

**OSTEOPATHIC MEDICAL  
BOARD  
OF CALIFORNIA**

**Board Meeting, Thursday, October 19, 2017  
10:00 a.m.**

**Osteopathic Medical Board of California  
1747 North Market Blvd.  
Hearing Room  
Sacramento, CA 95834**

**OMBC Phone (916) 928-8390**



**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
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## **OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**

### **BOARD MEETING NOTICE**

Date: Thursday, October 19, 2017  
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business, Pacific Standard Time)

Location(s): **Department of Consumer Affairs  
Headquarters Building 2 (HQ2)**  
1747 North Market Blvd.  
Hearing Room  
Sacramento, CA 95834  
(916) 928-8390

### **AGENDA**

(Action may be taken on any items listed on the agenda and may be taken out of order, unless noticed for a certain time.) The Board plans to webcast this meeting on its website at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limited resources or technical difficulties. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical meeting location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

#### **Open Session**

1. Call to Order and Roll Call / Establishment of a Quorum
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)]*
3. Introduction of New Board Member(s) and Legal Counsel
4. Review and Approval of Minutes
  - a) January 20, 2017 Board Meeting
  - b) May 18, 2017 Board Meeting
  - c) June 28, 2017 Teleconference
5. Administrative Hearing - 10:30 a.m.

- a) Sandra Sands-Solgi, D.O. (20A 9069)– Petition for Early Termination of Probation
- b) Huongdu Ly, D.O. (20A 11259) – Petition for Early Termination of Probation

6. Closed Session

The Board will meet in closed session pursuant to Government Code Section 11126(c)(3) to discuss disciplinary matters including the above petitions, petitions for reconsideration, stipulations, and proposed decisions.

Return to Open Session

7. MAXIMUS Presentation: *Substance Use Disorder and the Impaired Professional* - Anita Mireles, R.N., B.S.N
8. President's Report – Joseph Zammuto, D.O.
9. DCA Update – Jeffery Mason
10. Legislation Update - SB798 Healing arts: boards (Sunset Bill)
11. Executive Director's Report – Angie Burton
  - a) Licensing
  - b) Staffing
  - c) Enforcement Report / Discipline – Corey Sparks
12. Regulations - Discussion and Possible Action
  - Diversion Evaluation Committee Duties and Responsibilities: Title 16, California Code of Regulations section 1661.2
  - Disciplinary Guidelines: Title 16, California Code of Regulations section 1663
13. Agenda Items for Next Meeting
14. Future Meeting Dates
15. Adjournment

**For further information about this meeting, please contact Machiko Chong at 916-928-7636 or in writing 1300 National Drive, Suite 150 Sacramento CA 95834. This notice can be accessed at [www.ombc.ca.gov](http://www.ombc.ca.gov)**

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 may, at his or her

discretion, 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. (Gov. Code, sections 11125, 11125.7(a).)

In accordance with the Bagley Keene Open Meeting Act, all meetings of the Board are open to the public and all meeting locations are accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting, may make a request by contacting Machiko Chong, ADA Liaison, at (916) 928-7636 or via e-mail at [Machiko.Chong@dca.ca.gov](mailto:Machiko.Chong@dca.ca.gov) or may 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.

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# TAB 2



**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
**Executive Office**



**Board Member Appointments**

**Andrew Moreno**, of Fresno, was appointed to the Osteopathic Medical Board of California on July 14, 2017 by Governor Edmund G. Brown Jr.. Mr. Moreno has served as the managing director at the Moreno Law Group since 2015. He was a project manager at the Economic Vitality Corporation of San Luis Obispo County from 2012 to 2014 and a grants manager at RM Associates from 2005 to 2012. He earned a Master of Arts degree in communication and leadership studies from Gonzaga University and a Master of Arts degree in environmental management and sustainability from Harvard University.

# TAB 3

**January 20, 2017**



## BOARD MEETING MINUTES

Friday, January 20, 2017

**BOARD MEMBERS PRESENT:** Joseph Zammuto, D.O., President  
Cyrus Buhari, D.O., Secretary-Treasurer  
Claudia Mercado, Board Member  
Alan Howard, Board Member  
Cheryl Williams, Board Member  
Megan Blair, Board Member

**STAFF PRESENT:** Angelina Burton, Executive Director  
Jason Hurtado, Esq., Legal Counsel, DCA  
Machiko Chong, Executive Analyst  
Corey Sparks, Lead Enforcement Analyst

**BOARD MEMBERS ABSENT:** James Lally, D.O., Board Member  
Elizabeth Jensen, D.O., Board Member

The Board meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Zammuto, D.O. at 10:00 a.m. at Department of Consumer Affairs (HQ2) - 1747 North Market Blvd., Sacramento CA 95834.

Dr. Zammuto called for a moment of silence to acknowledge the unexpected passing of the board's receptionist Susan Johnston.

Dr. Zammuto also acknowledged and thanked Michael Feinstein, D.O. who served on the board from 2012 through 2016, prior to voluntarily renouncing his board appointment due to health issues.

On behalf of the Business, Consumer Services and Housing Agency and the California Department of Consumer Affairs, Dr. Zammuto presented Dr. Lally with an award for his designation as the Physician of the Year by the American Osteopathic Foundation.

Dr. Krpan graciously accepted the award in Dr. Lally's absence and noted that he was proud of Dr. Lally's many achievements throughout his career.

### 1. Roll Call

Mrs. Chong called roll and Dr. Zammuto determined that a quorum was present.

### 2. Public Comment for Items Not on the Agenda

No Public Comment was received by the board.

### 3. Election of Officers

#### Board President

- Dr. Zammuto asked if there were any motions/nominations for election of Board President.
- Joseph Zammuto, D.O. was nominated for President  
**Motion** – C. Mercado, **Second** – C. Buhari.
- Dr. Zammuto opened the floor to additional nominations, none were given.
- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Dr. Lally, Dr. Jensen
- Dr. Zammuto was unanimously elected for Board President.

#### Vice President

- Dr. Zammuto asked if there were any motions/nominations for election of Board Vice President.
- James Lally, D.O. was nominated for Vice President  
**Motion** – A. Howard, **Second** – C. Buhari.
- Dr. Zammuto opened the floor to additional nominations, none were given.
- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto

- **Nay** – None
- **Abstention** – None
- **Absent** – Dr. Lally, Dr. Jensen
- Dr. Lally was unanimously elected for Board Vice President.

#### **Secretary/Treasurer**

- Dr. Zammuto asked if there were any motions/nominations for election of Secretary/Treasurer
- Cyrus Buhari, D.O. was nominated for Secretary/Treasurer  
**Motion** – J. Zammuto, **Second** – C.Mercado.
- Dr. Zammuto opened the floor to any additional nominations, none were given.
- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Dr. Lally, Dr. Jensen
- Dr. Buhari was unanimously elected as Secretary/Treasurer.

#### **4. Review and Approval of Minutes**

Dr. Zammuto called for a motion regarding approval of the Board Meeting minutes of October 7, 2016.

- **Motion to approve the October 7, 2016 Board meeting minutes with no corrections. Motion** – Mr. Howard, **Second** – Mrs. Williams
- Roll Call Vote was taken
  - **Aye** – Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – Mrs. Blair
  - **Absent** – Dr. Lally, Dr. Jensen
- Motion carried to approve minutes with no corrections.

#### **5. Executive Director's Report**

Angie Burton updated the Board on licensing statistics, staffing, Board budget activity, and diversion program statistics.

Staffing - Mrs. Burton informed the board that the staffing level remained at 11.5 staff leaving no current vacancies. In late November, the board advertised to refill the office receptionist vacancy following the unexpected passing of Ms. Johnston. The board received 90 applications in response to the advertisement and after careful consideration and review of all submissions; interviews were conducted in late December. The board is happy to announce that Dina Ruprecht was selected to join the staff, and has also attended her first BreEZe training. Mrs. Burton also made note that the board is currently reviewing the budget to see if there is adequate funding to create a permanent intermittent position to assist both the licensing and enforcement units.

Ms. Mercado inquired on the amount that would be necessary to fund an additional position within staffing, and was informed by Mrs. Burton that the amount would be predicated on the position classification added. The board is looking to possibly hire a permanent intermittent Office Technician (OT) which has a starting salary of roughly \$2,800 monthly. Permanent intermittent positions are only able to work a maximum of 1,500 hours per fiscal year; however, the board would need to assess how many hours it would be able to absorb prior to implementing the new position.

CURES - DOJ estimates that as of November 15, 2016, roughly 4,262 Osteopathic Physicians and Surgeons have registered with the new CURES 2.0 database since it went live. Between August 15 - September 15, 2016 CURES was accessed 12,030 times solely by osteopathic physicians and the prescribing history reports of 24,017 patients were ran.

Mrs. Burton advised the board of impending fee changes that would be taking place on July 1, 2017 pursuant to the SB 1478 Omnibus Bill. The amended bill would no longer require physicians renewing as inactive status to pay the annual \$6 fee for the CURES program. In addition to the fee change, the board also submitted a request to the BreEZe team to update the renewal form to accurately reflect the amendments. The first set of renewals to reflect the fee change would be those licenses expiring July 2017.

Mrs. Burton informed the board of the CURES survey that had been compiled and distributed by UC Davis Medical Center to those osteopathic physicians that were renewing in the month of December. She made note that at least 20% of the osteopathic physicians renewing during the specified timeframe participated in the survey, and added that the Medical Board of California received roughly a 23% participation rate.

Ms. Mercado questioned what the overall goal of the survey was, and was advised by Mrs. Burton that it was administered so that the researchers could gain a better understanding of the database and see how it has been utilized by physicians and their counterparts thus far.

Mrs. Blair inquired about the postage costs incurred to administer the survey, and was informed by Mrs. Burton that the board only utilized paper and copier resources during the transmittal process. All other fees were paid by UC Davis.

Enforcement/ Discipline - The board's Lead Enforcement Analyst Corey Sparks presented the enforcement report to the board.

Mr Howard inquired about the timeframe of the average field investigations and why the closure rates drastically fluctuated throughout the year. He also asked if there was a way to obtain or compile a metrics that further detailed the board's open cases that are older than the 1 year goal and subsequently over 2 or 3 years to better understand why the cases were taking longer to close. He was informed by Mr. Sparks that many of the cases once opened are either routed to DOI or HQIU, and that many of the cases were still in HQIU awaiting processing due to low staffing which has made it a little difficult to close the cases that have been routed over in a timely manner.

Mr. Sparks also noted that twelve (12) of the boards Expert Reviewers have attended the training that was put on by the Medical Board of California in an effort to better assist them in completion of their reports of the enforcement cases reviewed. The board's training attendees were:

Rolf Knapp, D.O., Family Medicine; Richard Bond, D.O., Geriatrics; Shirley Wong, D.O., OB-GYN; John Kowalczyk, D.O., Urology; Gary Gramm, D.O., Family Medicine; Donna Marino, D.O., Pediatrics; Dan Miulli, D.O., Neurosurgery; Geraldine O'Shea, D.O., Internal Medicine; Marc Lynch, D.O., Pain Management; Deborah Arsenault, D.O., OB-GYN; Brian Loveless, D.O., OPP; & Eric Lindvall, D.O., Orthopedics.

## **6. Administrative Hearing(s)**

10:35 a.m.

- Janet Pragit, D.O. - Petition for Early Termination of Probation

The Office of Administrative Hearing (OAH) Administrative Law Judge (ALJ) Marcia Larson conducted the above hearing.

## **7. Closed Session**

The Board met in closed session to deliberate on the petition for early termination of probation of license listed above pursuant to Government Code section 11126(c)(3).

### **Return to Open Session**

**8. Budget Report – Mark Ito, DCA Budgets Office**

Mr. Ito provided the board with an updated analysis of the board's current budget and gave an in-depth explanation of the budget report and projected expenditures.

**9. Board Outreach - Veronica Harms, DCA Deputy Director of Communications**

Ms. Harms introduced herself to the board and gave a brief overview of her employment background highlighting some of the campaigns that she had previously worked on throughout her career. She provided the board with an example of an outreach video that had been created by her staff for the Medical Board, and made note that the board would be tasked with creating a script for the video and the videographer would piece together the content and make additional edits as needed prior to dissemination. She explained that all of the services that would be offered to produce the outreach content are included in the monthly pro rata paid by the board. Ms. Harms included that the unit would also be willing to create a Facebook and Twitter page at the board's request which they would put online to assist in the boards outreach efforts. Ms. Harms briefly discussed the other services that the Communications Unit offered for publication and design, as well as offering editing and digital print services.

Dr. Zammuto asked about the timeline of developing outreach content and was advised by Ms. Harms that it would be immediate once request was made by the board.

Ms. Mercado inquired what metrics were used to track the progress of the outreach campaign and was advised by Ms. Harms that currently there were no metrics in use. However, Google analytics and Facebook post analytics may be used to better gauge outreach progress.

Dr. Zammuto asked the students in attendance what they felt the best mode of communication would be in terms of outreach and was informed that facebook posts and the mini videos that are utilized in the timeline feeds would be a great way to increase outreach regarding osteopathic physicians and surgeons. With the videos, you are able to play them on your screen without having to open an alternate site. Although the videos are short they convey enough information for the viewer to gain a better understanding of the content provided.

**10. Title 16 California Code of Regulations: Section 1636 Continuing Medical Education Progress Report**

**Discussion and possible amendments to Business and Professions Code 2454.5**

Mrs. Burton informed the board members of the meetings that she held with both board appointed legal counsel and the Senate Business and Professions Committee regarding the proposed regulatory changes that would be made to the board's Continuing Medical Education (CME) requirement. It was decided that it would be in the best interest of the board to revise the current CME statutes to ensure that the proposed language would be enforceable once the regulatory changes occur. The board members were presented with the proposed statutory language that would be amended the Business and Profession Code statute 2454.5 regarding the CME cycle. The amendments would align the CME and license renewal cycles. The CME requirement would be changed from 150 hours every 3 years to 100 hours every 2 years to align with the 2-year license renewal.

Dr. Zammuto called for a motion to accept the proposed statutory language which would amend Business and Professions Code 2454.5.

- **Motion to accept the proposed language which would amend Business and Professions Code 2454.5. Motion** – Mr. Howard, **Second** – Dr. Buhari.

Dr. Zammuto called for public comment.

Kathleen Creason, Director of Osteopathic Physician and Surgeons of California (OPSC) made note that the association is in strong support of the proposed amendments being made to the current CME structure. Mrs. Creason included that the current statute verbiage has created a lot of confusion among licensees regarding the timeframe in which all CME must be submitted in accordance to the renewal cycle.

- Roll Call Vote was taken
  - o **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Dr. Lally, Dr. Jensen
- Motion carried to accept proposed language.

**Regulations Section(s):**

- **1635 Required Continuing Medical Education;**
- **1636 Continuing Medical Education Progress Report;**
- **1641 Sanctions for Noncompliance**

The board members reviewed the proposed language which would amend California Code of Regulations Section(s) 1635, 1636, and 1641 regarding implementation of the audit process and self-certification of CME to the board by licensees. Mrs. Burton

explained that further dialogue took place with the CME compliance coordinators in office after the October 2016 board meeting, during which time the board discussed possible implementation of a hybrid audit process. After the meetings conclusion board staff informed management that utilization of a hybrid audit would increase workload. The hybrid audit would require review of AOA hours and trigger a subsequent review of allopathic CME submitted to the compliance coordinators well after the initial precursory review of osteopathic CME, resulting in workload duplication.

The proposed regulatory language would require the staff complete a 100% audit at a later time. It would also require that every osteopathic physician who is up for licensure renewal complete the proposed self-certification form that will be included with every renewal application. The physician would need to report the number of hours completed during the specified reporting cycle, indicate whether the pain management criteria has been completed and also require that the physician sign under penalty of perjury acknowledging that all requirements have been met as detailed.

The board would divide the audit process into two phases upon conclusion of the CME reporting cycle. The CME Compliance Coordinators would select a random population of physicians to audit that equaled 50% in the first year, leaving the remaining 50% to be audited after conclusion of the 4-year cycle. This change would prevent further backlogs as the office averages roughly 750 renewals every other month.

Dr. Zammuto wanted to further relay that the self-reporting form will in fact be a legally enforceable document which may result in disciplinary action such as penalties and fines, and noted that the physicians will ultimately be held responsible. Mrs. Burton added that the board does currently have a mechanism in place to issue a citation and fine which is set at roughly \$1,000 for any physician who fails to comply with the CME requirement. In the event that a physician fails to comply with the audit request for submission of renewal documentation, the board will then have the ability to cite and fine the physician and require s/he to also submit the deficient CME requirement.

Mr. Howard inquired on how the board would complete CME audit selections, and how they would ensure that the same person is not erroneously selected twice to complete the audit. Mrs. Burton informed him that the audit would be random and that the BreEZe database may have the ability to randomly generate a report of physicians that would be selected to submit documentation at the time of renewal. Additionally, Mrs. Burton was not entirely sure of the BreEZe databases' ability to prevent duplicate data extraction for audit requests and stated that it may have to be done manually. However, she stated that it would be looked into prior to implementation.

Mr. Howard also inquired whether the regulatory language would specify the percentage of physicians who would be audited throughout the year, and was advised by Mrs. Burton and Mr. Hurtado that it was not necessary to include that in the proposed

language. Inclusion of the CME audit process in the regulatory language would allow the board to audit the CME requirement at its discretion. Omission of the audit percentage would prevent processing constraints from being placed on the board. Mrs. Burton added that the board would then have the ability to add an audit percentage amount to its in-house policies and procedures which would also allow the board to amend the number of CME reports that are audited throughout the year when necessary.

Mr. Hurtado noted that making a motion to approve the regulatory language regarding the CME would be too premature as the board is requesting that legislative amendments be made to align the CME reporting cycle with the renewal cycle. The language would need to be brought back to the board for further discussion at a later time and date.

Dr. Zammuto called for public comment.

Dr. Krpan noted that although the board currently reviews 100% of the CME completed by each physician, he agrees with the board staff's recommendation of going to an audit system as the board does not have ample staff to both continue processing renewals in a timely manner and review 100% of the CME submitted. Those licensed physicians who are also members of the American Osteopathic Association (AOA) have always had the ability to submit their documents to the AOA to have them reviewed and inputted into a spreadsheet format; however, the physicians that are not members are submitting excessive amounts of documentation equaling 150 hours to the board for staff review. Because of these submissions the board's CME compliance coordinators are having a hard time keeping up with the review demands.

Mrs. Creason, OPSC, expressed concerns about the board's choice to not indicate the percentage of licenses to be audited within its regulatory language. Mrs. Creason recommended that language be added to indicate a minimum of 50% of licensees would be audited per renewal cycle.

Mrs. Blair asked if there was a way to ensure that the system will automatically capture all inadvertently unnoticed physicians who had not yet complied with the audit process at sometime within the 4 years. She also inquired on the board's ability to include verbiage in the proposed language that would ensure that those missed physicians be made to comply with the board's request prior to conclusion of the 4th year. Mrs. Burton informed Mrs. Blair that Mr. Sparks should have the ability to run a report that would allow the board to better identify those physicians who had not yet been selected for the audit process and certify that they do complete the audit in a timely manner. The board can create a spreadsheet or utilize QBIRT, however either way there should not be an issue of duplicate audits or forgotten physicians.

Dr. Zammuto called for adoption of the Osteopathic Medical Board CME Self-Certification form for renewal.

- **Motion to adoption the CME Self-Certification form.**
- **Motion** – Mr. Howard, **Second** – Mrs. Blair.

Dr. Zammuto called for public comment.

Kathleen Creason, OPSC, wanted to clarify whether the motion was to adopt the regulatory language as adopted or just the concept, and was advised that the motion was only to adopt the concept of the Self-Reporting form.

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Dr. Lally, Dr. Jensen
- Motion carried to accept the CME Self-Certification form.

**11. 2016/2017 Oversight Report - Assembly Business and Professions Committee and Senate Business, Professions and Economic Development Committee: Discussion and Possible Approval**

Mrs. Burton informed the board that the agenda item had been added in anticipation of committee response to the submitted oversight report, however to date staff had not yet received any questions or comments from either committee.

**12. Agenda Items for Next Board Meeting**

- 2016/2017 Oversight Report - Review of Hearing
- Legislative report of the CME process

**15. Future Meeting Dates**

- Thursday, May 18, 2017 @ 10:00 am - TBD
- Thursday, October 19, 2017 @10:00 am - Sacramento, CA

**16. Adjournment**

There being no further business, the Meeting was adjourned at 1:15 p.m.

**May 18, 2017**



## BOARD MEETING MINUTES

Thursday, May 18, 2017

**BOARD MEMBERS PRESENT:** Joseph Zammuto, D.O., President  
James Lally, D.O., Vice President  
Cyrus Buhari, D.O., Secretary Treasurer  
Claudia Mercado, Board Member  
Alan Howard, Board Member  
Elizabeth Jensen, D.O., Board Member

**STAFF PRESENT:** Angelina Burton, Executive Director  
Terri Thorfinnson, Assistant Executive Director  
Ileana Butu, Esq., Legal Counsel, DCA  
Machiko Chong, Executive Analyst  
Corey Sparks, Lead Enforcement Analyst  
Donald Krpan, D.O., Medical Consultant

**BOARD MEMBERS ABSENT:** Megan Blair, Board Member  
Cheryl Williams, Board Member

The Board meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Zammuto, D.O. at 9:30 a.m. at Chino Valley Medical Center (Conference Center) – 5451 Walnut Avenue, Chino CA 91710.

### 1. Roll Call

Mrs. Chong called roll and Dr. Zammuto determined that a quorum was present.

### 2. Public Comment for Items Not on the Agenda

The board did have a caller who wished to remain anonymous. She thanked the board for their time and consideration of the matter, and noted that her request to be heard by

the board's members stemmed from her concerns as a citizen and resident of California and for the vulnerable elderly patients that reach out to the board for protection and review of physicians who have or may be providing the minimum standard of care. The caller stated that she had filed a complaint with the board in October 2016, however roughly 3 months passed before any contact was ever made by the board's analyst regarding acknowledgment of the complaint. She stated that the matter was subsequently forwarded on to the board's medical consultant for review, but the physician in question was subsequently exonerated and the complaint was found to be unsubstantiated. The caller went on to detail some of the matters of the complaint that she felt had not been acknowledged and properly addressed and stated that the physician in question may or may not have been involved in elderly abuse pursuant to the Welfare and Institution Act. She believes that the medical board has allowed the persons that represent them to put those patients' lives in danger that are most vulnerable and place the rest of the population at risk. If anyone is empowered to provide care at a substandard level then it should no longer be considered care and becomes dangerous care. The medical board should attempt to make better contact with its complainants and ensure that their needs are being met rather than just "rubber stamp everything" or attributing it to lack of oversight. Her hope is that the board attempts to obtain more staff to ensure that matters may be considered in a more timely manner, and ensure that they are not expeditiously closed out.

Dr. Zammuto thanked the caller for her comments and opened the floor to additional comments from the public, however none were given.

### **3. Review and Approval of Minutes**

Dr. Zammuto called for a motion regarding approval of the Board Meeting minutes of January 20, 2017.

Alan Howard submitted written recommendation to correct the minutes as noted:

- Remove Keith Higginbotham, Esq. from attendance
  - Add Megan Blair to attendance
  - Add Secretary-Treasurer to Cyrus Buhari, D.O.
  - Add Vice-President to James Lally, D.O.
  - Amend matrix to reflect metrics
- 
- **Motion to approve the January 20, 2017 Board meeting minutes with corrections as recommended. Motion** – Mr. Howard, **Second** – Dr. Buhari
  - Roll Call Vote was taken
    - o **Aye** – Dr. Buhari, Mr. Howard, Ms. Mercado, Dr. Zammuto
    - o **Nay** – None
    - o **Abstention** –Dr. Lally, Dr. Jensen

- o **Absent** – Mrs. Blair, Mrs. Williams

Mrs. Chong advised Dr. Zammuto that approval of the minutes could not be completed as the board did not have a quorum of members that were present at the previous meeting who were eligible to vote. It was decided that the minutes would be presented to the board at the next meeting so that an approval and vote could be completed.

