completed within 90 days; 110 cases (22%) were completed between 91-180 days; 40 cases (8%) were completed between 181-365 days; 16 cases (4%) were completed between 1 – 2 years; and 23 cases (4%) were completed between 2-3 years. 84% of the investigations were completed within 6 months; and 92% were completed within a year.

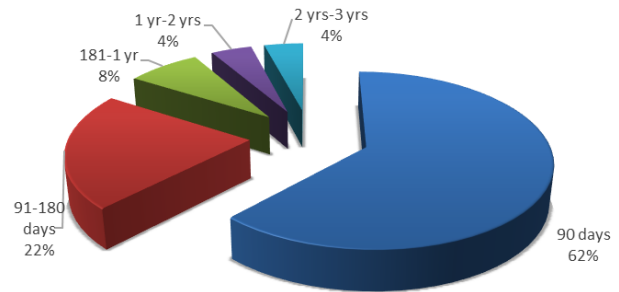


Figure 4.1 All Investigations Aging

ENFORCEMENT ACTIONS

	3Q 2019			4Q 2019			1Q 2020			2Q 2020			Totals
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
AG Cases Initiated	0	2	1	2	2	1	0	0	1	5	1	1	16
Acc/SOI Filed	3	2	0	1	1	0	2	1	3	0	1	0	14
Final Disciplinary Order	0	0	2	1	3	0	1	0	1	2	0	0	10
Acc W/drawn/declined	0	0	1	0	0	0	0	0	0	0	0	0	1
Closed w/out Disc Acti	1	0	1	0	0	0	0	0	0	0	0	0	2
Citations	0	0	0	0	1	0	2	1	0	0	0	0	4
Suspension Orders	0	0	1	0	0	0	0	0	0	0	0	0	1
AG Cases Pending	24	26	23	24	23	23	22	22	22	26	27	28	28

Data Table 5: Enforcement Actions

For all enforcement actions, Data Table 5 above breaks down the monthly totals for each disciplinary action. During this 12-month period, 16 cases were transmitted to the Attorney General’s Office for disciplinary actions; 14 Accusations were filed; 10 Final Disciplinary Orders were filed; 1 accusation withdrawn; 2 cases were closed without disciplinary action; 4 citations issued; and 1 Suspension Order was filed. Currently 28 AG cases are pending.

OMBC Enforcement Report

September 10, 2020

Aging for Final Disciplinary Orders

Total Orders Aging	3Q 2019			4Q 2019			1Q 2020			2Q 2020			Totals
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
91-180 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
181 - 1 Yr	0	0	0	0	1	0	1	0	0	1	0	0	3
1 - 2 Yrs	0	0	0	0	0	0	0	0	1	0	0	0	1
2 - 3 Yrs	0	0	0	0	1	0	0	0	0	0	0	0	1
3-4 Yrs	0	0	2	1	1	0	0	0	0	0	0	0	4
4 yrs	0	0	0	0	0	0	0	0	0	1	0	0	1
Totals	0	0	2	1	3	0	1	0	1	2	0	0	10

Data Table 6: Final Orders Aging Matrix

In Data Table 6 and Figure 6.1 we see the aging matrix of the 10 Final Disciplinary Orders that were completed during this 12-month period. The chart shows the percentage of cases distributed within each aging period. Of the 10 final disciplinary orders, 3 cases completed (30%) within 181-365 days; 1 case (10%) within 1-2 years; 1 case (10%) within 2-3 years; 4 cases (40%) within 3-4 years; and 1 case (10%) after 4 years. Of the 10 Disciplinary Orders imposed (Figure 6.2 below), there were 5 probationary orders; 1 revocation; 2 surrender; 2 reprimand; and 1 Pre-accusation public reprimand.