#### **4. President's Report**

Dr. Zammuto reported on some the highlights from his attendance at the Federation of State Medical Board Annual Meeting held in Ft. Worth Texas. He made note that he served on the resolution committee at the meeting, and was also appointed to serve on the education committee for the tentatively scheduled 2018 Annual Meeting. Some of the key topics discussed at the meeting included: Issues in physician wellness; Dealing with the legal and regulatory landscape of assisted dying; Dealing with state responses to the opioid epidemic; and Evidence based regulations – Challenges and Opportunities. He further discussed his attendance of the assisted dying session where representatives from California, Oregon, and the Province of Ottawa Canada were present to discuss the similarities and differences in the practice of assisted dying by physicians. Dr. Zammuto noted that one of the interesting facts brought up during the session was that patients in Ottawa are not required to have a terminal condition to request euthanasia, and are able to request assistance when a mental health condition has been diagnosed. California seems to be one of the more conservative states having regulations set in place regarding assisted euthanasia to ensure patient protection.

Dr. Zammuto also discussed the Guidelines for the chronic use of opioid analgesics which the FSMB took vote and adopted on April 2017. The document is 16 pages long and covers topics such as: Opioid use; Discontinuation; Patient protection; and Physician behavior. He noted that the document was well written and is a model currently being utilized by many states.

Dr. Zammuto was pleased to present the board with information regarding CME reporting options for Non- American Osteopathic Association (AOA) members for ease and accessibility of prior year CME. Currently, those physicians that are AOA members have the option of submitting their CME certification to the association, which is subsequently tallied and input into a chart for transmittal to alternate entities. Dr. Zammuto informed the board that he had contacted the AOA and discussed at length the issues surrounding CME reporting issues for Non- AOA members that the board has handled. Through this discussion Dr. Zammuto and the AOA were able to agree upon collaboration efforts that would allow the OMBC and non-AOA members to utilize the AOA as a CME clearinghouse for re-licensure efforts.

The alliance would:

- Ensure that the TraCME database automatically captures all CME credits completed by the physician through either the AOA or accredited AOA sponsors.
- Allow individual D.O.s to report AMA PRA Category 1 credit or AAFP category 1 credits.
- Ensure that all CME credits are properly outlined for easier readability.
- Afford each physician the ability to print out their reports for their specific needs.

## **5. Executive Director's Report**

Angie Burton updated the Board on licensing statistics, staffing, Board budget activity, and diversion program statistics.

Licensing - Mrs. Burton informed the board that staff has made great strides in decreasing the average processing time of initial licensing applications received in office. She was pleased to report that with the assistance of the two support staff in office the board's licensing specialist was able to decrease the 106 day processing time of applications to an average of 52 days.

CURES - DOJ estimates that as of April 30, 2017, roughly 5,301 Osteopathic Physicians and Surgeons have registered with the new CURES 2.0 database since it went live. In April 2017, 27,761 Patient Activity Reports (PAR's) were accessed by osteopathic physicians via the CURES Database.

Mr. Howard inquired if the CURES database had the ability to notify its users that they are currently treating a patient that is a drug seeker, or do they have to have a suspicion and go into the system to pull the report. Dr. Zammuto informed him that when you log into the system a list is generated with roughly 10 patients per page of patients that are at higher risk due to the types of medication they are being prescribed or the combination in which they are being administered. The physician is then able to complete further research on the patient's prescription history such as their location, the prescriptions being filled, and whether they are actually being picked up, etc.

Mrs. Burton further advised Mr. Howard that new law stipulates that a treating physician is required to run a PAR prior to issuing a prescription to a new patient, additionally the physician should be checking the patients record at least every four months to ensure that patient is not obtaining prescriptions from other physicians if the patient will remain on narcotics long term. The only time the physician would not need to generate a PAR is if the patient is being seen in the emergency room due to life threatening matters. Dr. Zammuto added that pharmacists are also utilizing the system and will contact the issuing physician to ensure that they are aware of the patient's prescription history prior to fulfilling the order if the pharmacist feels uncertainty about the transaction.

Budget – Mrs. Burton informed the board that the Fiscal Year end budget projections are estimated to produce only a 2.2% reversion, and explained that the Fund Condition balance did not include the \$1.5 million loan repayment which is still outstanding.

Mrs. Burton also informed the board that 2 Budget Change Proposals (BCP) had been submitted for the board requesting budget and staff changes. The 1<sup>st</sup> BCP requested an increase to the enforcement budget, spending authority for the Attorney General costs, investigative costs and expert reviewer costs. The 2<sup>nd</sup> BCP requested additional staffing for the board, adding 1 additional staff to both the enforcement and licensing unit. If both BPCs are approved the budget and staffing changes will not be effective until July 1, 2018.

Enforcement/ Discipline - The board's Lead Enforcement Analyst Corey Sparks presented the enforcement report to the board.

## **6. Administrative Hearing(s)**

10:30 a.m.

- Brenda Steinberg, D.O. - Petition for Early Termination of Probation

The Office of Administrative Hearing (OAH) Administrative Law Judge (ALJ) Julie Cabos-Owen conducted the above hearing.

## **7. Closed Session**

The Board met in closed session to deliberate on the petition for early termination of probation of license listed above pursuant to Government Code section 11126(c)(3).

### **Return to Open Session**

## **8. Presentation – Vincent DiCianni, Esq., Affiliated Monitors Inc.**

Mr. DiCianni presented the board with information pertaining to the independent monitoring services that Affiliated Monitors, Inc. could offer to the board.

Ms. Mercado inquired what pain points Mr. DiCianni felt the board held and how he felt his company could assist in alleviating said issues. Mr. DiCianni advised that the board would need to make the determination whether a practitioner should be on a monitored, however the company would be able to assist the boards with creating terms formulated from the specificity of the outcome needed.

## 9. Legislation

### **SB 798: Healing arts: boards (Sunset Bill)**

Dr. Lally explained that the board would be dually impacted by the effects of the proposed changes to the initial licensure requirements for newly graduated physicians and surgeons. He stated that the burden accompanied by the changes would be placed on the board, as bureaucratic and administrative changes will need to take place. Additionally, although the board is currently only taking 52 days to process initial applications a change to the licensure requirements would lead to an influx of applications in office which will subsequently lead to longer processing times. This change would consequently leave the graduates unemployable as they would not be licensed in time to begin working as licensure is generally a requirement for employment. Dr. Lally went on to compare the two professions (Osteopathic and Allopathic) with regards to the recommendation for additional training prior to licensure, and the inferiority that osteopathic physicians may be perceived to have in relation to their counterparts. He explained that the accreditation agreement that the American Osteopathic Association (AOA) & Accreditation Council for Graduate Medical Education (ACGME) have entered into should remove any flawed ideas of the credibility of either profession as the training and background in either program would be the same.

Dr. Lally expressed concerns on what impact this proposed amendment and licensure type would have not only on the licensing staff but also on the society, as there would be an influx of graduates who would now be unable to work as they have not met the minimal requirements for licensure.

Ms. Butu indicated that the resident would not be unemployable as the training license issued would be valid for 90 after the completion of the residency program. However, Mrs. Burton inquired about the verbiage regarding the training license as she understood the proposed language to indicate that although the training license would be valid for up to 90 days post residency completion, it is to only be utilized while actively participating within a residency program which would make it ineffective immediately after completion.

Dr. Buhari inquired whether the implementation of the training licensure was due in part to those physicians who may or may not have successfully completed a training program after their 1<sup>st</sup> year and if the knowledge base garnered was enough to safely and successfully practice medicine without any additional training. Mrs. Thorfinnson added that the proposed language may very well be attempting to prevent cases such as the one suggested by Dr. Buhari, in addition to granting the board the ability to manage post graduates in terms of jurisdiction.

Dr. Zammuto questioned what the timeline was in terms of the board providing a decision on the matter and was advised by Mrs. Thorfinnson that the board would need

to provide language no later than July regarding the board's desires to either opt in or out of the proposed changes as the final bill would automatically affect the board.

Dr. Lally asked if the board's decision would affect how the legislature viewed the board being that the language is being proposed via a Sunset Bill. He was advised by Mrs. Thorfinnson that it should not matter and was informed that staff had no additional contact with the committee once the language had been introduced as staff was unsure of how the board would want to proceed with the recommendations. Mrs. Thorfinnson believes that although the committee did not realize that the language impacted the board they would be understanding and accommodate the board in anyway necessary.

Dr. Zammuto called for public comment.

Kathleen Creason, Director of Osteopathic Physician and Surgeons of California (OPSC) stated that the association is currently in support of the bill if amended. The association likes the fact that SB 798 would extend the licensing authority of the OMBC to oversee residents, and is also in support of the modification to the continuing education requirements in terms of the timing of submission to the board. However, they do have significant concerns about the requirement for probationers to report their probationary terms and conditions, and are remaining neutral on the recommendation to extend the education requirement to 3 years of residency prior to applying for licensure.

Ms. Butu added that the board could draft a letter in support of the bill if amended and explain the concerns that they have and why they are requesting that amendments be made. She also agreed with Mrs. Thorfinnson with regards to how the committee would view the board in light of their stance of the proposed bill verbiage as introduced. Mrs. Thorfinnson added that there are advantages of utilizing a Sunset Bill to request changes. She explained to the board that if they felt inclined to jump into the bill and embrace it then it would be fast and require very little lobbying work, however if they were unsure about some of the things that had been included and wanted to request changes then they would have the ability to opt out. Either way the board would need to make a decision to opt in or out of the bill, but can request a fee increase either way they elect to move.

Dr. Lally asked what the board was currently paying and what it would be changed to and was advised by Mrs. Burton that although licensees are currently paying \$400 biennially (\$200 annually) the board is asking to increase the statutory fee cap to \$800 biennially (\$400 annually), which would allow the board to gradually increase the amount that the licensees are paying until it reaches its ceiling. Mrs. Thorfinnson noted that although the board would be voting to amend the statutory fee cap increasing the amount paid they will also have the ability to bring it back to the table once amended to stipulate how the increase will be put into effect (incrementally, abruptly, etc.).

Dr. Lally asked Mrs. Creason whether OPSC had a stance on the boards request to increase fees and was notified that it had not been discussed.

Mrs. Burton wanted to make note that every year the board has continued to spend more than it has accrued and will eventually run out of money should the board decides not to increase the fees. Mrs. Thorfinnson stated that depletion of fees would more than likely occur around 2020-2021.

Dr. Jensen commented that she has seen instances during her career where students had not completed all channels of their post graduate training yet had been able to gain employment. She stressed that those instances were not in the best interest of the public in terms of safety; however those cases are also very minimal in occurrence. She noted that the stipulations that were set fourth would be very restrictive for every trainee who *has* completed a program and would now have to wait in order to obtain licensure. Although she understands that the author had good intentions she is just not sure that this is the proper route.

Mr. Howard inquired whether the board would be able to issue a license under 52 days if more staff was brought on, and was advised that the board should hopefully have additional staff by 2020 when this legislation becomes effective pending approval of the boards BCP requests. However, should the requests be denied the implementation of a training license may become a burden to the board.

The board continued to express concerns about the gap of time between completion of the residency program and applicants approval for licensure with regards to their ability to obtain employment. They were advised by Mrs. Burton that once the applicant was ready to apply for a full unrestricted license majority of the required documentation would already be in office (COMLEX I & II, fingerprints, etc.), therefore the remaining documents (COMLEX III and successful completion of the 36 months of training) should not take as long to process before a license is issued.

Dr. Jensen questioned if there was another way for the board to gain jurisdiction of physicians more specifically residents who are not yet licensed by the board. Ms. Butu indicated that she would have to research what the board's option might be.

- **Motion to increase fee cap to \$800. Motion – Dr. Lally, Second – Dr. Buhari.**
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Mr. Howard, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None

- o **Abstention** – None
  - o **Absent** – Mrs. Blair, Mrs. Williams
- Motion carried to increase fee cap to \$800.
  
- **Motion to opt out of BPC Section 2064.5 requiring applicants to complete their PGY-3 and obtain a training license. Motion** – Dr. Lally, **Second** – Dr. Buhari.
  
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to opt out of BPC Section 2064.5 requiring applicants to complete their PGY-3 and obtain a training license.

Dr. Lally asked Mrs. Creason for clarification on the association's stance regarding BPC 2228.1 and the burden that would be placed on physicians needing to disclose their probationary terms to their patients. As the language is written every physician and physician staff would need to disclose this information to all patients being treated via written documentation which would need to be signed. This requirement would not only be very time consuming for the practice, but would also limit the productivity of the physician while providing patient care.

The board felt that not only would the form take away from patient care but would also cause many of those physicians on probation to lose their patient base as the acknowledgement may alarm the patients and subsequently shy them away from treatment.

Dr. Lally inquired if the board could just opt out of the proposed language and was advised by Mrs. Thorfinnson that unlike the other language the board was actually named in the section therefor the board would have to oppose the recommendation altogether. Dr. Lally asked if the board could opt in but amend some of the verbiage included and was advised that he could.

Dr. Buhari asked how the acknowledgment would be enforced and was advised that it would be difficult, however there may be ways to ensure that the patients are being notified either via probation monitors, case review, etc.

Dr. Jensen recommended that the board reach out to the author to both acknowledge and convey the necessity for regulatory agencies to inform and protect the public's interest; however she expressed that the board need also recommend that revisions be

made to the verbiage set forth as the way that it has been written may be a little extreme. She also noted that once that is done then both boards could maybe come together to petition for a change in the language.

- **Motion to discuss BPC Section 2228.1. Motion** – Dr. Lally, **Second** – Dr. Buhari.

The board inquired on the most common violation handled by the board and were advised that the board see negligence, however after review most of those were found to be within the standard of practice. For those actually on probation for negligence it is typically for self-medicating.

Dr. Krpan recommended that the board draft a correspondence to Senator Hill recommending that only the following categories need be reported to patients by those physicians on probation:

- Felonies
  - Criminal Convictions
  - Sexual Misconduct; and
  - Substance abuse during practice
- Roll Call Vote was taken in support BPC Section 2228.1 with amendments as recommended.
    - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
    - o **Nay** – None
    - o **Abstention** – None
    - o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
  - Motion carried to support BPC Section 2228.1 with amendments as recommended.

### **SB 572: Healing arts: licensees; violations: grace period**

Dr. Buhari asked if the proposed bill had any impact to the board and was advised that the bill would affect those licenses that have failed to file for a Fictitious Name Permit (FNP), advertise properly, etc.

- **Motion to oppose SB 572. Motion** – Dr. Lally, **Second** – Dr. Jensen.
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None

- o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to oppose SB 572.

**SB 762: Healing arts: Volunteer: Fee Waiver**

The board does not currently have a voluntary license status.

- **Motion to oppose SB 762. Motion** – Dr. Lally, **Second** – Dr. Jensen.
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to oppose SB 762.

**AB 703: License: Fee Waiver**

Dr. Lally noted that he was in favor of the bill not only because it would more than likely be chaptered, but because those enlisted in the military should not be forced to pay additional fees after serving the country.

- **Motion to support AB 703. Motion** – Dr. Lally, **Second** – Dr. Jensen.
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to support AB 703.

**AB 845: Cannabidiol**

- **Motion to discuss AB 845. Motion** – Dr. Lally, **Second** – Ms. Mercado.

Dr. Lally advised that currently the Veterans Administration (VA) is authorizing the use of the CBD component of marijuana for Post-Traumatic Stress, and is encouraging their physicians to prescribe it to those patients that have undergone a psychological evaluation have clinical medical issues, whom they are trying to remove off opioids. Where the THC component of the marijuana may have a jovial effect the CBD

component has calming affects. The current issue surrounding use of CBD is the fact that it is a Schedule I drug as opposed to a Schedule II. To date the President has not taken a stance on the use of CBD and the United States Attorney General has opposed its use, however there are roughly 3 (three) pharmaceutical companies that have clinical trials in the 3<sup>rd</sup> phase that they are awaiting to push through. If either of the pharmaceutical companies is successful in their clinical attempts it will automatically cause the drug to be reclassified from a Schedule I to a Schedule II.

Ms. Mercado expressed concerns with the lack of regulations surrounding cultivation of the cannabis crops more specifically regarding the use of pesticide during the growth process, and with the lack of establishment of safe dosing measurements. Dr. Lally noted that a 211 page document of explanation and rules was created and issued on May 12, 2017 which was compiled because of Proposition 4 and the Medical Marijuana Regulation and Safety Act, he added that the document currently being viewed by the board was possibly written prior to the explanation and rules being drafted and issued.

Ms. Mercado inquired if the bill was being created to ensure pharmaceutical standards and was advised by Dr. Lally that it is and will also be contingent upon approval from the FDA. He noted that it would also ensure that those shops distributing medical marijuana beginning January 1<sup>st</sup> are licensed and regulated by the board or they run the risk of being charged with felonious acts as they will have violated the law regarding licensure and distribution of medical marijuana.

- **Motion to support AB 845. Motion** – Dr. Lally, **Second** – Dr. Jensen.
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to support AB 845.

#### 10. **Title 16 California Code of Regulations:**

##### **Regulations Section(s):**

- **1635 Required Continuing Medical Education;**
- **1636 Continuing Medical Education Progress Report;**
- **1641 Sanctions for Noncompliance**

Mrs. Burton informed the board members of the meetings that she held with both board appointed legal counsel and the Senate Business and Professions Committee regarding

the proposed regulatory changes that would be made to the board's Continuing Medical Education (CME) requirement.

Dr. Zammuto called for public comment.

Kathleen Creason, Director of Osteopathic Physician and Surgeons of California (OPSC) made note that the association is in strong support of the proposed amendments being made to the current CME structure, which would change the time of the reporting requirements. However, Mrs. Creason expressed concerns with the language still not including a percentage of minimum records that would be audited. Mrs. Thorfinnson advised that language regarding audit percentages are generally not included within regulatory packages, but noted that the board could complete an in-house review of its workload to determine an accurate percentage that would be used to audit the renewals biennially.

Ms. Butu recommended that audit percentages could be added to the Initial Statement of Reasons (ISOR) or other supporting documents submitted in the regulatory package to ensure that the board had language to refer to should any audit questions be presented in the future. She also noted if audit percentages were not included in the regulatory packet the board *is* audited every four (4) years and any questions surrounding lack of adequate CME review would be addressed.

Mrs. Creason reaffirmed her concerns with the boards lack of inclusion of audit percentages in the regulatory language, and noted that its omission lessens public assurance in the board as future staff brought on may not uphold the auditing percentages set forth by current staff unless it is listed in the regulations. Mrs. Thorfinnson noted that by including a percentage in the verbiage you would then be dictating a workload that board staff would need to meet, however the document in review is more of a policy. If unforeseen circumstances occur in office which prevented the staff from meeting the stipulated percentage for audits then the board would be forced to revise the regulatory language to amend the audit percentages.

Dr. Zammuto called for a motion to accept the proposed statutory language which would amend Business and Professions Code 2454.5.

- **Motion to accept the proposed language to amend Business and Professions Code 2454.5 and include audit percentages to the ISOR of 25% a year for 100% audit of all licensees over 4 years. Motion – Ms. Mercado, **Second** – Dr. Lally.**
- Roll Call Vote was taken
  - o **Aye** – Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Dr. Zammuto
  - o **Nay** – None
  - o **Abstention** – None

- o **Absent** – Mrs. Blair, Mr. Howard, Mrs. Williams
- Motion carried to accept proposed language w/ inclusion in the ISOR.
- **16612 Continuing Medical Education Progress Report;**
- **1641 Sanctions for Noncompliance**

Mrs. Thorfinnson presented the board with the proposed revisions that were made to the Diversion Evaluation Committee Duties and Responsibilities, and to the Disciplinary Guideline.

Ms. Butu inquired when the board was considering holding the teleconference to vote on the Disciplinary Guidelines and was advised that the board would like to hold the conference sometime in June pending board member availability.

**11. Agenda Items for Next Board Meeting**

- January 20, 2017 Meeting Minutes

**12. Future Meeting Dates**

- Thursday, October 19, 2017 @ 10:00 am - Sacramento, CA
- Thursday, January 18, 2018 @ 10:00 am - Sacramento, CA

**13. Adjournment**

There being no further business, the Meeting was adjourned at 3:34 p.m.

**June 28, 2017**



**DRAFT**

**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
BOARD MEETING MINUTES**

Wednesday, June 28, 2017

**BOARD MEMBERS PRESENT:** Joseph Zammuto, D.O., President  
James Lally, D.O., Vice President  
Cyrus Buhari, D.O., Secretary Treasurer  
Megan Lim Blair, Board Member  
Alan Howard, Board Member  
Claudia Mercado, Board Member  
Cheryl Williams, Board Member

**STAFF PRESENT:** Angelina Burton, Executive Director  
Terri Thorfinnson, Assistant Executive Director  
Jason Hurtado, Esq., Legal Counsel, DCA  
Machiko Chong, Executive Analyst

**BOARD MEMBERS ABSENT:** Elizabeth Jensen, Board Member

The meeting of the Osteopathic Medical Board of California was called to order by President Joseph Zammuto, D.O., at 10:01 AM via teleconference at the noticed site of 2287 Mowry Ave., Suite C, Fremont, CA 94538. This teleconference site was open and accessible to the public. No public was present at this location. Board staff was in the Board's conference room at 1300 National Drive, Suite 150, Sacramento, CA 95834. The meeting site was open and accessible to the public.

1. Roll Call:

Dr. Zammuto asked Angelina Burton to call the roll. Each of the Board Members in attendance gave their name, teleconference address, and telephone number:

- **James Lally, D.O.** Chino Valley Medical Center, 5451 Walnut Ave., Chino CA 91710,(909) 464-8600;
- **Cyrus Buhari, D.O.**, Osteopathic Medical Board, 1300 National Drive, Suite 150, Sacramento CA 95834, (916) 928-8340;
- **Megan Lim Blair**, San Diego Public Library, 330 Park Blvd, San Diego CA 92101, (619) 987-2581;
- **Alan Howard**, Radisson Blu Astorija Hotel, Didžioji g. 35, Vilnius 01128, Lithuania, +370 5 212 0110;
- **Cheryl Williams**, AFLAC in San Diego, 5050 Murphy Canyon Rd., Ste 150, San Diego CA 92123, (858) 429-5432;

- **Claudia Mercado**, 421 23<sup>rd</sup> Avenue, Oakland CA 94606, (510) 735-5999

2. Public Comment for Items Not on the Agenda:

There were no public comments.

3. Title 16 California Code of Regulations: Discussion and possible action to consider amendments to California Code of Regulations Sections:

- **1661.2** Diversion Evaluation Committee Duties and Responsibilities
- **1663** Disciplinary Guidelines (Senate Bill 1441 Uniform Standards)

Mrs. Thorfinnson presented the board with revisions of the Diversion Evaluation Committee Duties and Responsibilities, and to the Disciplinary Guidelines which she read and explained to the board.

- **Motion to accept changes as presented. Motion** – Dr. Lally, **Second** – Mrs. Blair
- Roll Call Vote was taken
  - o **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Dr. Lally, Ms. Mercado, Dr. Zammuto, Mrs. Williams
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Dr. Jensen
- Motion carried to accept changes as presented

Dr. Zammuto thanked all of those that participated in the compilation and revisions of the documents presented for discussion.

4. Osteopathic Medical Board of California Disciplinary Guidelines: Discussion and possible action to consider amendments to Guidelines.

- Dr. Buhari moved that the board approve the proposed modified text for a 15 day public comment period, and if there are no adverse comments received during the commenting period delegate to the executive officer the authority to adopt the proposed regulatory changes as modified and complete the rule making file including making any technical or non-substantive changes. **Second** – Dr. Lally
- Roll Call Vote was taken
  - o **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Dr. Lally, Ms. Mercado, Dr. Zammuto, Mrs. Williams
  - o **Nay** – None
  - o **Abstention** – None

- o **Absent** – Dr. Jensen
- Motion carried to accept changes as presented

5. Legislation: Discussion and Possible Action

- **SB 798** Healing arts: boards (Sunset Bill)
  - o Sections which affect Osteopathic Medical Board:  
B&P Code sections 2064.5, 2065, 2082, 2096, 2135.5, 2143, 2228.1

Dr. Zammuto noted that the osteopathic profession does not have any issues and/or concerns with its licensure process, as it does not currently accept applications from foreign medical graduates. Moreover, the Medical Board is attempting to control and quantify their licensure process for applicants of foreign institutions, which should not mean that licensees of alternate boards should be forced into the recommended stipulations set forth.

Kathleen Creason, Director of Osteopathic Physician and Surgeons of California (OPSC) noted that there are concerns on the impact the proposed bill would have for physicians opting to moonlight, and inquired about the boards perspective on the language. Dr. Lally noted that the stringent single accreditation process in effect through the ACGME should remove concern surrounding issues of moonlighting. However, there are concerns regarding the delay of licensure versus the ability to obtain employment. He added that the prolonging of licensure issuance by the board would handicap those California physicians looking for employment if enacted.

Mrs. Burton informed the board that concerns surrounding licensure while moonlighting was brought to the attention of Sara Mason, Consultant to Senator Hill, however she was unaware if those concerns were relayed to the medical board at the last meeting or if the medical board staff had provided a response addressing the concerns.

Dr. Buhari inquired if the bill would affect California students looking for licensure out of state and was advised that it would not; but was informed that it *would* affect those physicians out of state who may not have met the requirements and are looking to obtain licensure in California to practice medicine.

Mrs. Burton noted the board requested that verbiage be added to SB 798 (amendment 10) regarding guest residency and the ability to obtain a permissive licensure to temporarily join a residency program. These physicians would still be under the jurisdiction of the hospital and it's training program; however, this would afford the board with the ability to monitor those that have come into the state for a residency programs not to exceed six (6) months.

Dr. Lally expressed concerns with the language making note that the board already has business processes in place to effectively monitor those physicians that are temporarily coming into the state to participate in an intermittent program, and felt that this inclusion

would only place the board at a disadvantage by lessening the safeguards that the board has in place.

Mrs. Thorfinnson added that the postgraduate section is new and may be removed if the board does not agree with what was proposed, and noted that Dr. Lally's earlier concerns regarding easier licensing processes for those physicians attending intermittent programs was a valid concern.

Dr. Zammuto informed the board that they did not have to accept the proposed language regarding licensure for intermittent programs if they were not comfortable with the way it read or the protection that it would provide to the public.

- Dr. Buhari moved to give Mrs. Burton the authority to strike amendment 10.  
**Second** – Dr. Lally
- Roll Call Vote was taken
  - o **Aye** – Mrs. Blair, Dr. Buhari, Mr. Howard, Dr. Lally, Ms. Mercado, Dr. Zammuto, Mrs. Williams
  - o **Nay** – None
  - o **Abstention** – None
  - o **Absent** – Dr. Jensen
- Motion carried to give Mrs. Burton the authority to strike amendment 10.

#### 6. Closed Session

- Performance evaluation of the Executive Director pursuant to Government Code Section 11126(a)(1).
- Adjourn Closed Session

#### Return to Open Session

#### 7. Agenda Items for Next Meeting

- SB 798 (Update)
- DCA Update
- Diversion Evaluation Committee – Director Update

#### 8. Future Meeting Dates

- October 19, 2017
- January 18, 2018

#### 9. Meeting adjourned at 12:05 p.m.

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# TAB 5



# THE CALIFORNIA DIVERSION PROGRAM

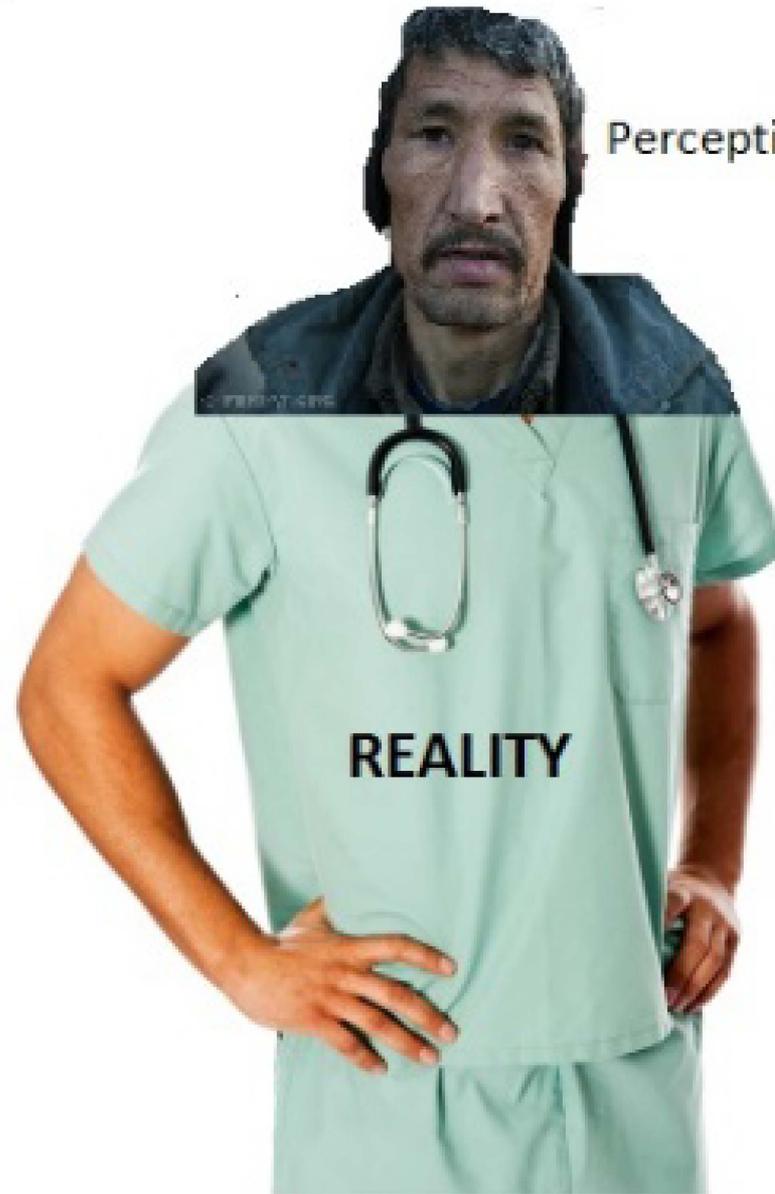
Helping Health  
Professionals Recover  
from Substance Use  
Disorders

# INTRODUCTION

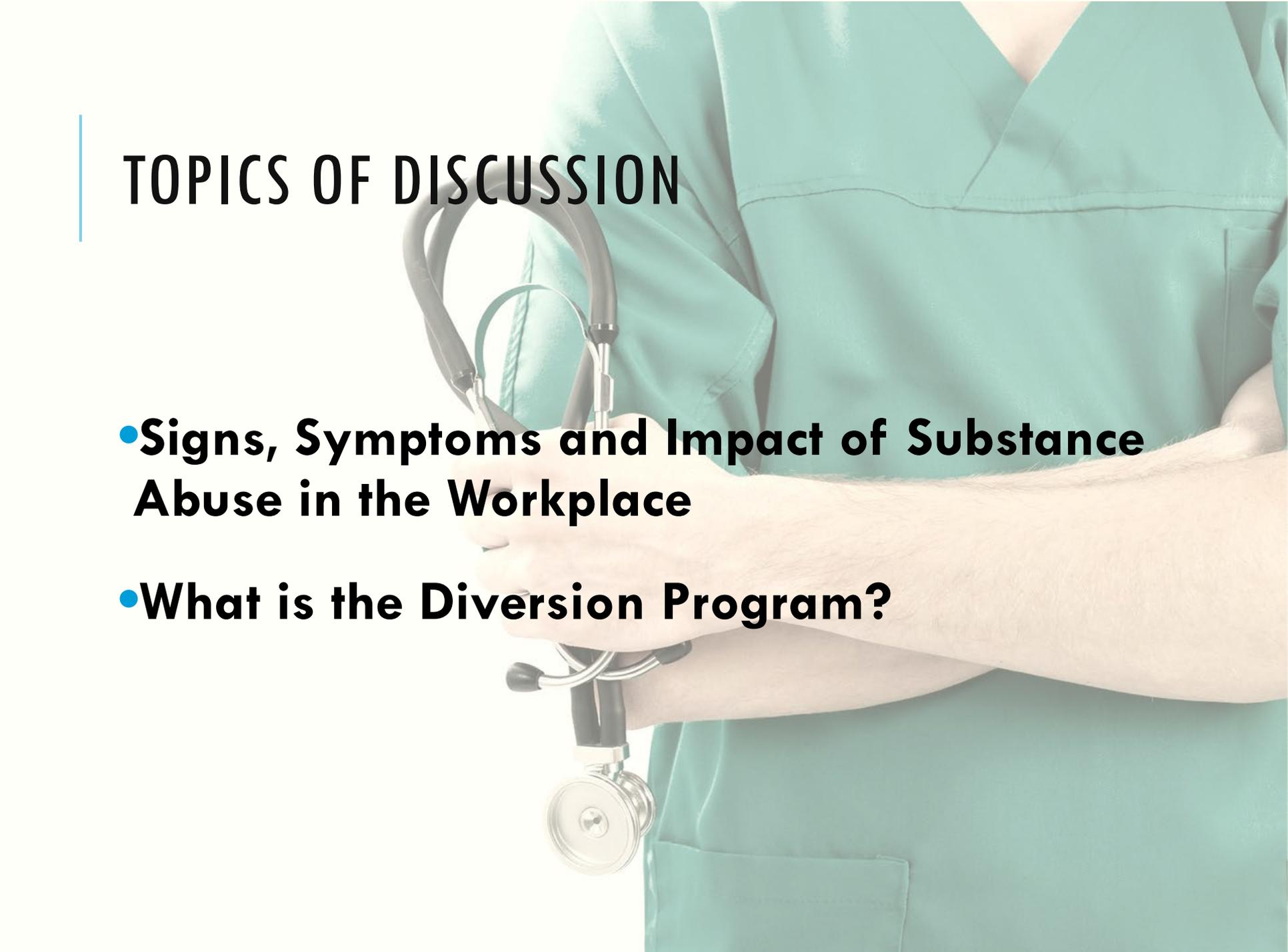
Anita (Anne) Mireles, RN, BSN  
Clinical Case Manager, MAXIMUS



Perception

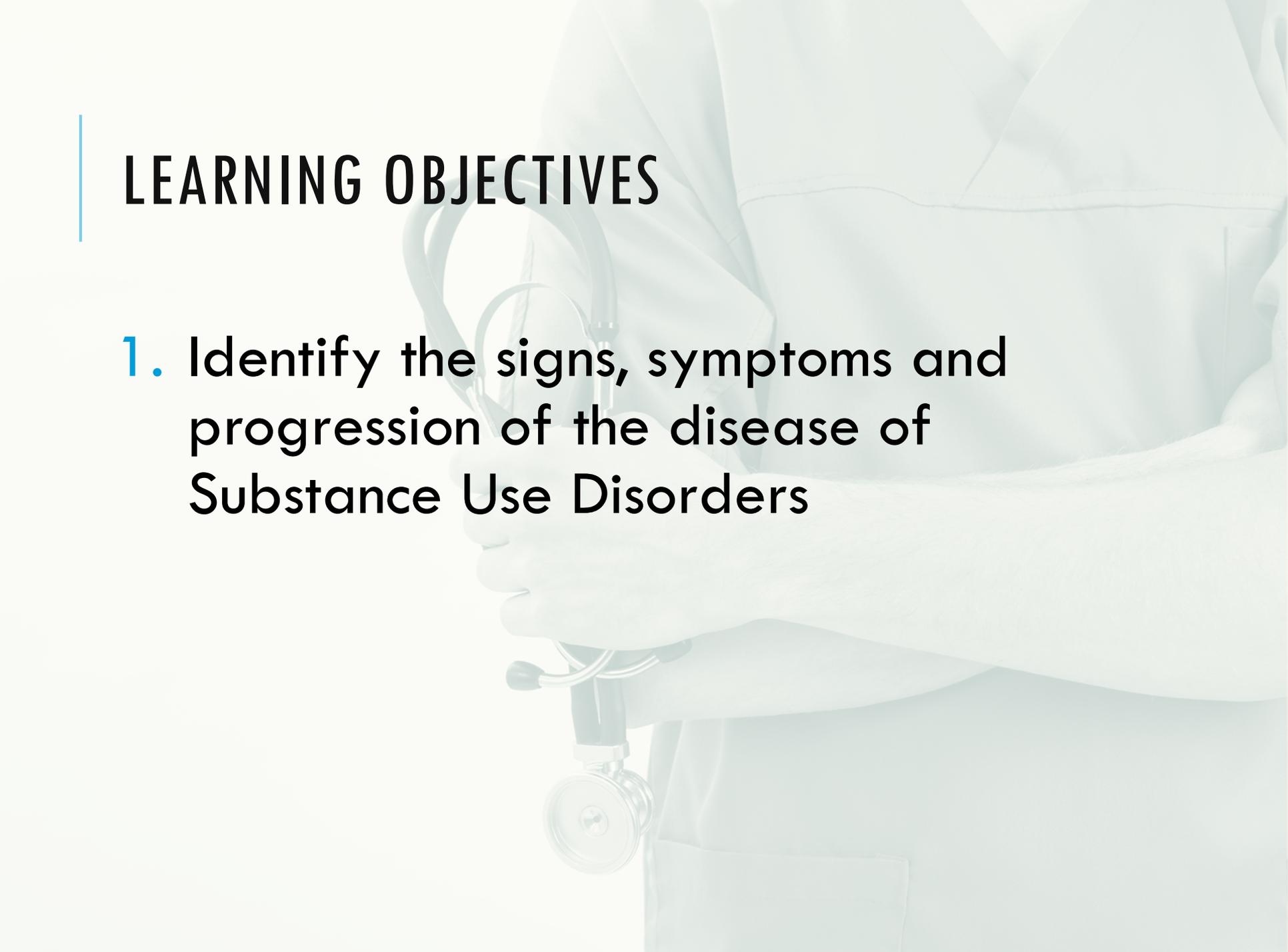


REALITY

A person wearing teal medical scrubs is shown from the chest down to the waist. They are holding a silver and black stethoscope in their right hand, with the chest piece resting on their left arm. The background is a plain, light color.

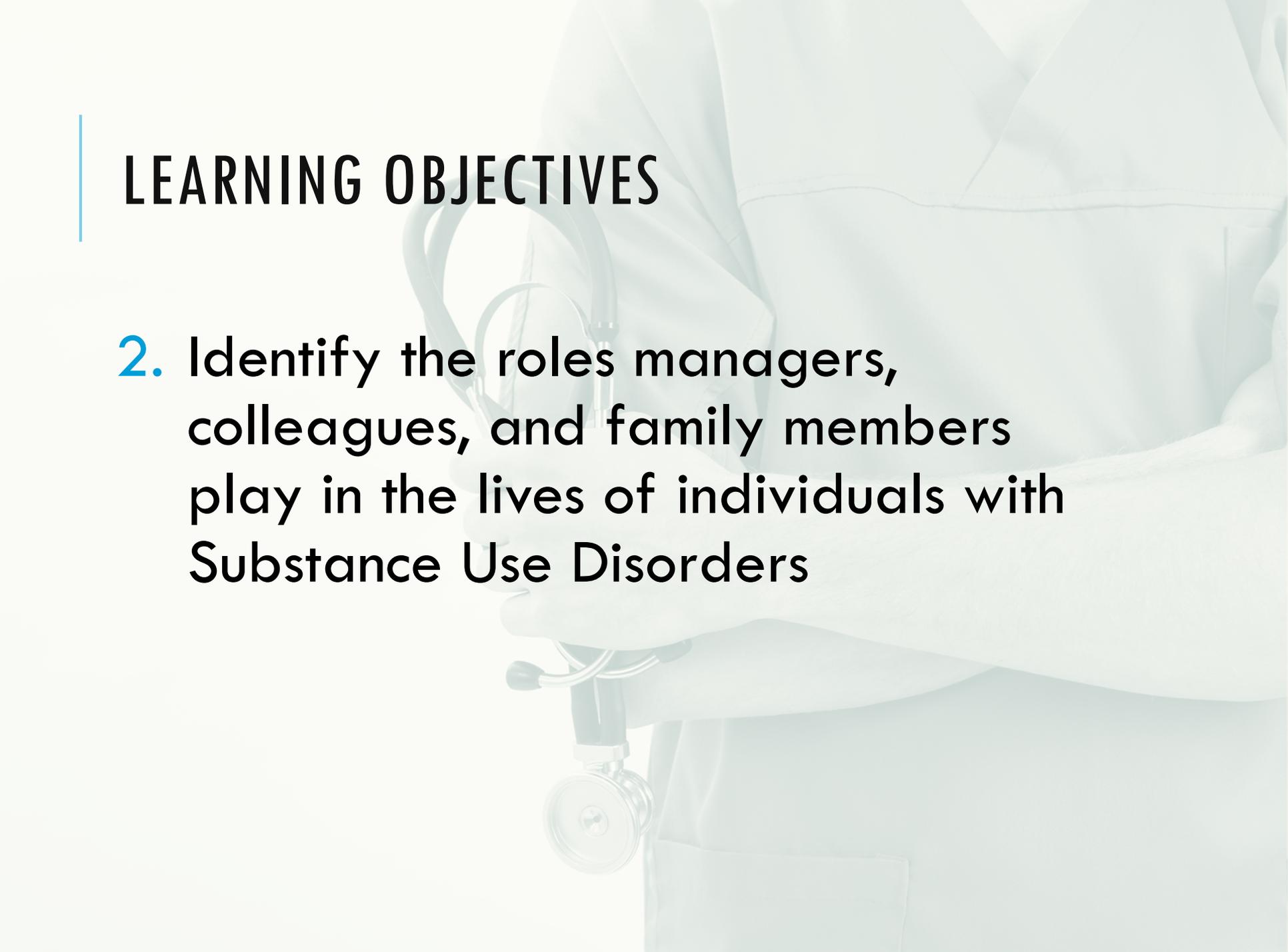
## TOPICS OF DISCUSSION

- **Signs, Symptoms and Impact of Substance Abuse in the Workplace**
- **What is the Diversion Program?**



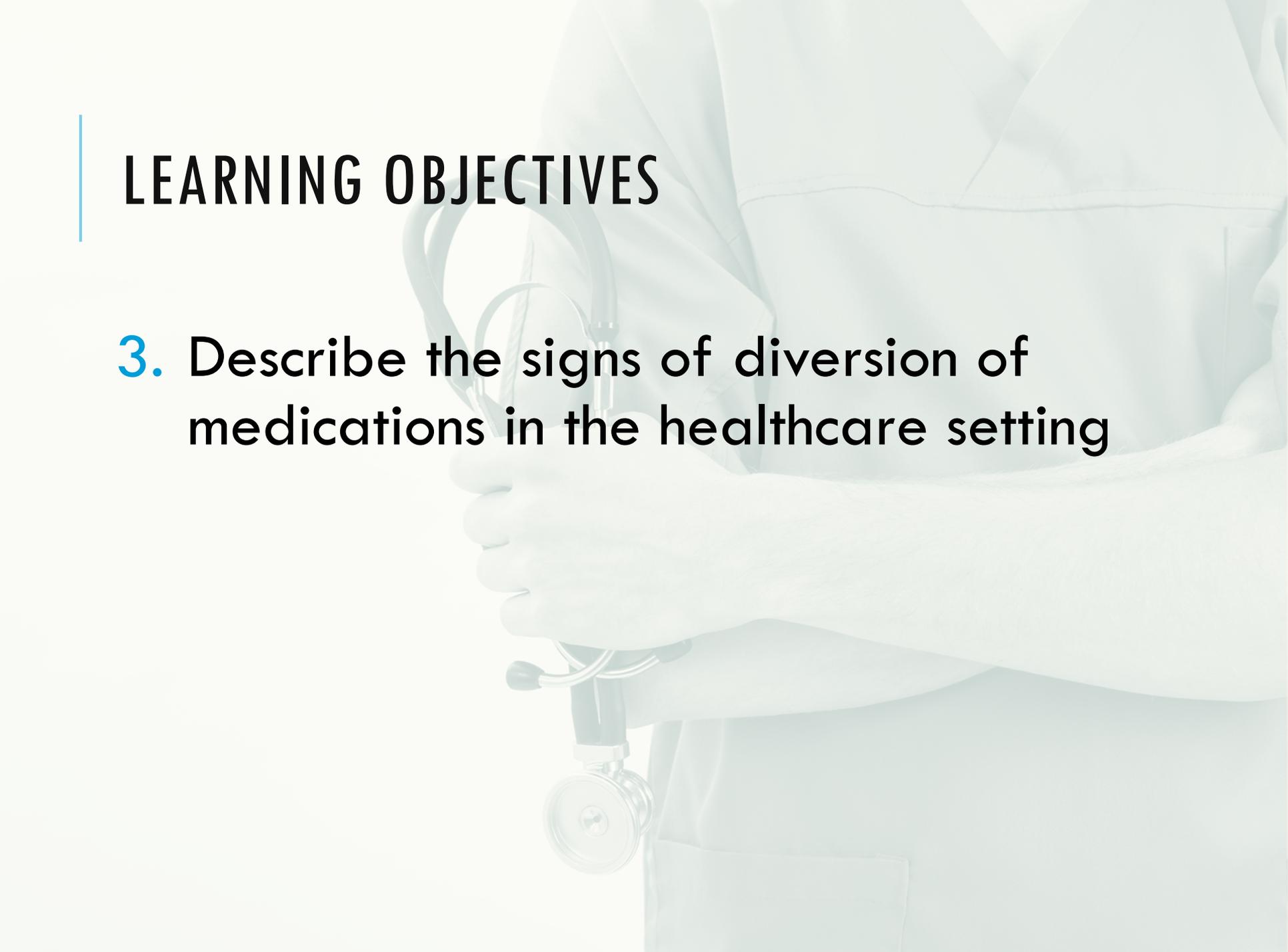
# LEARNING OBJECTIVES

1. Identify the signs, symptoms and progression of the disease of Substance Use Disorders



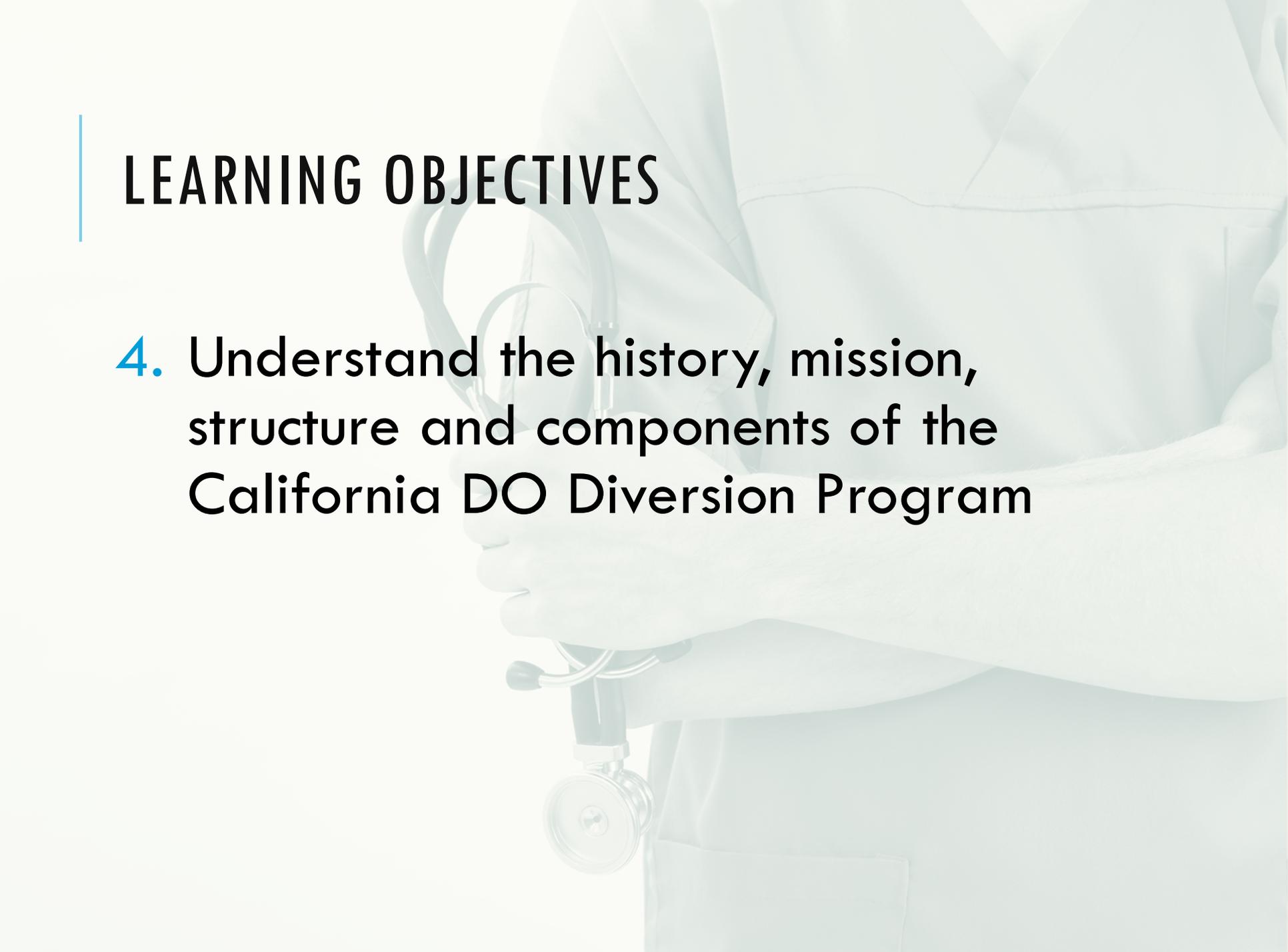
# LEARNING OBJECTIVES

2. Identify the roles managers, colleagues, and family members play in the lives of individuals with Substance Use Disorders