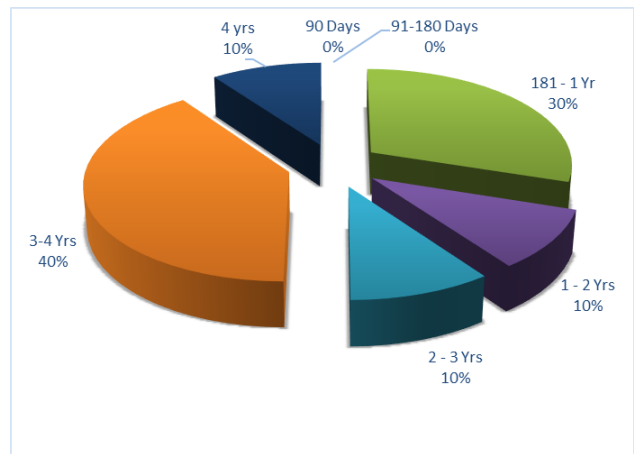


Figure 6.1: Final Orders Aging

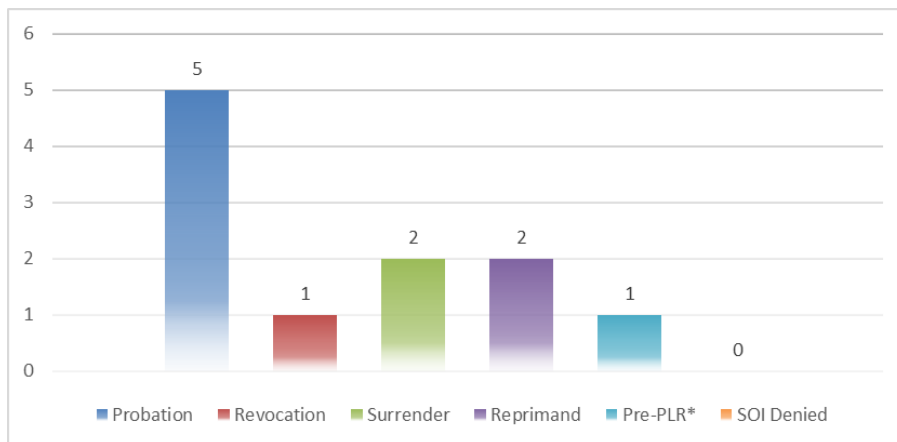


Figure 6.2: Final Disciplinary Actions Imposed

* Pre-accusation public letter for reprimand

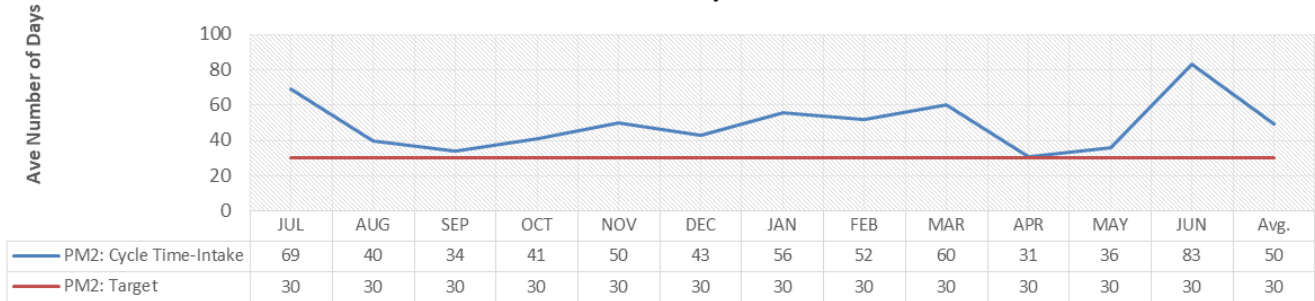
OMBC Enforcement Report

September 10, 2020

PERFORMANCE MEASURES

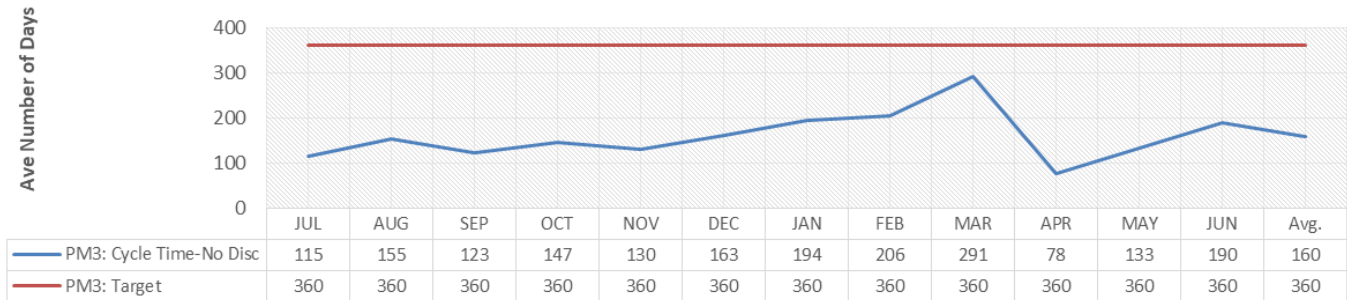
PM2: CYCLE TIME-INTAKE: Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Performance Measures 2: Cycle Time - Intake