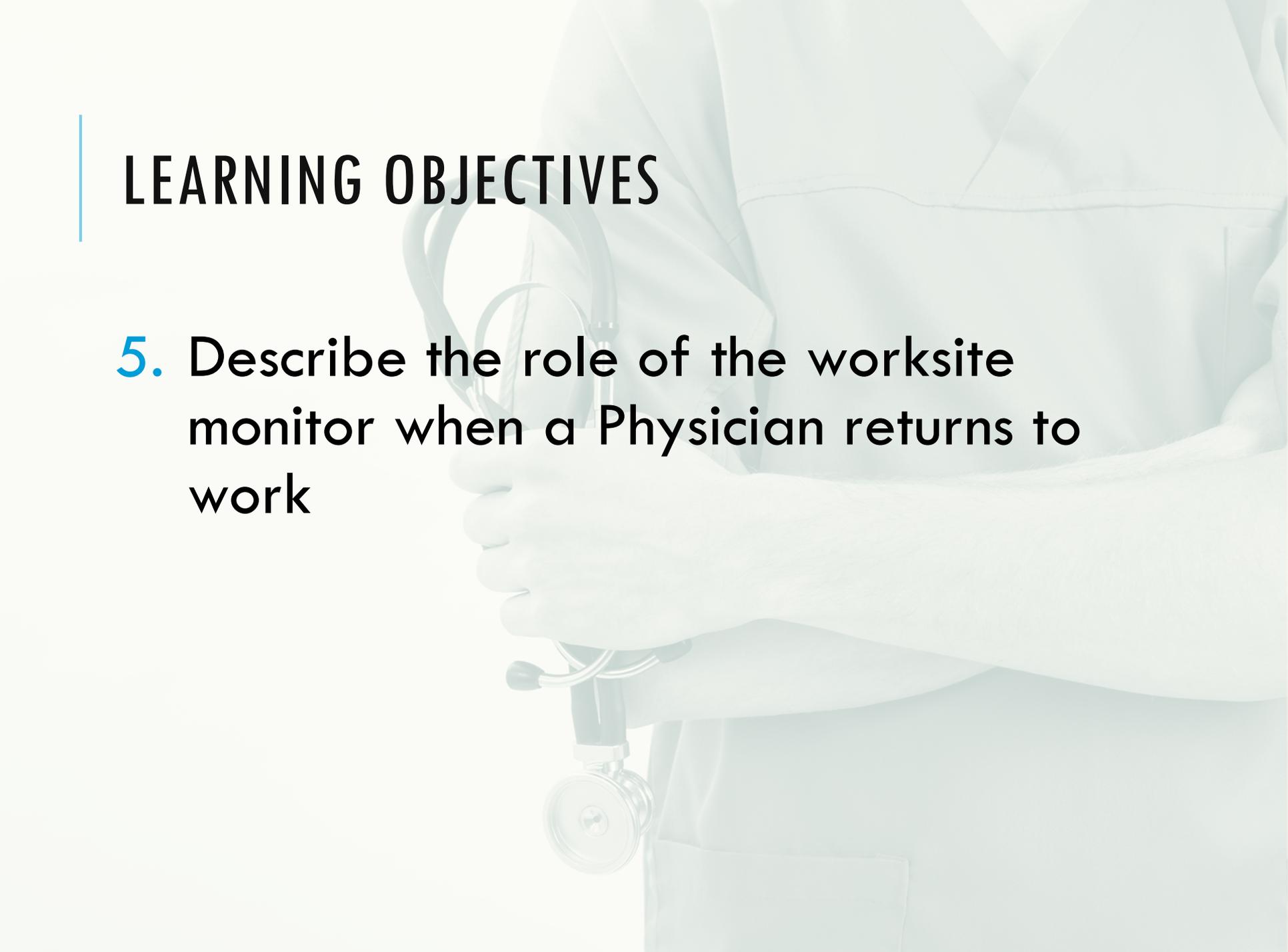
## LEARNING OBJECTIVES

3. Describe the signs of diversion of medications in the healthcare setting



# LEARNING OBJECTIVES

4. Understand the history, mission, structure and components of the California DO Diversion Program



## LEARNING OBJECTIVES

5. Describe the role of the worksite monitor when a Physician returns to work

# MAXIMUS SERVES 8 LICENSING BOARDS



- Board of Registered Nursing



- Board of Pharmacy



Physical Therapy Board of California

- Physical Therapy Board of California



- Osteopathic Medical Board

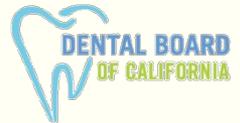
- Veterinary Medical Board



- Physician Assistant Committee



- Dental Board of California



- Dental Hygiene Committee



# PREVALENCE OF SUBSTANCE USE DISORDER

- Strong genetic influence
- Brain disease
- Long-term, sometimes permanent changes in brain chemistry



# RISK FOR HEALTHCARE PROFESSIONALS

**10-14%** of general population diagnosed with SUDs

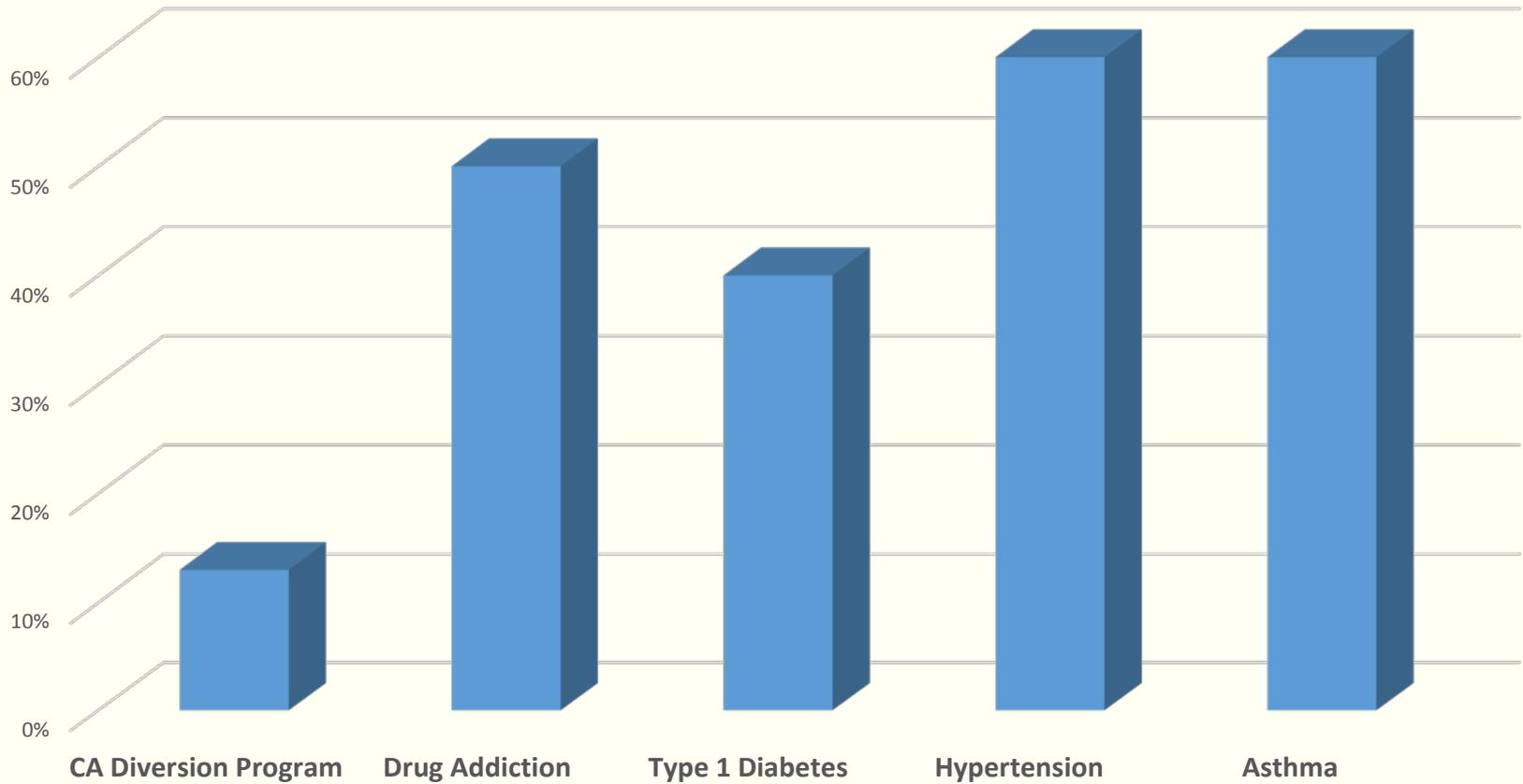
**60-70%** relapse during first 4 years

**14-20%** of healthcare professionals have SUDs

**13%** relapse rate during first 4 years in Diversion Program\*

*\* The value of ongoing accountability to the program. 75% of relapses in the program occur during the first year in the program*

# RELAPSE RATES NIDA 2014 VS. CA DIVERSION 2016



# NEGATIVELY IMPACTS THE PUBLIC

- Increased health care costs
- Loss in productivity
- Crime
- Auto accidents related to drugs and alcohol
- Premature deaths

# PHYSICIANS ARE OVERACHIEVERS



# PHYSICIANS CAN HIDE BEHIND THEIR INTELLECTUAL MASKS



# PHYSICIANS ARE SUSCEPTIBLE TO SUD

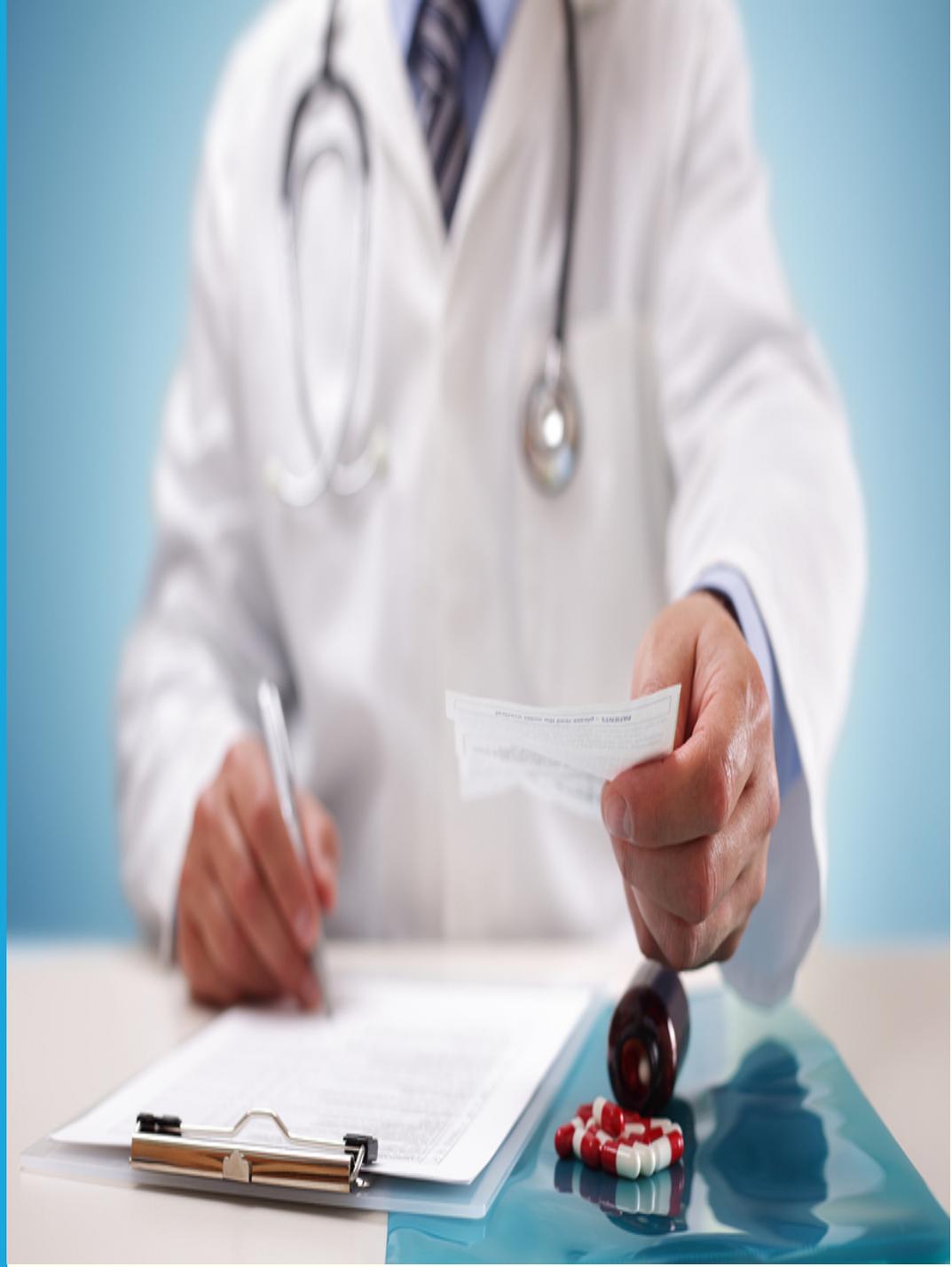
Two Key Factors...

**Attitude &**

**Accessibility**

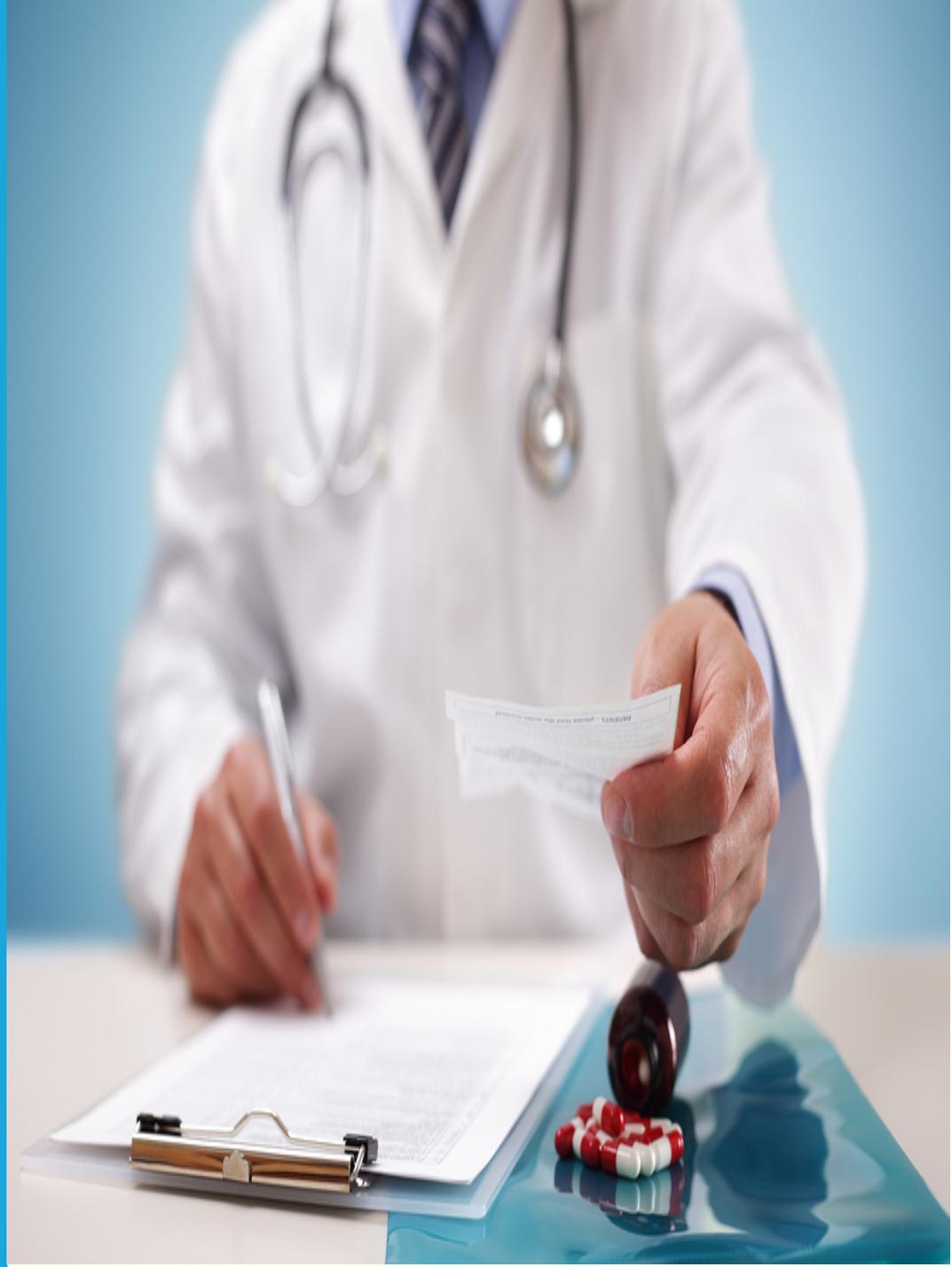
# PHYSICIANS ARE ESPECIALLY SUSCEPTIBLE TO SUD

- Feel immune
- Prescribe powerful substances daily, see the effects, and become insensitive to the power of the medications



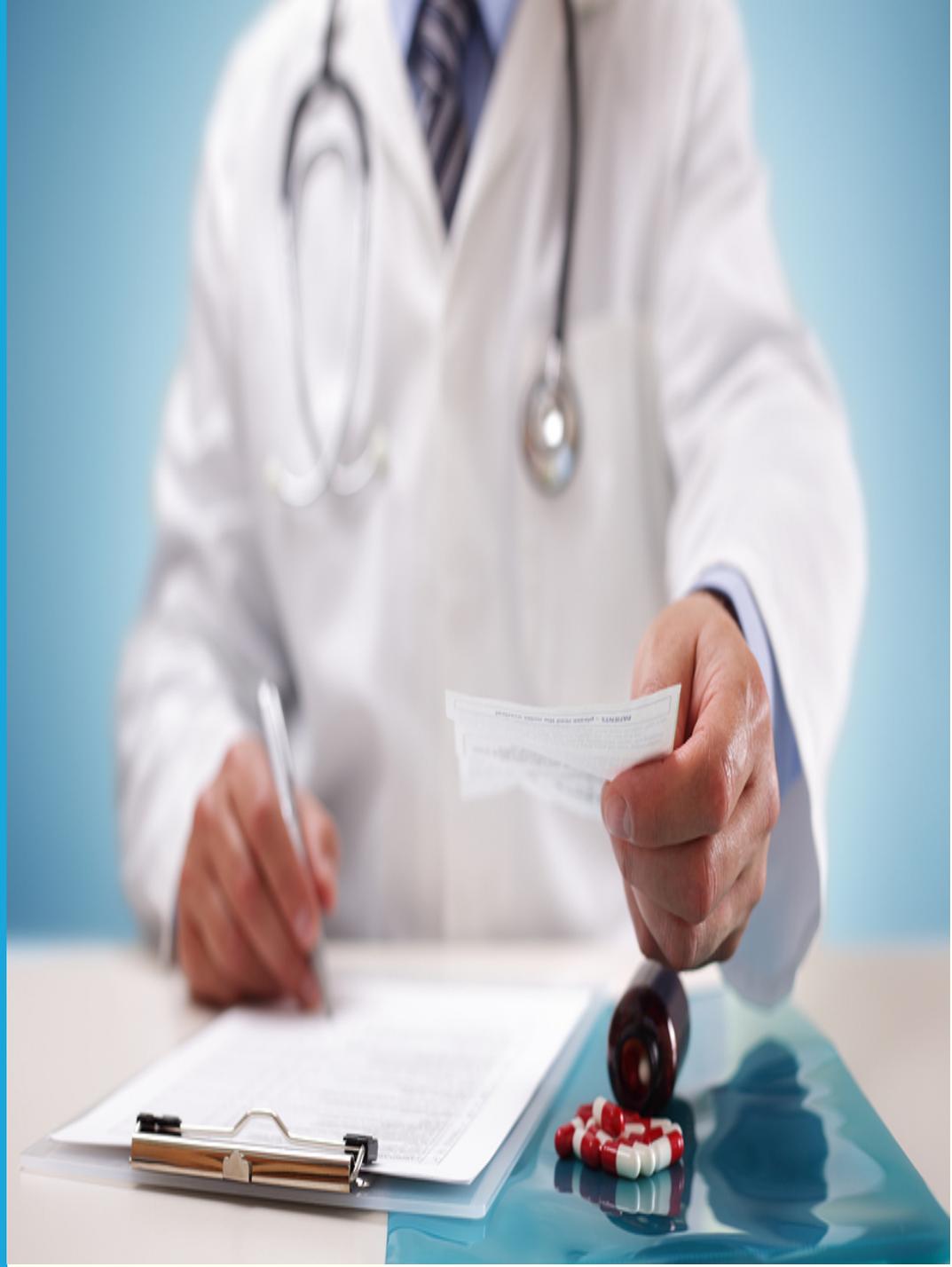
# PHYSICIANS ARE SUSCEPTIBLE TO SUD

- Outward focused-  
little self-care
- Reluctantly  
identified
- Shame
- Denial



# PHYSICIANS ARE SUSCEPTIBLE TO SUD

- High stress work (physical *and* emotional)
- Belief - drugs & alcohol are ok to cope



## Old Pain Scale

0  
NO HURT



2  
HURTS  
LITTLE BIT



4  
HURTS  
LITTLE MORE



6  
HURTS  
EVEN MORE



8  
HURTS  
WHOLE LOT



10  
HURTS  
WORST



0  
NO HURT



2  
HURTS  
LITTLE BIT



4  
HURTS  
LITTLE MORE



6  
HURTS  
EVEN MORE



8  
HURTS  
WHOLE LOT

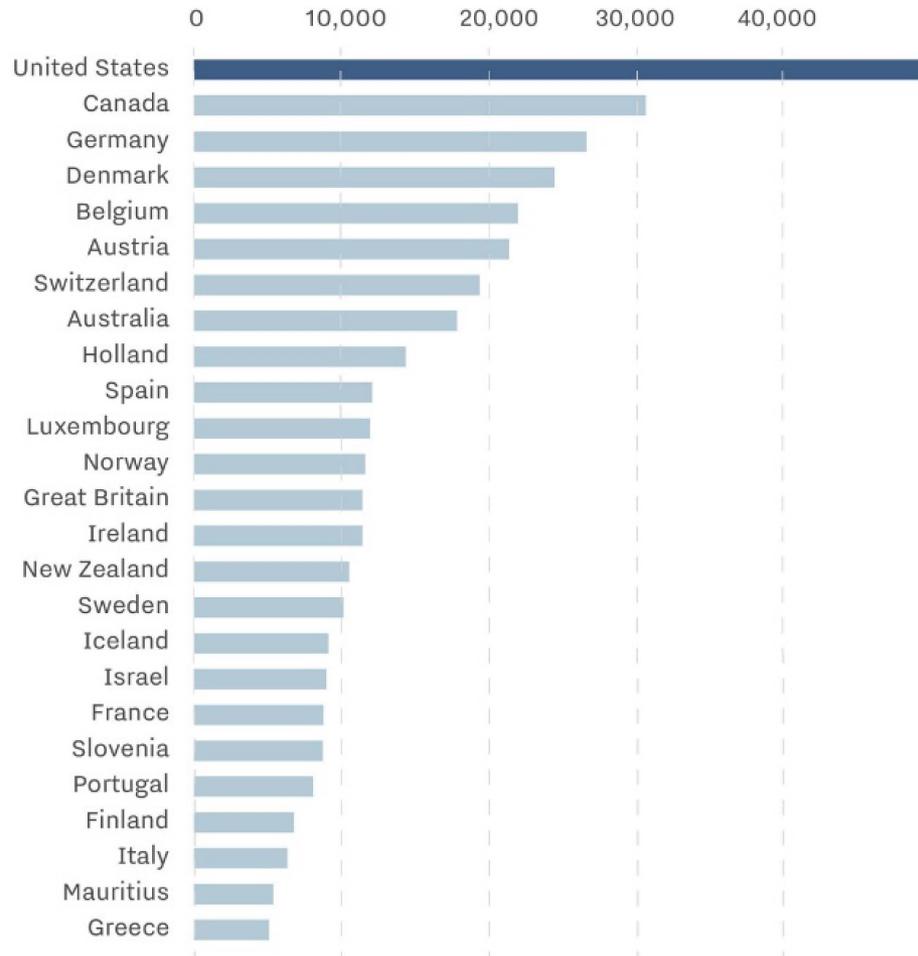


10  
HURTS  
WORST

## New and Improved Pain Scale

# Americans consume more opioids than any other country

*Standard daily opioid dose for every 1 million people*



Source: United Nations International Narcotics Control Board

Credit: Sarah Frostenson

**Vox**

**ETOH PRN**

**“IT’S A DOCTOR  
THING”**

---

**“YOU WOULDN’T  
UNDERSTAND”**



ON THE LEFT: LETHAL DOSE OF HEROIN



ON THE RIGHT: LETHAL DOSE OF FENTANYL







**← Fake Norco**

**Real Norco**



# COMPONENTS OF ADDICTION

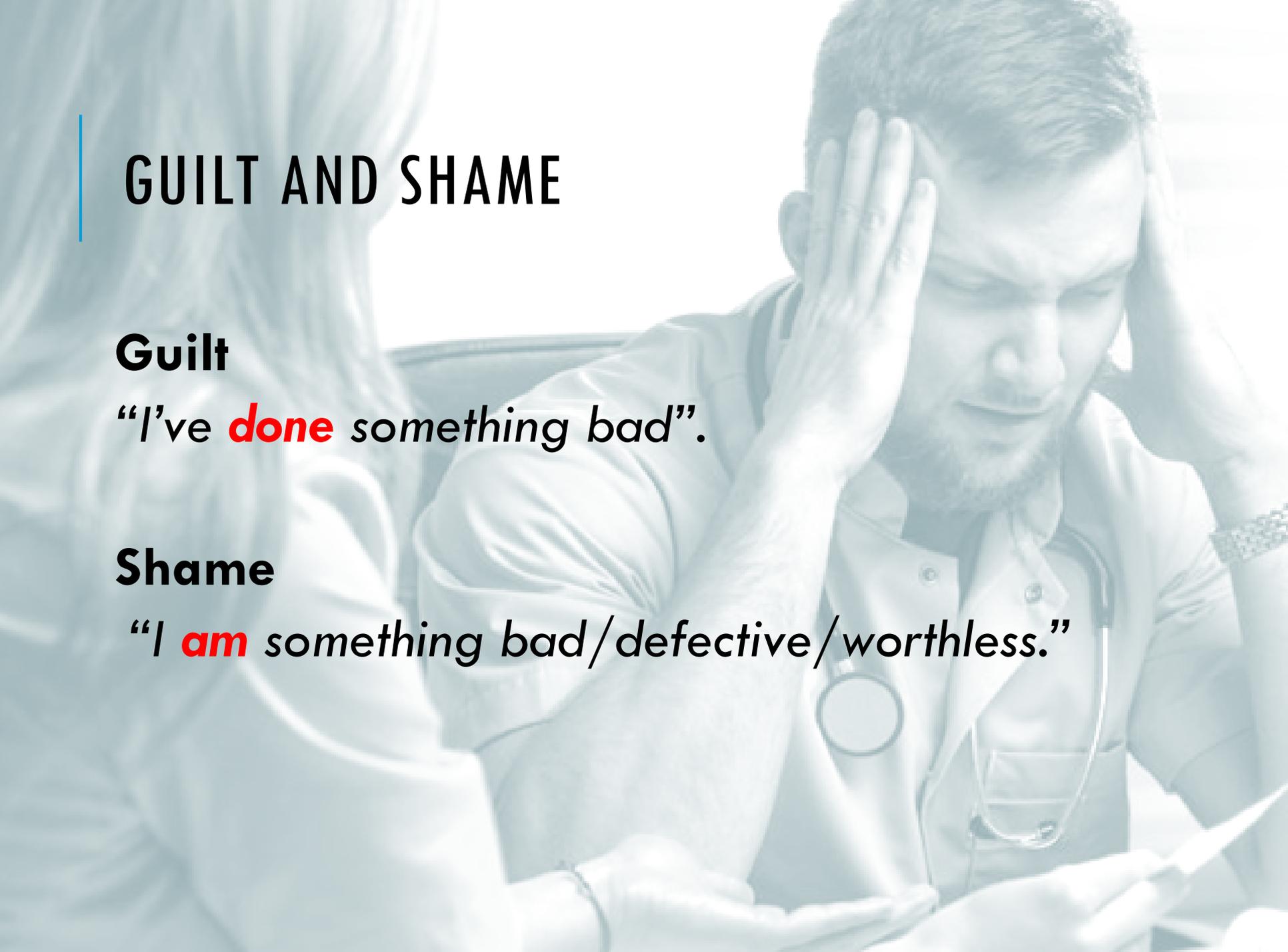
## **Physical Component:**

- Withdrawal symptoms
- Experiences withdrawal symptoms when substance is discontinued
- Ends within days or weeks after drug use stops, although Post-Acute Withdrawal Syndrome (PAWS) may occur up to 18 months after last use

# COMPONENTS OF ADDICTION

## **Psychological Component:**

- Cannot enjoy activities without use
- Believes functioning is better under the influence of the substance
- Can continue for a lifetime



# GUILT AND SHAME

## Guilt

*“I’ve **done** something bad”.*

## Shame

*“I **am** something bad/defective/worthless.”*

# GUILT AND SHAME

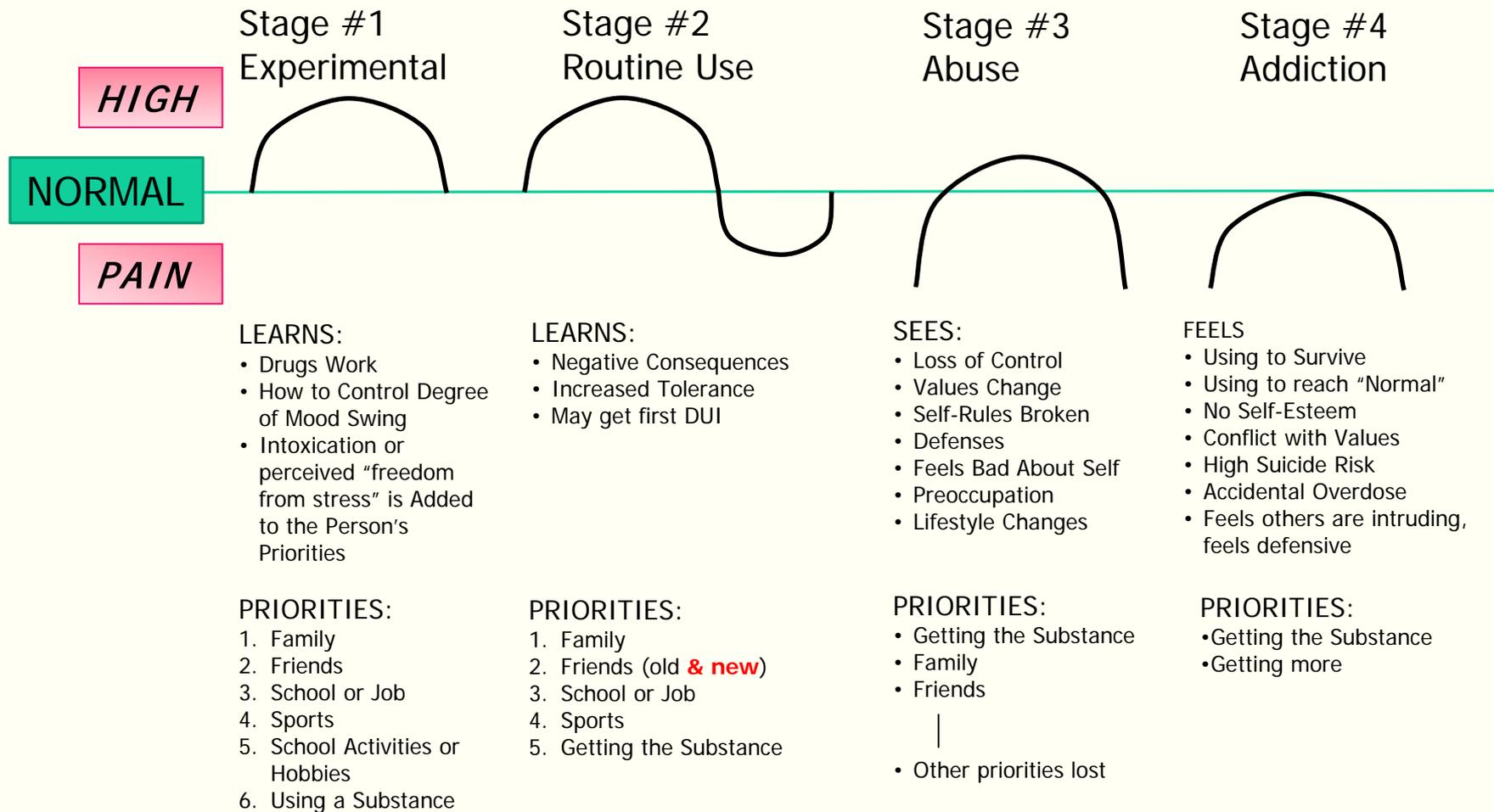
## Coping Mechanisms

- Anger/Hostility
- Control/manipulation
- Perfectionism
- Grandiosity
- Low Self-esteem
- Denial/Minimize
- Overreacting
- “Over-” anything
- Frozen feelings
- Blaming

# SPECTRUM OF ADDICTION

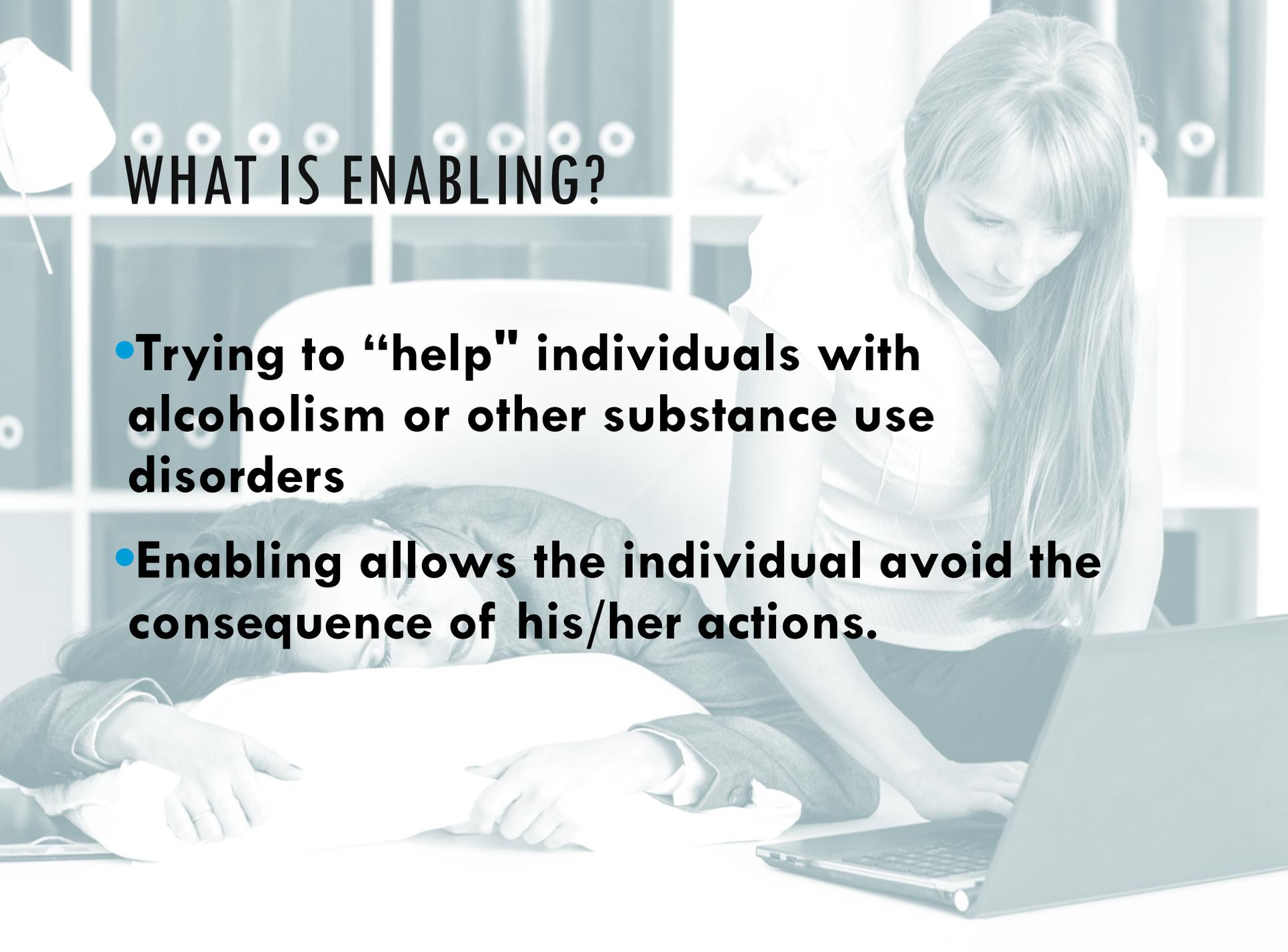
The progression of the relationship between the person and the substance or behavior is the real issue.

# THE FEELING CHART



# WHAT IS ENABLING?

- **Trying to “help” individuals with alcoholism or other substance use disorders**
- **Enabling allows the individual avoid the consequence of his/her actions.**



# ENABLING BEHAVIORS: AT WORK

- "call in sick" for the individual lying about his/her symptoms, make excuses for poor performance
- Avoiding talking about the drinking or using for fear of his or her response
- Bail him/her out of jail/Loan money

# ENABLING BEHAVIORS: AT WORK

*(continued)*

- Drinking or using in hopes of strengthening the relationship-Happy Hour after work de-stress sessions
- Threaten to report, but never follow through

# ENABLING BEHAVIORS: AT WORK

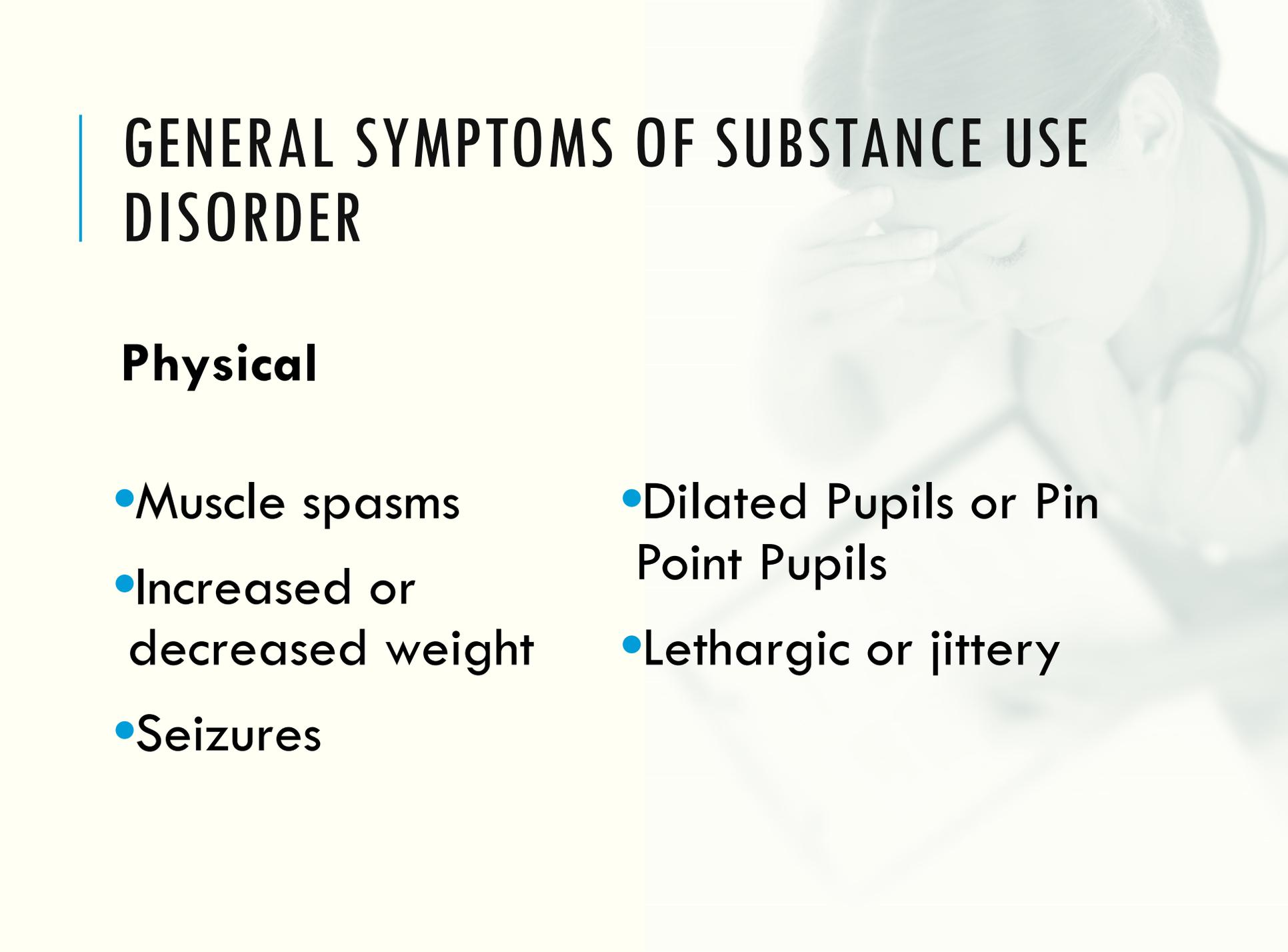
*(continued)*

- Finish a job or project he/she should have finished-document, provide treatments
- “no talk” rule, don’t challenge or make waves, lower expectations “she’s just so tired, having small kids...”

# GENERAL SYMPTOMS OF SUBSTANCE USE DISORDER

## Behavioral

- Defensive
- Avoids Eye Contact
- Late to work
- Excessive absenteeism or tardiness
- Impaired judgment
- Impulsive
- Verbally, or even physically aggressive
- Increased isolation



# GENERAL SYMPTOMS OF SUBSTANCE USE DISORDER

## Physical

- Muscle spasms
- Increased or decreased weight
- Seizures
- Dilated Pupils or Pin Point Pupils
- Lethargic or jittery

# GENERAL SYMPTOMS OF SUBSTANCE USE DISORDER

## **Physical** *(continued)*

- Unmanageability
- Sweats
- Slurred, rapid, or pressured speech
- History of back, neck, or orthopedic injury

# INJURIES



Health Care is physically demanding, (12-hour shifts, lifting) and prone to injuries

**Use of pain medications has the potential to escalate**

# INJURIES

Injuries due to impairment

**tripping,**

**falling,**

**car accidents,**

**fight**



# INJURIES

## Drug-seeking behaviors

### **Injuries/symptoms and trips to ED**



# HOW TO RECOGNIZE DIVERSION IN HEALTHCARE SETTINGS

- Discrepancies in narcotic counts/frequent errors
- Discrepancies between orders, progress notes and drug records
- High number or prescriptions for controlled substances

# HOW TO RECOGNIZE DIVERSION IN HEALTHCARE SETTINGS

*(continued)*

- Changes in drug ordering or administering patterns
- In the office or facility at odd hours, on days off
- Coworkers notice odd behaviors, such as longer bathroom breaks, leaving office to go to car, long lunch breaks

# HOW TO RECOGNIZE DIVERSION IN HEALTHCARE SETTINGS

*(continued)*

- Needs frequent reminders to sign out drugs and complete med records
- Failure to follow policy in labeling syringes
- Poor control of meds
- Is defensive when questioned
- Apparent unexplained tampering with controlled drug vials

# HOW TO RECOGNIZE DIVERSION IN HEALTHCARE SETTINGS

*(continued)*

- Rx pads missing or pages missing from the middle of the pads
- Disappearing Fentanyl patches
- Consider that diversion may be occurring for a family member or friend's use.
- Staff gossip (LISTEN TO THEM!)