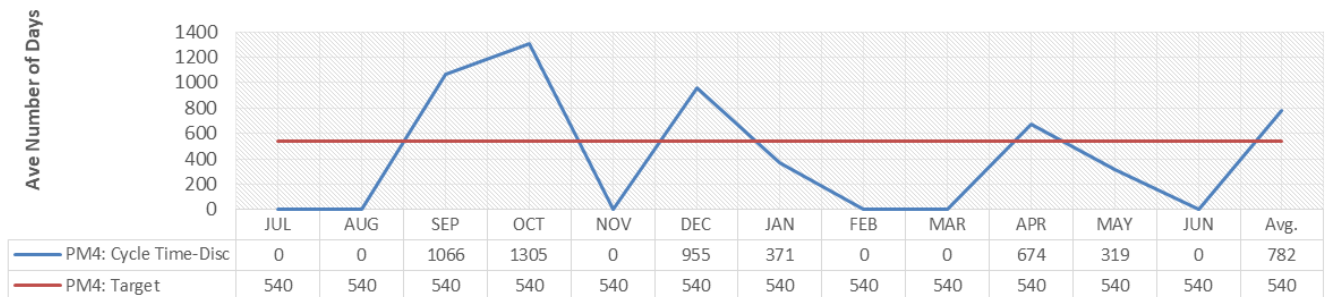
PM3: CYCLE TIME – INTAKE & INVESTIGATION: Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General. (Includes intake and Investigation)

Performance Measures 3: Cycle Time - Investigations (No Discipline)



PM4: CYCLE TIME – FORMAL DISCIPLINE: Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General for formal discipline. (Includes intake, investigation, and transmittal outcome)

Performance Measures 4: Cycle Time - Formal Discipline

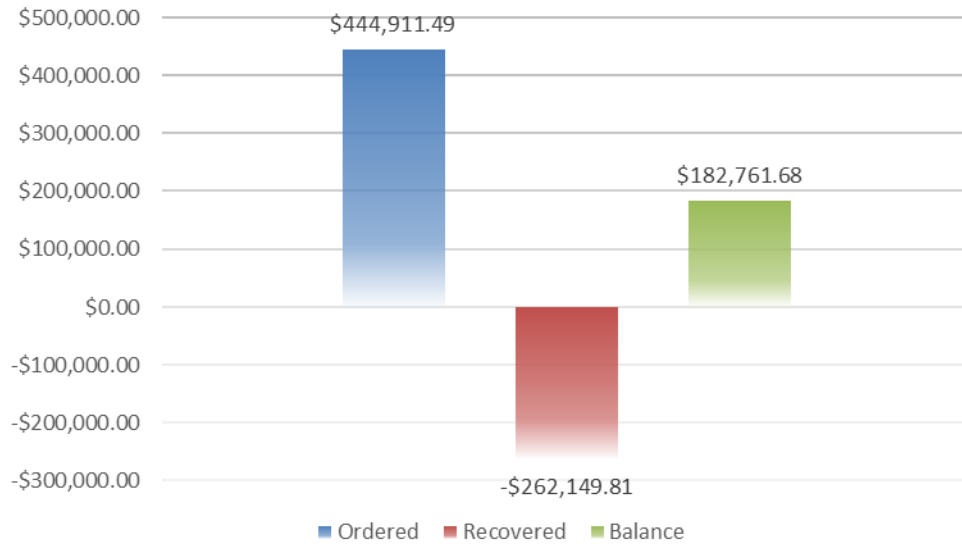


OMBC Enforcement Report

September 10, 2020

PROBATION

There are currently 36 probation cases; of which 9 cases are tolled. During this period 8 probationary cases were closed and 5 cases opened. The total cost recovery ordered is currently \$444,911.49. As of September 7, 2020, \$262,149.81 has been paid, leaving a balance of \$182,761.68.



Tab 8

Osteopathic Medical Board

Future Agenda Items

Agenda Item	Requestor

Tab 9

Osteopathic Medical Board

Future Meeting Dates

Date	Place	Time
Thursday January 14, 2021	TBD (Tentatively Sacramento)	10:00 am
Thursday May 13, 2021	TBD	10:00 am

**Please note that all meetings should be held in the best interest of the Board. Meetings in resorts or vacation areas should not be made. Using Conference areas that do not require contracts and or payment is the best option for the Board. No overnight travel. If an employee chooses a mode of transportation which is more costly than another mode, a Cost Comparison form must be completed. Reimbursement by the State will be made at the lesser of the two costs. Taxi Service should be used for trips within but not over a 10-mile radius. Receipts are required for taxi expenses of \$10.00 and over. Tips are not reimbursable.*