# MOST HEALTHCARE PROFESSIONALS DO NOT SELF-REFER

They may rationalize the consequences of the drug use. The professional's role as caregiver is enmeshed with the professional's ego and drug use and its effects are minimized.



# LONG AND WINDING ROAD

- Cravings
- Triggers ----People, Places, Things
- Relapse risks
- Not judged, but supported



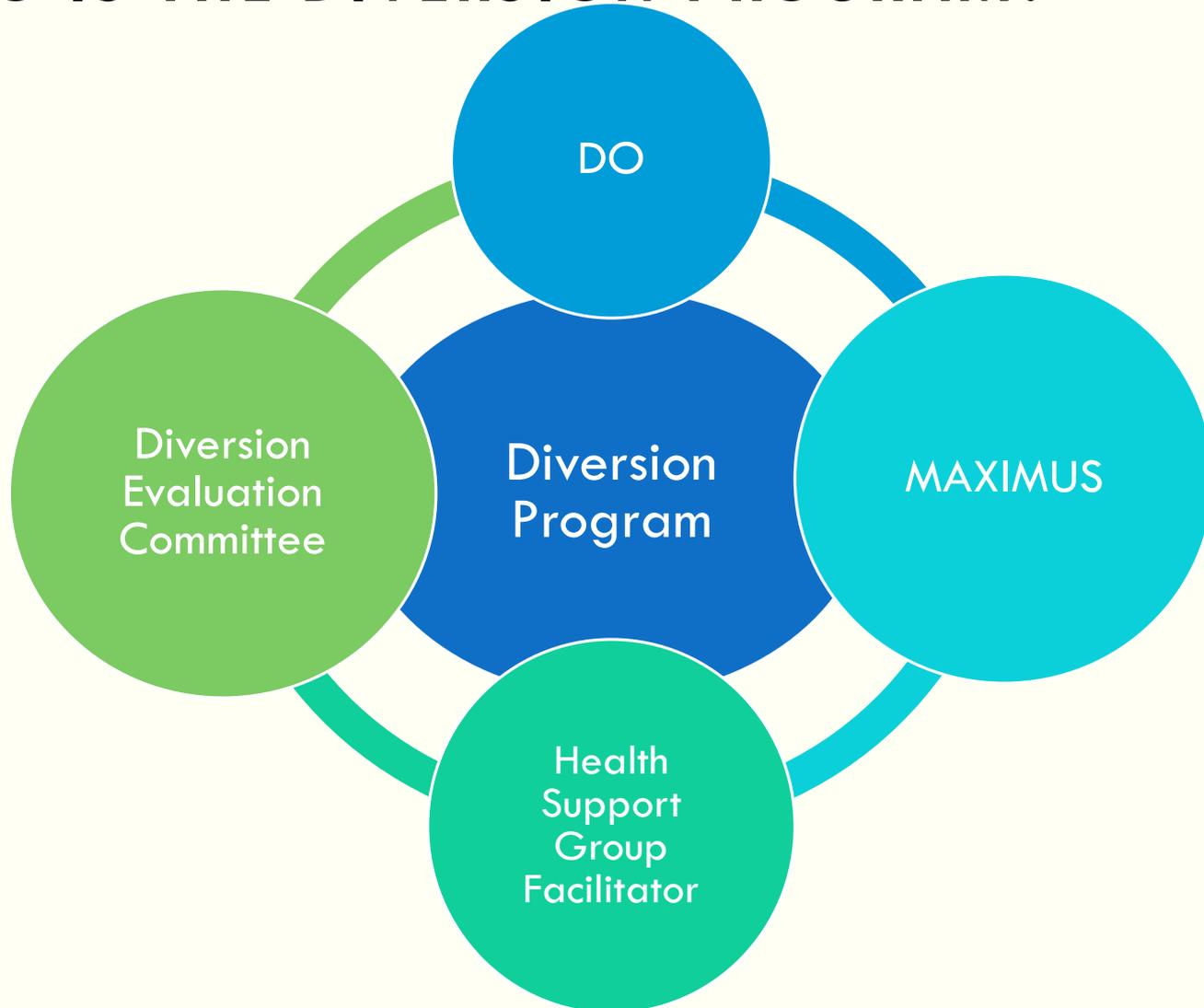
# LEGISLATIVE INTENT

- Identify DO's affected by SUD/mental illness
- Rehabilitate DO's so they can return to safe practice
- Achieve through an alternative-to-discipline approach

# GOAL OF THE INTERVENTION PROGRAM

- To protect the public
- To return DO's to safe practice, through intervention and rehabilitation

# WHO IS THE DIVERSION PROGRAM?



# PROGRAM ELIGIBILITY

## **An DO meets admission criteria if:**

- Licensed and residence in California
- Has Substance Use Disorder and/or Mental Illness
- Voluntarily requests admission into the Program

# PROGRAM ELIGIBILITY

**An DO does not meet admission criteria if:**

- Previously terminated by the Diversion Program (or similar program) for non-compliance

# PROGRAM ELIGIBILITY

**An DO may be denied admission if:**

- DO diverted drugs for sale/sold prescriptions
- DO presents too great a risk to the public (e.g. caused patient harm or death)

# PROGRAM REFERRAL

- **Self** DO contacts MAXIMUS to request admission.
- **Board** A complaint is filed or they have entered into a Stipulation Order with the OMB, who then informs DO by mail and offers the program. DO contacts MAXIMUS to request admission.

# PROGRAM ENTRY

To enroll into the Diversion Program, DOs may contact Maximus staff at

**1-800-522-9198.**



# MAXIMUS'S RESPONSIBILITIES

- Maintain a toll-free telephone system 24 hours a day, seven days a week.
- Conduct comprehensive assessments of applicants



# MAXIMUS'S RESPONSIBILITIES

- Monitor and support applicants and participants
- Provide effective case management through the recovery process



# INITIAL PROGRAM STEPS

- Intake assessment (phone)

*NOTE: At this time, the DO agrees to discontinue practice until they are treated and deemed safe to return to practice. Removal from work may last for 3 to 9 months.*

- Clinical assessment (in-person), no charge to applicant
- Entry into treatment, as recommended
- Weekly communication with MAXIMUS team (CCM/CM) until seen by Committee

# INITIAL PROGRAM STEPS

- Community-based Support Groups,  
12-Step Meetings (AA/NA, etc)  
Daily meetings
- Health support group, twice weekly initially
- Random Drug Testing, required daily check in with lab provider
- Initial review by the Diversion Evaluation Committee (DEC)

# DIVERSION EVALUATION COMMITTEE

- Formally reviews and accepts applicants into the Diversion Program
- Formulates a DO's ongoing recovery plan
- Reviews and approves requests to recovery change plan



# RETURN TO WORK

- Participant must apply to return to work
- DEC evaluates readiness by considering:
  - *Compliance with program requirements*
  - *Drug test results*
  - *Recommendation of support group facilitator*

# RETURN TO WORK

- Once approved by DEC, participant may return to nursing practice (usually starting in nonpatient care, without drug access)
- Gradual release of work restrictions over time
- When a job is offered, must identify a worksite monitor

# RETURN TO WORK

- Participant must submit release of information
- Agreement signed by worksite monitor (WSM)
- Provide contact information for WSM and employer

# RETURN TO WORK

- MAXIMUS Case Manager must provide training to WSM
- Submit Org Chart to demonstrate that the Worksite Monitor is at least one step above the participant on the Org Chart
- Submit Job Description
- Submit Affidavit that WSM meets criteria, has been trained, and agrees to expectations of position

# TRANSITION PERIOD-ONE YEAR BEFORE COMPLETION

- Participant is placed on reduced monitoring for a period of time before granting successful completion
- The objective of Transition is to allow the participant to take full responsibility for their own recovery process while still in the Program.
- Participant must “petition for Transition” wherein they write an essay examining their life’s journey into recovery, develop a relapse prevention plan, and obtain letters of reference from sponsor, family members and support group facilitator.

# SUCCESSFUL COMPLETION CRITERIA

- Demonstrate a manner of living that supports ongoing recovery
- Have proof of clean random drug tests for a minimum time period

# SUCCESSFUL COMPLETION CRITERIA

- Have no other evidence of relapse within 24 months of completion date
- Have completed at least 24 months of satisfactory participation

# PROGRAM COSTS

- Intake Assessment (free)
- Clinical Assessment (free\*)
- Treatment program costs (varies, may be covered by insurance)
- Program administrative fee (RNs: \$25 monthly copay; Pharmacists: \$100/mo; Osteopathic Physicians: \$358/mo-full administrative fee-adjusts 3% annually)

# PROGRAM COSTS

- Health support group (Varies, approx. \$200-400 per month)
- Health care (e.g., psychiatric exam, medications) costs (varies)
- Counseling, Therapy, etc (varies)
- Random Drug Testing (per test, \$62.50 + collection)



**RECOVERY WORKS!**

QUESTIONS?

**MAXIMUS** Diversion Program

(800) 522-9198



# TAB 6

## Senate Bill No. 798

### CHAPTER 775

An act to amend Sections 115.6, 144, 146, 328, 651, 656, 683, 800, 803.1, 805, 805.01, 805.1, 805.5, 805.6, 810, 2001, 2008, 2020, 2054, 2082, 2087, 2111, 2112, 2143, 2168.4, 2191, 2216.3, 2220.05, 2221, 2232, 2334, 2415, 2421, 2423, 2435, 2435.2, 2445, 2450, 2454.5, 2460, 2461, 2472, 2475, 2479, 2486, 2488, 2492, 2499, 2525.2, 2529, 4170, and 4175 of, to amend and repeal Sections 2066, 2067, 2072, 2073, 2085, 2089, 2089.5, 2089.7, 2090, 2091, 2091.1, 2091.2, 2100, 2102, 2103, 2104, 2104.5, 2107, 2115, 2135.7, 2529.1, 2529.5, and 2529.6 of, to amend, repeal, and add Sections 2064, 2065, 2084, 2084.5, 2096, 2105, 2113, 2135, and 2135.5 of, to add Sections 2026, 2064.5, 2064.7, 2064.8, 2499.7, and 2566.2 to, to repeal Sections 2052.5, 2420, and 2422 of, and to repeal the heading of Chapter 5.1 (commencing with Section 2529) of Division 2 of, the Business and Professions Code, to amend Sections 43.7 and 43.8 of the Civil Code, to amend Sections 13401 and 13401.5 of the Corporations Code, to amend Section 1157 of the Evidence Code, to amend Section 11529 of, and to amend and repeal Section 12529.6 of, the Government Code, and to amend Sections 11362.7 and 128335 of the Health and Safety Code, relating to healing arts.

[Approved by Governor October 13, 2017. Filed with  
Secretary of State October 13, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 798, Hill. Healing arts: boards.

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensure and regulation of physicians and surgeons. Existing law requires the Governor to appoint members to the board, as provided. Existing law authorizes the board to employ an executive director, investigators, legal counsel, medical consultants, and other assistance as specified. Existing law requires the Attorney General to act as legal counsel for the board, as specified. Existing law provides that those provisions will be repealed on January 1, 2018.

This bill would instead repeal those provisions on January 1, 2022.

Existing law requires all moneys paid to and received by the Medical Board of California to be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California, which, except for fine and penalty money, is a continuously appropriated fund.

This bill would make the moneys in the fund available upon appropriation by the Legislature.

Existing law establishes a peer review process for certain healing arts licensees and requires peer review bodies to review licensee conduct under

specified circumstances. Existing law makes the willful failure of a peer review body to make specified reports a crime. Existing law provides that there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, certain health related professional societies or its members for acts performed within the scope of the functions of peer review, as provided.

This bill would apply these provisions to licensed midwives. Because the willful failure of such a peer review body to make specified reports would be punishable as a crime, the bill would impose a state-mandated local program.

Existing law prohibits the proceedings and records of organized committees of healing arts professions or of a peer review body from being subject to discovery, except as specified.

This bill would apply these provisions to the proceedings and records of committees or peer review bodies of licensed midwives, except as specified.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under certain existing law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act authorizes specified healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares.

This bill would add licensed midwives to the lists of healing arts practitioners who may be shareholders, officers, directors, or professional employees of a medical corporation, a psychological corporation, a nursing corporation, a marriage and family therapist corporation, a licensed clinical social worker corporation, a physician assistants corporation, a chiropractic corporation, an acupuncture corporation, a naturopathic doctor corporation, a professional clinical counselor corporation, a physical therapy corporation, and a registered dental hygienist in alternative practice corporation. The bill would also add a licensed midwives corporation to the list of professional corporations, and would authorize licensed physicians and surgeons, licensed psychologists, registered nurses, licensed marriage and family therapists, licensed clinical social workers, licensed physician assistants, licensed chiropractors, licensed acupuncturists, licensed naturopathic doctors, licensed professional clinical counselors, and licensed physical therapists to be shareholders, officers, directors, or professional employees, subject to those limitations relating to ownership of shares.

Existing law, the Medical Practice Act, creates, within the Department of Consumer Affairs, the Medical Board of California consisting of 15 members. The act requires the board to elect a president from its members, and authorizes the board to appoint panels from its members for the purpose of fulfilling specified obligations. The act prohibits the president of the board from being a member of any panel unless there is a vacancy in the membership of the board.

This bill would discontinue that prohibition on the president being a member of a panel.

Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs. Existing law requires the foundation to be governed by a board consisting of 9 members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules. Existing law requires the Governor to appoint the president of the board of trustees from among those members appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules. Existing law requires the members of the board to serve without compensation but requires that they be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board.

This bill would add to that governing board of the foundation 2 members appointed by the Medical Board of California. The bill would include these members in the list of members from which the Governor is required to appoint the president of the board. The bill would require the Medical Board of California to reimburse its 2 appointed members for any actual and necessary expenses incurred in connection with their duties as members of the board. The bill would require the Medical Board of California to reimburse its 2 appointed foundation board members for any actual and necessary expenses incurred in connection with their duties as members of the foundation board.

Existing law, the Medical Practice Act, requires the Medical Board of California to post on the Internet certain information regarding licensed physicians and surgeons.

This bill would require the board to initiate the process of adopting regulations on or before January 1, 2019, to require its licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in this state by the board, that the practitioner's license can be checked, and that complaints against the practitioner can be made through the board's Internet Web site or by contacting the board.

Existing law makes it unlawful for a healing arts practitioner to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. Existing law prohibits a physician and surgeon from including a statement that he or she is certified or eligible for certification by a private or public board or parent association, including a multidisciplinary board or association, as defined, unless that board or association is one of a specified list of boards and associations, including a board or association with equivalent requirements approved by that physician and surgeon's licensing board. Existing law requires the Medical Board of California to adopt

regulations to establish and collect a reasonable fee from each board or association applying for recognition.

This bill would discontinue the Medical Board of California approval of a board or association. The bill would continue to authorize a physician and surgeon to make a statement that he or she is certified or eligible for certification by a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019.

Existing law requires each applicant for a physician's and surgeon's certificate to show by official transcript or other official evidence that he or she has successfully completed a medical curriculum meeting specified requirements.

This bill would remove these medical curriculum requirements on January 1, 2020.

Existing law, until January 1, 2020, requires an applicant to show by evidence satisfactory to the board that he or she has satisfactorily completed at least one year of postgraduate training. Existing law requires the postgraduate training to be obtained in a postgraduate training program approved by the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada.

This bill, beginning January 1, 2020, would instead require an applicant to show by evidence successfully to the board that he or she has satisfactorily completed at least 36 months of board-approved postgraduate training. The bill would authorize an applicant to obtain postgraduate training in a postgraduate training program approved by the College of Family Physicians of Canada. The bill would make eligible for licensure an applicant who has completed at least 36 months of board-approved postgraduate training, not less than 24 months of which was completed as a resident after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation or approved by the board.

Existing law authorizes a graduate of an approved medical school who is enrolled in a postgraduate training program approved by the board to engage in the practice of medicine whenever and wherever required as part of the program under specified conditions.

This bill, beginning January 1, 2020, would add to these conditions a requirement that the medical school graduate obtain a postgraduate training license, as specified. The bill would authorize the board to deny a postgraduate training license, as specified.

Existing law requires an applicant who is a graduate of a medical school located outside of the United States or Canada to make an application to the board prior to commencing any postgraduate training in this state. Existing law authorizes the board to deny a postgraduate training authorization letter to an applicant who is guilty of unprofessional conduct or of any cause for revocation or suspension of a license.

This bill would remove the authorization of the board to deny a postgraduate training authorization letter to an applicant for those reasons.

Existing law requires an applicant for a physician's and surgeon's certificate whose professional instruction was acquired in a country other than the United States or Canada to provide evidence satisfactory to the board of satisfactory completion of various requirements, including showing by evidence satisfactory to the board that he or she has satisfactorily completed at least 2 years of postgraduate training.

This bill would recast some of those provisions and make conforming changes to other provisions. The bill would require those applicants to show by evidence satisfactory to the board that he or she has satisfactorily completed at least 36 months of board-approved postgraduate training.

Under existing law, specified licenses, certificates, registrations, and permits issued by or under the Medical Board of California expire and become invalid at midnight on the last day of February of each even numbered year, if not renewed, as specified.

This bill would repeal this provision.

Existing law authorizes the holder of a special faculty permit to practice medicine, without a physician's and surgeon's certificate, within a medical school and certain affiliated institutions. Under existing law, a special faculty permit expires and becomes invalid at midnight on the last day of the permitholder's birth month during the 2nd year of a 2-year term, if not renewed.

The bill would instead specify that a special faculty permit expires and becomes invalid at midnight on the last day of the month in which the permit was issued during the 2nd year of a 2-year term commencing from the date of issuance, if not renewed.

The Medical Practice Act creates, within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine. Under the act, certificates to practice podiatric medicine expire on a certain date during the 2nd year of a 2-year term if not renewed. The act authorizes a doctor of podiatric medicine who is ankle certified, as specified, to perform certain services and procedures.

This bill would instead create the California Board of Podiatric Medicine in the Department of Consumer Affairs, and would make conforming and related changes. The bill would prohibit construing the amendments made by the bill relating to podiatrists to change any rights or privileges held by podiatrists prior to enactment of the bill. The bill would discontinue the ankle certification requirement for a doctor of podiatric medicine to perform those services and procedures.

Under the act, certificates to practice podiatric medicine and registrations of spectacle lens dispensers and contact lens dispensers, among others, expire on a certain date during the 2nd year of a 2-year term if not renewed.

This bill would discontinue the requirement for the expiration of the registrations of spectacle lens dispensers and contact lens dispensers.

Existing law requires the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of a peer review body, as defined, and the chief executive officer or administrator of a licensed health care facility or clinic to file reports with the applicable

state licensing agency of specified health care practitioners upon the occurrence of specified events.

This bill would impose a \$100,000 fine for a willful failure to file a specified report and a \$50,000 fine for all other failures to file the report.

Existing law requires an accredited outpatient setting to report an adverse event, as defined, to the Medical Board of California no later than 5 days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected.

This bill would redefine adverse event for those purposes and would require the outpatient setting to inform the patient or the party responsible for the patient of the adverse event by the time the report is made.

Existing law requires the board to promptly revoke the license of any person who has been required to register as a sex offender. Existing law authorizes certain individuals whose license was revoked under this provision to petition a specified superior court to hold a hearing within one year of the date of the petition, in order for the court to determine whether the individual no longer poses a possible risk to patients. Existing law authorizes the Attorney General and the board to present written and oral argument to the court on the merits of the petition.

This bill would instead require the board to make the revocation automatically, regardless of whether the related conviction has been appealed. The bill would require the board to notify the licensee of the license revocation and of his or her right to elect to have a hearing. The bill would authorize the holder of the physician's and surgeon's certificate to request a hearing, as specified, within 30 days of the revocation. The bill would require the revocation to cease automatically if the conviction is overturned on appeal. The bill would require the Attorney General and the board to present written and oral argument to the court on the merits of a petition to determine whether an individual who was required to register as a sex offender no longer poses a possible risk to patients.

Existing law authorizes the administrative law judge of the Medical Quality Hearing Panel to issue an interim order suspending a license or imposing license restrictions, as specified. Existing law requires the order to be dissolved if an accusation is not filed and served, as specified, within 30 days of the date on which the parties to the hearing on the order have submitted the matter.

This bill would also require the order to be dissolved if a petition to revoke probation is not filed and served, as specified, within 30 days of the date on which the parties to the hearing on the order have submitted the matter.

Existing law prohibits a party's use of expert testimony in matters brought by the Medical Board of California unless specified information, including a brief narrative statement of the general substance of the testimony that the expert is expected to give, is exchanged in written form with the counsel for the other party. Existing law requires the exchange of information to be completed at least 30 days prior to the commencement date of the hearing.

This bill would instead require the exchange of information to be completed 30 calendar days prior to the originally scheduled commencement date of the hearing, or as determined by an administrative law judge, as specified. The bill would replace the requirement that a brief narrative statement be exchanged with the requirement that a complete expert witness report, as specified, be exchanged.

Existing law establishes the Health Quality Enforcement Section within the Department of Justice to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California. Existing law requires each complaint that is referred to a district office of one of these boards for investigation to be jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section of the Department of Justice responsible for prosecuting the case if the investigation results in the filing of an accusation.

This bill, on January 1, 2019, would repeal the provision pertaining to joint assignment for investigation and prosecution.

Existing law establishes the State Board of Chiropractic Examiners, the Medical Board of California, the California Board of Podiatric Medicine within the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee, and the Acupuncture Board for the licensure and regulation of chiropractors, physicians and surgeons, podiatrists, osteopathic physicians and surgeons, naturopathic doctors, and acupuncturists, respectively. Existing law authorizes each of those regulatory entities to discipline its licensee by placing that licensee on probation, as specified. Existing law also requires 3 of those regulatory entities, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine, to disclose to an inquiring member of the public and to post on their Internet Web sites specified information concerning licensees including revocations, suspensions, probations, and limitations on practice.

This bill would require the California Board of Podiatric Medicine, on and after July 1, 2018, to provide certain information regarding licensees on probation and licensees practicing under probationary licenses to an inquiring member of the public, on any of the regulatory entity's documents informing the public of individual probation orders and probationary licenses, and in plain view on the licensee's profile page on the regulatory entity's online license information Internet Web site.

Existing law, the Osteopathic Act, establishes the Osteopathic Medical Board of California, which issues certificates to, and regulates, osteopathic physicians and surgeons and requires that the powers and duties of the board in that regard be subject to review by the appropriate committees of the Legislature. Existing law requires that review to be performed as if those provisions were scheduled to be repealed as of January 1, 2018.

This bill would instead require that review to be performed as if those provisions were scheduled to be repealed as of January 1, 2022.

Existing law requires the Osteopathic Medical Board of California to require each licensed osteopathic physician and surgeon to demonstrate satisfaction of continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than 3 years. Existing law requires the board to require each licensed osteopathic physician and surgeon to complete a minimum of 150 hours of American Osteopathic Association continuing education hours during each 3-year cycle, of which 60 hours must be completed in American Osteopathic Association Category 1 continuing education hours as a condition for renewal of an active license.

This bill would instead require the board to require satisfaction of the continuing education requirements not less than one year nor more than 2 years. The bill would require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each 2-year cycle, of which 40 hours must be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 60 hours shall be either American Osteopathic Association or American Medical Association accredited.

Existing law authorizes a list of specified boards to request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other documentation needed to complete an applicant or licensee investigation.

This bill would add the California Board of Podiatric Medicine and the Osteopathic Medical Board of California to that list of specified boards.

This bill would also make nonsubstantive changes to these provisions.

This bill would make findings and declarations regarding the authority of healing arts boards to adopt regulations, as specified, and would state the intent of the Legislature to enact legislation that would prioritize patients and protection of the public from harm by authorizing the Medical Board of California to take swift and necessary action for a physician and surgeon's continued failure to comply with a specified order.

This bill would incorporate additional changes to Section 146 of the Business and Professions Code proposed by AB 1706 to be operative only if this bill and AB 1706 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 2472 of the Business and Professions Code proposed by AB 1153 to be operative only if this bill and AB 1153 are enacted and this bill is enacted last.

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

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

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

SECTION 1. (a) The Legislature finds and declares both of the following:

(1) That healing arts boards may adopt regulations authorizing those boards to order a licensee on probation to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315 of the Business and Professions Code.

(2) That an order to cease practice pursuant to the authority described in paragraph (1) is not governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and does not constitute disciplinary action.

(b) It is the intent of the Legislature to enact legislation in the 2017–2018 Regular Session that would prioritize patients and protection of the public from harm by authorizing the Medical Board of California to take swift and necessary action for a physician and surgeon’s continued failure to comply with an order issued by the board pursuant to Section 820 of the Business and Professions Code.

SEC. 2. Section 115.6 of the Business and Professions Code is amended to read:

115.6. (a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if he or she meets the requirements set forth in subdivision (c):

(1) Registered nurse license by the Board of Registered Nursing.

(2) Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(6) Veterinarian license issued by the Veterinary Medical Board.

(7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.

(8) All licenses issued by the Medical Board of California.

(9) All licenses issued by the California Board of Podiatric Medicine.

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who

is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon him or her the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which he or she seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of his or her knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

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

(e) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

(f) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

(g) A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, whichever occurs first.

SEC. 3. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Cannabis Regulation.
- (28) California Board of Podiatric Medicine.
- (29) Osteopathic Medical Board of California.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 4. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Section 2474.
- (2) Sections 2052 and 2054.
- (3) Section 2630.
- (4) Section 2903.
- (5) Section 3575.
- (6) Section 3660.
- (7) Sections 3760 and 3761.
- (8) Section 4080.
- (9) Section 4825.
- (10) Section 4935.
- (11) Section 4980.
- (12) Section 4989.50.
- (13) Section 4996.
- (14) Section 4999.30.
- (15) Section 5536.
- (16) Section 6704.
- (17) Section 6980.10.
- (18) Section 7317.
- (19) Section 7502 or 7592.
- (20) Section 7520.
- (21) Section 7617 or 7641.
- (22) Subdivision (a) of Section 7872.
- (23) Section 8016.
- (24) Section 8505.
- (25) Section 8725.
- (26) Section 9681.
- (27) Section 9840.
- (28) Subdivision (c) of Section 9891.24.
- (29) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the

court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 4.5. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Section 2474.
- (2) Sections 2052 and 2054.
- (3) Section 2570.3.
- (4) Section 2630.
- (5) Section 2903.
- (6) Section 3575.
- (7) Section 3660.
- (8) Sections 3760 and 3761.
- (9) Section 4080.
- (10) Section 4825.
- (11) Section 4935.
- (12) Section 4980.
- (13) Section 4989.50.
- (14) Section 4996.
- (15) Section 4999.30.
- (16) Section 5536.
- (17) Section 6704.
- (18) Section 6980.10.
- (19) Section 7317.
- (20) Section 7502 or 7592.
- (21) Section 7520.
- (22) Section 7617 or 7641.
- (23) Subdivision (a) of Section 7872.
- (24) Section 8016.

- (25) Section 8505.
- (26) Section 8725.
- (27) Section 9681.
- (28) Section 9840.
- (29) Subdivision (c) of Section 9891.24.
- (30) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 5. Section 328 of the Business and Professions Code is amended to read:

328. (a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) Neither the Medical Board of California nor the California Board of Podiatric Medicine shall be required to utilize the guidelines implemented pursuant to subdivision (a).

SEC. 6. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A “public communication” as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

- (1) Contains a misrepresentation of fact.
- (2) Is likely to mislead or deceive because of a failure to disclose material facts.
- (3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents “before” and “after” views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any “before” and “after” views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same “before” and “after” results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, “as low as,” “and up,” “lowest prices,” or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing,

medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant’s education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician’s and surgeon’s licensing board prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

(D) A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” unless the full name of the certifying board is also used and given comparable prominence with the term “board certified” in the statement. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” in reference to that certification.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant’s education, training, and experience. For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved

postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventive or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the

inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor of podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 7. Section 656 of the Business and Professions Code is amended to read:

656. Whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

SEC. 8. Section 683 of the Business and Professions Code is amended to read:

683. (a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting

requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Behavioral Sciences, the California Board of Podiatric Medicine, and the California Board of Occupational Therapy.

(c) This section shall become operative on January 1, 2015.

SEC. 9. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Dental Board of California, the Dental Hygiene Committee of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

SEC. 10. Section 803.1 of the Business and Professions Code is amended to read:

803.1. (a) Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information regarding any enforcement

actions taken against a licensee, including a former licensee, by the board or by another state or jurisdiction, including all of the following:

- (1) Temporary restraining orders issued.
- (2) Interim suspension orders issued.
- (3) Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.
- (4) Public letters of reprimand issued.
- (5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other law, in addition to the information provided in subdivision (a), the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public all of the following:

(1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician's and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars (\$30,000) or more.

(B) The board shall not disclose the actual dollar amount of a settlement but shall put the number and amount of the settlement in context by doing the following:

(i) Comparing the settlement amount to the experience of other licensees within the same specialty or subspecialty, indicating if it is below average, average, or above average for the most recent 10-year period.

(ii) Reporting the number of years the licensee has been in practice.

(iii) Reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement agreement, and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

(3) Current American Board of Medical Specialties certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027.

(6) Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for medical disciplinary cause or reason, unless a court finds, in a final judgment, that the peer review resulting in the disciplinary action was conducted in bad faith and the licensee notifies the board of that finding. In addition, any exculpatory or explanatory statements submitted by the licensee electronically pursuant to subdivision (f) of that section shall be disclosed. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(c) Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information received regarding felony convictions of a physician and surgeon or doctor of podiatric medicine.

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

“Some studies have shown that there is no significant correlation between malpractice history and a doctor’s competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor’s specialty and the doctor’s history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor’s specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation. This report compares doctors only to the members of their specialty, not to all doctors, in order to make an individual doctor’s history more meaningful.

This report reflects data only for settlements made on or after January 1, 2003. Moreover, it includes information concerning those settlements for a 10-year period only. Therefore, you should know that a doctor may have made settlements in the 10 years immediately preceding January 1, 2003, that are not included in this report. After January 1, 2013, for doctors practicing less than 10 years, the data covers their total years of practice. You should take into account the effective date of settlement disclosure as well as how long the doctor has been in practice when considering malpractice averages.

The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to settle. Some doctors work primarily with high-risk patients. These doctors may have malpractice settlement histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.

Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the doctor. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

You may wish to discuss information in this report and the general issue of malpractice with your doctor.”

(e) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall not use the terms “enforcement,” “discipline,” or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers’ statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

(g) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall provide each licensee, including a former licensee under subdivision (a), with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

(h) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group physicians by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its statement of reasons for its regulations, explains why the validity of the grouping would be more valid.

SEC. 11. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) (A) “Peer review” means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct

of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) “Peer review body” includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, midwifery, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) “Licentiate” means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, licensed midwife, or physician assistant. “Licentiate” also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) “Agency” means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) “Staff privileges” means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) “Denial or termination of staff privileges, membership, or employment” includes failure or refusal to renew a contract or to renew,

extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) “Medical disciplinary cause or reason” means that aspect of a licentiate’s competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) “805 report” means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate’s application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate’s membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons his or her application for staff privileges or membership.

(3) Withdraws or abandons his or her request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the

peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension. If the California Board of Podiatric Medicine or a licensing agency of another state revokes or suspends, without a stay, the license of a doctor of podiatric medicine, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or

otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, “willful” means a voluntary and intentional violation of a known legal duty.

(l) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

SEC. 12. Section 805.01 of the Business and Professions Code is amended to read:

805.01. (a) As used in this section, the following terms have the following definitions:

(1) “Agency” has the same meaning as defined in Section 805.

(2) “Formal investigation” means an investigation performed by a peer review body based on an allegation that any of the acts listed in paragraphs (1) to (4), inclusive, of subdivision (b) occurred.

(3) “Licentiate” has the same meaning as defined in Section 805.

(4) “Peer review body” has the same meaning as defined in Section 805.

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file a report with the relevant agency within 15 days after a peer review body makes a final decision or recommendation regarding the disciplinary action, as specified in subdivision (b) of Section 805, resulting in a final proposed action to be taken against a licentiate based on the peer review body’s determination, following formal investigation of the licentiate, that any of the acts listed in paragraphs (1) to (4), inclusive, may have occurred, regardless of whether a hearing is held pursuant to Section 809.2. The licentiate shall receive a notice of the proposed action as set forth in Section 809.1, which shall also include a notice advising the licentiate of the right to submit additional explanatory or exculpatory statements electronically or otherwise.

(1) Incompetence, or gross or repeated deviation from the standard of care involving death or serious bodily injury to one or more patients, to the extent or in such a manner as to be dangerous or injurious to any person or to the public. This paragraph shall not be construed to affect or require the imposition of immediate suspension pursuant to Section 809.5.

(2) The use of, or prescribing for or administering to himself or herself, any controlled substance; or the use of any dangerous drug, as defined in Section 4022, or of alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the licentiate, any other person, or the public, or to the extent that such use impairs the ability of the licentiate to practice safely.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith effort prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain, consistent with lawful prescribing, be reported for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(c) The relevant agency shall be entitled to inspect and copy the following documents in the record of any formal investigation required to be reported pursuant to subdivision (b):

(1) Any statement of charges.

(2) Any document, medical chart, or exhibit.

(3) Any opinions, findings, or conclusions.

(4) Any certified copy of medical records, as permitted by other applicable law.

(d) The report provided pursuant to subdivision (b) and the information disclosed pursuant to subdivision (c) shall be kept confidential and shall not be subject to discovery, except that the information may be reviewed as provided in subdivision (c) of Section 800 and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) The report required under this section shall be in addition to any report required under Section 805.

(f) A peer review body shall not be required to make a report pursuant to this section if that body does not make a final decision or recommendation regarding the disciplinary action to be taken against a licentiate based on the body's determination that any of the acts listed in paragraphs (1) to (4), inclusive, of subdivision (b) may have occurred.

(g) A willful failure to file a report pursuant to this section by any person who is designated or otherwise required by law to file a report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person who filed or should have filed the report. If the person who is designated or otherwise required to file a report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(h) Except as otherwise provided in subdivision (g), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file a report pursuant to this section, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person who filed or should have filed the report. If the person who is designated or otherwise required to file a report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including (i) whether the failure to file caused harm to a patient or created a risk to patient safety, (ii) whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file a report exercised

due diligence despite the failure to file or whether they knew or should have known that a report would not be filed, and (3) whether there has been a prior failure to file a report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

SEC. 13. Section 805.1 of the Business and Professions Code is amended to read:

805.1. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall be entitled to inspect and copy the following documents in the record of any disciplinary proceeding resulting in action that is required to be reported pursuant to Section 805:

- (1) Any statement of charges.
- (2) Any document, medical chart, or exhibits in evidence.
- (3) Any opinion, findings, or conclusions.
- (4) Any certified copy of medical records, as permitted by other applicable law.

(b) The information so disclosed shall be kept confidential and not subject to discovery, in accordance with Section 800, except that it may be reviewed, as provided in subdivision (c) of Section 800, and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 14. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, any health care service plan or medical care foundation, the medical staff of the institution, a facility certified to participate in the federal Medicare Program as an ambulatory surgical center, or an outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall request a report from the Medical Board of California, the Board of Psychology, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, or the Dental Board of California to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff the board shall furnish a copy of any report made pursuant to Section 805 as well as any additional exculpatory or explanatory information submitted electronically to the board by the licensee pursuant to subdivision (f) of that section. However, the board shall

not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, (3) if a court finds, in a final judgment, that the peer review, as defined in Section 805, resulting in the report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, or (4) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licensee has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. If a request is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

If the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

SEC. 15. Section 805.6 of the Business and Professions Code is amended to read:

805.6. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall establish a system of electronic notification that is either initiated by the board or can be accessed by qualified subscribers, and that is designed to achieve early notification to qualified recipients of the existence of new reports that are filed pursuant to Section 805.

(b) The State Department of Health Care Services shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

(c) The Department of Managed Health Care shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

SEC. 16. Section 810 of the Business and Professions Code is amended to read:

810. (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the State Board of Optometry, the

California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) “More than one conviction,” as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have “more than one conviction” for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

SEC. 17. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 15 members, 7 of whom shall be public members.

(b) The Governor shall appoint 13 members to the board, subject to confirmation by the Senate, 5 of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) This section shall remain in effect only until January 1, 2022, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 18. Section 2008 of the Business and Professions Code is amended to read:

2008. The board may appoint panels from its members for the purpose of fulfilling the obligations established in subdivision (c) of Section 2004. Any panel appointed under this section shall at no time be comprised of less than four members and the number of public members assigned to the panel shall not exceed the number of licensed physician and surgeon members assigned to the panel. Each panel shall annually elect a chair and a vice chair.

SEC. 19. Section 2020 of the Business and Professions Code is amended to read:

2020. (a) The board, by and with the approval of the director, may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry this chapter into effect. The board may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

(b) The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.

(c) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 20. Section 2026 is added to the Business and Professions Code, to read:

2026. The board shall initiate the process of adopting regulations on or before January 1, 2019, to require its licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in this state by the board, that the practitioner's license can be checked, and that complaints against the practitioner can be made through the board's Internet Web site or by contacting the board.

SEC. 21. Section 2052.5 of the Business and Professions Code is repealed.

SEC. 22. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a), any of the following persons may use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.":

(1) A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

(2) A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

(A) If issued a license to practice medicine in any jurisdiction, has not had that license revoked or suspended by that jurisdiction.

(B) Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

(C) Does not engage in any of the acts prohibited by Section 2060.

(3) A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

SEC. 23. Section 2064 of the Business and Professions Code is amended to read:

2064. (a) Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an

approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, or to prevent students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 24. Section 2064 is added to the Business and Professions Code, to read:

2064. (a) Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

(b) This section shall become operative on January 1, 2020.

SEC. 25. Section 2064.5 is added to the Business and Professions Code, to read:

2064.5. (a) Within 180 days after enrollment in a board-approved postgraduate training program pursuant to Section 2065, medical school graduates shall obtain a physician's and surgeon's postgraduate training license. To be considered for a postgraduate training license, the applicant shall submit the application forms and primary source documents required by the board, shall successfully pass all required licensing examinations, shall pay the reduced licensing fee, and shall not have committed any act that would be grounds for denial.

(1) Each application submitted pursuant to this section shall be made upon a form provided by the board, and each application form shall contain a legal verification to be signed by the applicant verifying under penalty of perjury that the information provided by the applicant is true and correct and that any information in supporting documents provided by the applicant is true and correct.

(2) Each application shall include the following:

(A) A diploma issued by a board-approved medical school. The requirements of the school shall not have been less than those required under this chapter at the time the diploma was granted or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

(B) An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

(C) Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

(D) An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

(E) Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221 of this code.

(F) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign Medical Graduates (ECFMG) Certification Status Report confirming the graduate is ECFMG certified.

(b) The physician's and surgeon's postgraduate training license shall be valid until 90 days after the holder has successfully completed 36 months of board-approved postgraduate training. The physician's and surgeon's postgraduate training licensee may engage in the practice of medicine only in connection with his or her duties as an intern or resident physician in a board-approved program, including its affiliated sites, or under those conditions as are approved in writing and maintained in the postgraduate training licensee's file by the director of his or her program.

(c) The postgraduate training licensee may engage in the practice of medicine in locations authorized by subdivision (b), and as permitted by the Medical Practice Act and other applicable statutes and regulations, including, but not limited to, the following:

(1) Diagnose and treat patients.

(2) Prescribe medications without a cosigner, including prescriptions for controlled substances, if the training licensee has the appropriate Drug Enforcement Agency registration/permit and is registered with the Department of Justice CURES program.

(3) Sign birth certificates without a cosigner.

(4) Sign death certificates without a cosigner.

(d) The postgraduate training licensee may be disciplined by the board at any time for any of the grounds that would subject the holder of a physician's and surgeon's certificate to discipline.

(e) If the medical school graduate fails to obtain a postgraduate training license within 180 days after enrollment in a board-approved postgraduate training program or if the board denies his or her application for a postgraduate training license, all privileges and exemptions under this section shall automatically cease.

(f) Each medical school graduate enrolled in a board-approved postgraduate training program on January 1, 2020, shall apply for and obtain

a postgraduate training license by June 30, 2020, in order to continue in postgraduate training pursuant to Section 2065.

(g) Each medical school graduate who was issued a postgraduate training authorization letter by the board prior to January 1, 2020, and is enrolled in a board-approved postgraduate training program by April 30, 2025, will be issued a postgraduate training license automatically by June 30, 2020, or by June 30 of the year following initial enrollment into a board-approved postgraduate training program, whichever is earlier, upon proof of enrollment in the postgraduate training program.

(h) The board shall confidentially destroy the file of each medical school graduate who was issued a postgraduate training authorization letter by the board prior to January 1, 2020, who did not enroll in a postgraduate training program by April 30, 2025.

(i) This section shall become operative on January 1, 2020.

SEC. 26. Section 2064.7 is added to the Business and Professions Code, to read:

2064.7. (a) The board may deny a postgraduate training license to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board, in its sole discretion, may issue a probationary postgraduate training license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Limitations on practice.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Abstinence from the use of alcohol or drugs.

(6) Restrictions against engaging in certain types of medical practice.

(7) Compliance with all provisions of this chapter.

(8) Payment of the cost of probation monitoring.

(b) The decision placing the applicant on probation shall be disclosed to an inquiring member of the public indefinitely and shall be posted on the board's Internet Web site for the period of probation.

(c) The board may modify or terminate the terms and conditions imposed on the probationary postgraduate training license after one year upon receipt of a petition from the postgraduate training licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(d) The board shall deny a postgraduate training license to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(e) An applicant shall not be eligible to reapply for a postgraduate training license for a minimum of three years from the effective date of the denial

of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

(f) This section shall become operative on January 1, 2020.

SEC. 27. Section 2064.8 is added to the Business and Professions Code, to read:

2064.8. (a) Notwithstanding subdivision (a) of Section 2064.7, the board may issue a postgraduate training license to an applicant who has committed minor violations that the board deems, in its discretion, do not merit the denial of a postgraduate training license or require probationary status under Section 2064.7, and may concurrently issue a public letter of reprimand. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(b) A public letter of reprimand issued concurrently with a postgraduate training license shall be purged three years from the date of issuance.

(c) A public letter of reprimand issued pursuant to this section shall be disclosed to an inquiring member of the public and shall be posted on the board's Internet Web site until purged consistent with this section.

(d) Nothing in this section shall be construed to affect the board's authority to issue an unrestricted postgraduate training license.

(e) This section shall become operative on January 1, 2020.

SEC. 28. Section 2065 of the Business and Professions Code is amended to read:

2065. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school, who is registered with the board and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of medicine whenever and wherever required as a part of the program under the following conditions:

(1) A graduate enrolled in an approved first-year postgraduate training program may so engage in the practice of medicine for a period not to exceed one year whenever and wherever required as a part of the training program, and may receive compensation for that practice.

(2) A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure, or shall qualify for and receive a physician's and surgeon's certificate by one of the other methods specified in this chapter. If the resident or fellow fails to receive a license to practice medicine under this chapter within one year from the commencement of the residency or fellowship or if the board denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 29. Section 2065 is added to the Business and Professions Code, to read:

2065. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school may engage in the practice of medicine whenever and wherever required as a part of a postgraduate training program under the following conditions:

(1) The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

(2) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, the Educational Commission for Foreign Medical Graduates (ECFMG) has submitted an official ECFMG Certification Status Report directly to the board confirming the graduate is ECFMG certified.

(3) The medical school graduate is enrolled in a postgraduate training program approved by the board.

(4) The board-approved postgraduate training program has submitted the required board-approved form to the board documenting the medical school graduate is enrolled in an approved postgraduate training program.

(5) The medical school graduate obtains a physician's and surgeon's postgraduate training license in accordance with Section 2064.5.

(b) A medical school graduate enrolled in an approved first-year postgraduate training program in accordance with this section may engage in the practice of medicine whenever and wherever required as a part of the training program, and may receive compensation for that practice not to exceed 12 months.

(c) A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice not to exceed 27 months. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure. If the resident or fellow fails to receive a license to practice medicine under this chapter within 27 months from the commencement of the residency or fellowship or if the board denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

(d) All approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the 39-month license exemption.

(e) A medical school graduate from a medical school approved by the board shall have successfully completed a minimum of 36 months of

approved postgraduate training with at least 24 consecutive months in the same program, to be eligible for a California physician's and surgeon's certificate.

(f) This section shall become operative on January 1, 2020.

SEC. 30. Section 2066 of the Business and Professions Code is amended to read:

2066. (a) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as a part of a clinical service program under the following conditions:

(1) The clinical service is in a postgraduate training program approved by the Division of Licensing.

(2) The graduate is registered with the division for the clinical service.

(b) A graduate may engage in the practice of medicine under this section until the receipt of his or her physician and surgeon's certificate. If the graduate fails to pass the examination and receive a certificate by the completion of the graduate's third year of postgraduate training or if the division denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

(c) Nothing in this section shall preclude a foreign medical graduate from engaging in the practice of medicine under any other exemption contained in this chapter.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 31. Section 2067 of the Business and Professions Code is amended to read:

2067. (a) An applicant for a physician's and surgeon's certificate who is found by the Division of Licensing to be deficient in the education and clinical instruction required by Sections 2089 and 2089.5 or who is required pursuant to Section 2185 to complete additional medical instruction may engage in the practice of medicine in this state in any setting approved by the Division of Licensing for the period of time prescribed by the Division of Licensing.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 32. Section 2072 of the Business and Professions Code is amended to read:

2072. (a) Notwithstanding any other provision of law and subject to the provisions of the State Civil Service Act, any person who is licensed to practice medicine in any other state, who meets the requirements for application set forth in this chapter and who registers with and is approved by the Division of Licensing, may be appointed to the medical staff within a state institution and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons under the jurisdiction of any state institution. Qualified physicians and surgeons licensed in this state shall not be recruited pursuant to this section.

(b) No person appointed pursuant to this section shall be employed in any state institution for a period in excess of two years from the date the person was first employed, and the appointment shall not be extended beyond the two-year period. At the end of the two-year period, the physician shall have been issued a physician's and surgeon's certificate by the board in order to continue employment. Until the physician has obtained a physician's and surgeon's certificate from the board, he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 33. Section 2073 of the Business and Professions Code is amended to read:

2073. (a) Notwithstanding any other provision of law, any person who is licensed to practice medicine in any other state who meets the requirements for application set forth in this chapter, and who registers with and is approved by the Division of Licensing, may be employed on the resident medical staff within a county general hospital and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons within the county institution. Employment pursuant to this section is authorized only when an adequate number of qualified resident physicians cannot be recruited from intern staffs in this state.

(b) No person appointed pursuant to this section shall be employed in any county general hospital for a period in excess of two years from the date the person was first employed, and the employment shall not be extended beyond the two-year period. At the end of the two-year period, the physician shall have been issued a physician's and surgeon's certificate by the board in order to continue as a member of the resident staff. Until the physician has obtained a physician's and surgeon's certificate from the board, he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 34. Section 2082 of the Business and Professions Code is amended to read:

2082. Each application shall include the following:

(a) A diploma issued by an approved medical school. The requirements of the school shall have been at the time of granting the diploma in no degree less than those required under this chapter or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

(b) An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

(c) Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

(d) Proof of passage of the written examinations as provided under Article 9 (commencing with Section 2170) with a score acceptable to the board.

(e) Proof of satisfactory completion of the postgraduate training required under Section 2096 on a form approved by the board.

(f) An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

(g) Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221.

(h) Beginning January 1, 2020, if the applicant attended a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign Medical Graduates (ECFMG) Certification Status Report submitted by the Educational Commission for Foreign Medical Graduates confirming the graduate is ECFMG certified.

(i) Beginning January 1, 2020, if the applicant attended a foreign medical school approved by the board pursuant to Section 2084, official evidence satisfactory to the board of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

SEC. 35. Section 2084 of the Business and Professions Code is amended to read:

2084. (a) The Division of Licensing may approve every school which substantially complies with the requirements of this chapter for resident courses of professional instruction. Graduates of medical schools approved under this section shall be deemed to meet the requirements of Section 2089. Medical schools accredited by a national accrediting agency approved by the division and recognized by the United States Department of Education shall be deemed approved by the division under this section. Nothing in this chapter prohibits the division from considering the quality of the resident courses of professional instruction required for certification as a physician and surgeon.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 36. Section 2084 is added to the Business and Professions Code, to read:

2084. (a) Medical schools accredited by a national accrediting agency approved by the board and recognized by the United States Department of Education shall be deemed approved by the board.

(b) The board shall determine a foreign medical school to be a recognized medical school if the foreign medical school meets any of the following requirements:

(1) The foreign medical school has been evaluated by the Educational Commission for Foreign Medical Graduates (ECFMG) or one of the ECFMG-authorized foreign medical school accreditation agencies and deemed to meet the minimum requirements substantially equivalent to the requirements of medical schools accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation.

(2) The foreign medical school is listed on the World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education and Research (FAIMER) World Directory of Medical Schools joint directory or the World Directory of Medical Schools.

(3) The foreign medical school had been previously approved by the board. The prior approval shall only be valid for a maximum of seven years from the date of enactment of this section.

(c) This section shall become operative on January 1, 2020.

SEC. 37. Section 2084.5 of the Business and Professions Code is amended to read:

2084.5. (a) Notwithstanding any other law, a medical school or medical school program accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation shall be deemed to meet the requirements of Sections 2089 and 2089.5.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 38. Section 2084.5 is added to the Business and Professions Code, to read:

2084.5. (a) Notwithstanding any other law, a medical school or medical school program accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation shall be deemed to meet the requirements of Section 2084.

(b) This section shall become operative on January 1, 2020.

SEC. 39. Section 2085 of the Business and Professions Code is amended to read:

2085. (a) Notwithstanding Section 2084, a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length

or content may be approved by the Division of Licensing if the division determines that the applicant has otherwise received adequate instruction in the subjects listed in subdivision (b) of Section 2089.

“Adequate instruction” means the applicant has received instruction adequate to prepare the applicant to engage in the practice of medicine in the United States. This definition applies to the sufficiency of instruction of the following courses:

- (1) Anatomy, including gross anatomy, embryology, histology, and neuroanatomy.
- (2) Bacteriology and immunology.
- (3) Biochemistry.
- (4) Pathology.
- (5) Pharmacology.
- (6) Physiology.

The division may require an applicant under this section to undertake additional education to bring up to standard, instruction in the subjects listed in subdivision (b) of Section 2089 as a condition of issuing a physician and surgeon’s certificate. In approving an applicant under this section, the division may take into account the applicant’s total relevant academic experience, including performance on standardized national examinations.

(b) (1) Notwithstanding subdivision (a) or Sections 2084 and 2089, an applicant who is a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content shall be presumed to meet the requirements of Sections 2084 and 2089 if the special medical school program has been reviewed and approved by a national accrediting agency approved by the division and recognized by the United States Department of Education.

(2) This presumption may be overcome upon a finding by the division that the medical education received by the applicant is not the educational equivalent of the medical education received by graduates of medical schools approved pursuant to subdivision (a) or Section 2084. In making its finding, the division shall consider, at a minimum, the applicant’s total academic and medical training experience prior to, and following, as well as during, medical school, the applicant’s performance on standardized national examinations, including the National Board Examinations, the applicant’s achievements as a house staff officer, and the number of years of postgraduate medical training completed by the applicant.

(3) An applicant under this subdivision who (A) has satisfactorily completed at least two years of postgraduate clinical training approved by the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association and whose postgraduate training has included at least one year of clinical contact with patients and (B) has achieved a passing score on the written examination required for licensure, satisfies the requirements of Sections 2084 and 2089. For purposes of this subdivision, an applicant who

has satisfactorily completed at least two years of approved postgraduate clinical training on or before July 1, 1987, shall not be required to have at least one year of clinical contact with patients.

(4) Applicants under this subdivision who apply after satisfactorily completing one year of approved postgraduate training shall have their applications reviewed by the division and shall be informed by the division either that satisfactory completion of a second year of approved postgraduate training will result in their being deemed to meet the requirements of Sections 2084 and 2089, or informed of any deficiencies in their qualifications or documentation and the specific remediation, if any, required by the division to meet the requirements of Sections 2084 and 2089. Upon satisfactory completion of the specified remediation, the division shall promptly issue a license to the applicant.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 40. Section 2087 of the Business and Professions Code is amended to read:

2087. If any applicant for licensure is rejected by the board, then the applicant may commence an action in the superior court as provided in Section 2019 against the board to compel it to issue the applicant a certificate or for any other appropriate relief. If the applicant is denied a certificate on the grounds of unprofessional conduct, the provisions of Article 12 (commencing with Section 2220) shall apply. In such an action the court shall proceed under Section 1094.5 of the Code of Civil Procedure, except that the court may not exercise an independent judgment on the evidence. The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence may be given by law.

SEC. 41. Section 2089 of the Business and Professions Code is amended to read:

2089. (a) Each applicant for a physician's and surgeon's certificate shall show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a medical school or schools located in the United States or Canada approved by the division, or in a medical school or schools located outside the United States or Canada which otherwise meets the requirements of this section. The total number of hours of all courses shall consist of a minimum of 4,000 hours. At least 80 percent of actual attendance shall be required. If an applicant has matriculated in more than one medical school, the applicant must have matriculated in the medical school awarding the degree of doctor of medicine or its equivalent for at least the last full academic year of medical education received prior to the granting of the degree.

(b) The curriculum for all applicants shall provide for adequate instruction in the following subjects:

Alcoholism and other chemical substance dependency, detection and treatment.

Anatomy, including embryology, histology, and neuroanatomy.

Anesthesia.

Biochemistry.

Child abuse detection and treatment.

Dermatology.

Geriatric medicine.

Human sexuality.

Medicine, including pediatrics.

Neurology.

Obstetrics and gynecology.

Ophthalmology.

Otolaryngology.

Pain management and end-of-life care.

Pathology, bacteriology, and immunology.

Pharmacology.

Physical medicine.

Physiology.

Preventive medicine, including nutrition.

Psychiatry.

Radiology, including radiation safety.

Spousal or partner abuse detection and treatment.

Surgery, including orthopedic surgery.

Therapeutics.

Tropical medicine.

Urology.

(c) The requirement that an applicant successfully complete a medical curriculum that provides instruction in pain management and end-of-life care shall only apply to a person entering medical school on or after June 1, 2000.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 42. Section 2089.5 of the Business and Professions Code is amended to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall meet the requirements of this section and shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, family medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 40 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, a minimum of four weeks in family medicine, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school or school of osteopathic medicine.

(2) Has a residency program, approved by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC), in family practice or in the clinical area of the instruction for which credit is being sought.

(3) Is formally affiliated with an approved medical school or school of osteopathic medicine located in the United States or Canada. If the affiliation is limited in nature, credit shall be given only in the subject areas covered by the affiliation agreement.

(4) Is formally affiliated with a medical school or a school of osteopathic medicine located outside the United States or Canada.

(e) If the institution, specified in subdivision (d), is formally affiliated with a medical school or a school of osteopathic medicine located outside the United States or Canada, it shall meet the following:

(1) The formal affiliation shall be documented by a written contract detailing the relationship between the medical school, or a school of osteopathic medicine, and hospital and the responsibilities of each.

(2) The school and hospital shall provide to the board a description of the clinical program. The description shall be in sufficient detail to enable the board to determine whether or not the program provides students an adequate medical education. The board shall approve the program if it determines that the program provides an adequate medical education. If the board does not approve the program, it shall provide its reasons for disapproval to the school and hospital in writing specifying its findings about each aspect of the program that it considers to be deficient and the changes required to obtain approval.

(3) The hospital, if located in the United States, shall be accredited by the Joint Commission on Accreditation of Hospitals, or the American Osteopathic Association's Healthcare Facilities Accreditation Program, and if located in another country, shall be accredited in accordance with the law of that country.

(4) The clinical instruction shall be supervised by a full-time director of medical education, and the head of the department for each core clinical course shall hold a full-time faculty appointment of the medical school or school of osteopathic medicine and shall be board certified or eligible, or have an equivalent credential in that specialty area appropriate to the country in which the hospital is located.

(5) The clinical instruction shall be conducted pursuant to a written program of instruction provided by the school.

(6) The school shall supervise the implementation of the program on a regular basis, documenting the level and extent of its supervision.

(7) The hospital-based faculty shall evaluate each student on a regular basis and shall document the completion of each aspect of the program for each student.

(8) The hospital shall ensure a minimum daily census adequate to meet the instructional needs of the number of students enrolled in each course area of clinical instruction, but not less than 15 patients in each course area of clinical instruction.

(9) The board, in reviewing the application of a foreign medical graduate, may require the applicant to submit a description of the clinical program, if the board has not previously approved the program, and may require the applicant to submit documentation to demonstrate that the applicant's clinical training met the requirements of this subdivision.

(10) The medical school or school of osteopathic medicine shall bear the reasonable cost of any site inspection by the board or its agents necessary to determine whether the clinical program offered is in compliance with this subdivision.

(f) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 43. Section 2089.7 of the Business and Professions Code is amended to read:

2089.7. (a) The requirement of four weeks of clinical course instruction in family medicine shall apply only to those applicants for licensure who graduate from medical school or a school of osteopathic medicine after May 1, 1998.

(b) This section shall become operative on June 30, 1999.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 44. Section 2090 of the Business and Professions Code is amended to read:

2090. (a) "Human sexuality" as used in Sections 2089 and 2191 means the study of a human being as a sexual being and how he or she functions with respect thereto.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 45. Section 2091 of the Business and Professions Code is amended to read:

2091. (a) The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 46. Section 2091.1 of the Business and Professions Code is amended to read:

2091.1. (a) The requirement that instruction in alcoholism and other chemical substance dependency be provided applies only to applicants who matriculate on or after September 1, 1985.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 47. Section 2091.2 of the Business and Professions Code is amended to read:

2091.2. (a) The requirements that instruction in spousal or partner abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1994. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 48. Section 2096 of the Business and Professions Code is amended to read:

2096. (a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be issued, each applicant, including an applicant applying pursuant to Article 5 (commencing with Section 2100), except as provided in subdivision (b), shall show by evidence satisfactory to the board that he or she has satisfactorily completed at least one year of postgraduate training.

(b) An applicant applying pursuant to Section 2102 shall show by evidence satisfactory to the board that he or she has satisfactorily completed at least two years of postgraduate training.

(c) The postgraduate training required by this section shall include at least four months of general medicine and shall be obtained in a postgraduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC).

(d) The amendments made to this section at the 1987 portion of the 1987-88 session of the Legislature shall not apply to applicants who completed their one year of postgraduate training on or before July 1, 1990.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 49. Section 2096 is added to the Business and Professions Code, to read:

2096. (a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be issued, each applicant, including an applicant applying pursuant to Article 5 (commencing with Section 2100), shall show by evidence satisfactory to the board that he or she has successfully completed at least 36 months of board-approved postgraduate training.

(b) The postgraduate training required by this section shall include at least four months of general medicine and shall be obtained in a postgraduate training program approved by the Accreditation Council for Graduate

Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada (RCPSC), or the College of Family Physicians of Canada (CFPC).

(c) An applicant who has completed at least 36 months of board-approved postgraduate training, not less than 24 months of which was completed as a resident after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation (CODA) or approved by the board, shall be eligible for licensure.

(d) This section shall become operative on January 1, 2020.

SEC. 50. Section 2100 of the Business and Professions Code is amended to read:

2100. (a) The provisions of this article shall apply to all applications of graduates of medical schools located outside the United States or Canada. Such applicants shall otherwise comply with the provisions of this chapter, except where such provisions are in conflict with or inconsistent with the provisions of this article.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 51. Section 2102 of the Business and Professions Code is amended to read:

2102. An applicant whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the board of compliance with the following requirements to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to the applicant of a document acceptable to the board that shows final and successful completion of the course. However, nothing in this section shall be construed to require the board to evaluate for equivalency any coursework obtained at a medical school disapproved by the board pursuant to this section.

(b) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the board. This subdivision shall apply to all applicants who are subject to this section and who have not taken and passed the written examination specified in subdivision (d) prior to June 1, 1986.

(c) Satisfactory completion of the postgraduate training required under subdivision (b) of Section 2096. An applicant shall be required to have substantially completed the professional instruction required in subdivision (a) and shall be required to make application to the board and have passed steps 1 and 2 of the written examination relating to biomedical and clinical sciences prior to commencing any postgraduate training in this state. In its discretion, the board may authorize an applicant who is deficient in any education or clinical instruction required by Sections 2089 and 2089.5 to make up any deficiencies as a part of his or her postgraduate training program, but that remedial training shall be in addition to the postgraduate training required for licensure.

(d) Passage of the written examination as provided under Article 9 (commencing with Section 2170). An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination required by this subdivision.

(e) Nothing in this section prohibits the board from disapproving a foreign medical school or from denying an application if, in the opinion of the board, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

(f) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 52. Section 2103 of the Business and Professions Code is amended to read:

2103. An applicant shall be eligible for a physician's and surgeon's certificate if he or she has completed the following requirements:

(a) Submitted official evidence satisfactory to the board of completion of a resident course or professional instruction equivalent to that required in Section 2089 in a medical school located outside the United States or Canada. However, nothing in this section shall be construed to require the board to evaluate for equivalency any coursework obtained at a medical school disapproved by the board pursuant to Article 4 (commencing with Section 2080).

(b) Submitted official evidence satisfactory to the board of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

(c) Attained a score satisfactory to an approved medical school on a qualifying examination acceptable to the board.

(d) Successfully completed one academic year of supervised clinical training in a program approved by the board pursuant to Section 2104. The board shall also recognize as compliance with this subdivision the successful completion of a one-year supervised clinical medical internship operated by a medical school pursuant to Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section.

(1) Training received in the academic year of supervised clinical training approved pursuant to Section 2104 shall be considered as part of the total academic curriculum for purposes of meeting the requirements of Sections 2089 and 2089.5.

(2) An applicant who has passed the basic science and English language examinations required for certification by the Educational Commission for Foreign Medical Graduates may present evidence of those passing scores along with a certificate of completion of one academic year of supervised clinical training in a program approved by the board pursuant to Section 2104 in satisfaction of the formal certification requirements of subdivision (b) of Section 2102.

(e) Satisfactorily completed the postgraduate training required under Section 2096.

(f) Passed the written examination required for certification as a physician and surgeon under this chapter.

(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 53. Section 2104 of the Business and Professions Code is amended to read:

2104. (a) The Division of Licensing shall approve programs of supervised clinical training in hospitals for the purpose of providing basic clinical training to students who are graduates of foreign medical schools or have completed all the formal requirements for graduation except for internship or social service and who intend to apply for licensure as a physician and surgeon pursuant to Section 2103. Such programs shall be under the direction of approved medical schools.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 54. Section 2104.5 of the Business and Professions Code is amended to read:

2104.5. (a) The board, in consultation with various medical schools located in California, the Office of Statewide Health Planning and Development, and executive directors and medical directors of nonprofit community health centers, hospital administrators, and medical directors with experience hiring graduates of the Fifth Pathway Program or foreign medical school graduates shall study methods to reactivate the Fifth Pathway Program in medical schools located in this state. The executive directors and medical directors of nonprofit community health centers, the hospital administrators, and the medical directors should serve or work with underserved populations or in facilities located in medically underserved communities or in health professional shortage areas. The board shall submit a report to the Legislature on or before July 1, 2003, that shall include options for the Legislature to consider in order to facilitate the establishment of one or more Fifth Pathway Programs in medical schools located in California. The study shall focus on whether the Fifth Pathway Program can address the needs of areas where a shortage of providers exists, communities with a non-English speaking population in need of medical providers who speak their native language and understand their culture, and whether it can provide greater provider stability in these communities.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 55. Section 2105 of the Business and Professions Code is amended to read:

2105. (a) No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who at the time of his or her enrollment in a medical school outside the United States is a citizen of the United States, to satisfy any requirements other than those contained in

subdivisions (a), (b), (c), (d), and (e) of Section 2103 prior to commencing the postgraduate training required by subdivision (f) which are not required for graduates of approved medical schools located in the United States or Canada.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 56. Section 2105 is added to the Business and Professions Code, to read:

2105. (a) No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who at the time of his or her enrollment in a medical school outside the United States is a citizen of the United States, to satisfy any requirements other than those contained in paragraph (3) of subdivision (a) of Section 2065 prior to commencing the postgraduate training which are not required for graduates of approved medical schools located in the United States or Canada.

(b) This section shall become operative on January 1, 2020.

SEC. 57. Section 2107 of the Business and Professions Code is amended to read:

2107. (a) The Legislature intends that the board shall have the authority to substitute postgraduate education and training to remedy deficiencies in an applicant's medical school education and training. The Legislature further intends that applicants who substantially completed their clinical training shall be granted that substitute credit if their postgraduate education took place in an accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the board may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the board shall consider the applicant's medical education and performance on standardized national examinations, and may substitute approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the postgraduate training required by Sections 2102 and 2103.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 58. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b) and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the board, be permitted to participate in the professional activities of the department or division in the medical school to which they are appointed. The physician shall be under the direction of the head of the department to which he or she is appointed, supervised by the staff of the medical school's medical center, and known for these purposes as a "visiting fellow." The visiting fellow

shall wear a visible name tag containing the title “visiting fellow” when he or she provides clinical services.

(b) (1) Application for approval shall be made on a form prescribed by the division and shall be accompanied by a fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. The application shall show that the person does not immediately qualify for a physician’s and surgeon’s certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements. The application shall include a written statement of the recruitment procedures followed by the medical school before offering the appointment to the applicant.

(2) Approval shall be granted only for appointment to one medical school, and no physician shall be granted more than one approval for the same period of time.

(3) Approval may be granted for a maximum of three years and shall be renewed annually. The medical school shall submit a request for renewal on a form prescribed by the board, which shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

(c) Except to the extent authorized by this section, the visiting fellow may not engage in the practice of medicine. Neither the visiting fellow nor the medical school may assess any charge for the medical services provided by the visiting fellow, and the visiting fellow may not receive any other compensation therefor.

(d) The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure.

(e) The board shall notify both the visiting fellow and the dean of the appointing medical school of any complaint made about the visiting fellow.

The board may terminate its approval of an appointment for any act that would be grounds for discipline if done by a licensee. The board shall provide both the visiting fellow and the dean of the medical school with a written notice of termination including the basis for that termination. The visiting fellow may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the visiting fellow wishes to present to the board.

(f) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country and recognized by the board from participating in any program established pursuant to this section.

SEC. 59. Section 2112 of the Business and Professions Code is amended to read:

2112. (a) Physicians who are not citizens and who seek postgraduate study, may, after application to and approval by the board, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in this state which is approved by the Joint Commission and providing the service is satisfactory to the board. Such physicians shall at all times be under the direction and

supervision of a licensed, board-certified physician and surgeon who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the board. The approval may not be renewed more than four times. The board may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 60. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the board, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the board in connection with the faculty position. A certificate of registration does not authorize a registrant to admit patients to a nursing or a skilled or assisted living facility unless that facility is formally affiliated with the sponsoring medical school. A clinical fellowship shall not be submitted as a faculty service appointment.

(b) Application for a certificate of registration shall be made on a form prescribed by the board and shall be accompanied by a registration fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. To qualify for the certificate, an applicant shall submit all of the following:

(1) If the applicant is a graduate of a medical school other than in the United States or Canada, documentary evidence satisfactory to the board that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the board, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

(2) If the applicant is a graduate of an approved medical school in the United States or Canada, documentary evidence that he or she has completed a resident course of professional instruction as required in Section 2089.

(3) Written certification by the head of the department in which the applicant is to be appointed of all of the following:

(A) The applicant will be under his or her direction.

(B) The applicant will not be permitted to practice medicine unless incident to and a necessary part of his or her duties as approved by the board in subdivision (a).

(C) The applicant will be accountable to the medical school's department chair or division chief for the specialty in which the applicant will practice.

(D) The applicant will be proctored in the same manner as other new faculty members, including, as appropriate, review by the medical staff of the school's medical center.

(E) The applicant will not be appointed to a supervisory position at the level of a medical school department chair or division chief.

(4) Demonstration by the dean of the medical school that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed and that shall include a written statement of the recruitment procedures followed by the medical school before offering the faculty position to the applicant.

(c) A certificate of registration shall be issued only for a faculty position at one approved medical school, and no person shall be issued more than one certificate of registration for the same period of time.

(d) (1) A certificate of registration is valid for one year from its date of issuance and may be renewed twice.

A request for renewal shall be submitted on a form prescribed by the board and shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

(2) The dean of the medical school may request renewal of the registration by submitting a plan at the beginning of the third year of the registrant's appointment demonstrating the registrant's continued progress toward licensure and, if the registrant is a graduate of a medical school other than in the United States or Canada, that the registrant has been issued a certificate by the Educational Commission for Foreign Medical Graduates. The board may, in its discretion, extend the registration for a two-year period to facilitate the registrant's completion of the licensure process.

(e) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2102 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the board may accept clinical practice in an appointment pursuant to this section as qualifying time to meet the postgraduate training requirements in Section 2102, and in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in Section 2102 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the board, in its discretion, may require an applicant to pass a

clinical competency examination approved by the board. The board shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

(f) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine, bill individually for medical services provided by the registrant, or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

(g) When providing clinical services, the registrant shall wear a visible name tag containing the title "visiting professor" or "visiting faculty member," as appropriate, and the institution at which the services are provided shall obtain a signed statement from each patient to whom the registrant provides services acknowledging that the patient understands that the services are provided by a person who does not hold a physician's and surgeon's certificate but who is qualified to participate in a special program as a visiting professor or faculty member.

(h) The board shall notify both the registrant and the dean of the medical school of a complaint made about the registrant. The board may terminate a registration for any act that would be grounds for discipline if done by a licensee. The board shall provide both the registrant and the dean of the medical school with written notice of the termination and the basis for that termination. The registrant may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the registrant wishes to present to the board.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 61. Section 2113 is added to the Business and Professions Code, to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the board, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the board in connection with the faculty position. A certificate of registration does not authorize a registrant to admit patients to a nursing or a skilled or assisted living facility unless that facility is formally affiliated with the sponsoring medical school. A clinical fellowship shall not be submitted as a faculty service appointment.

(b) Application for a certificate of registration shall be made on a form prescribed by the board and shall be accompanied by a registration fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. To qualify for the certificate, an applicant shall submit all of the following:

(1) If the applicant is a graduate of a medical school other than in the United States or Canada, documentary evidence satisfactory to the board that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for

licensure are satisfactory to the board, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

(2) If the applicant is a graduate of a medical school in the United States or Canada, documentary evidence that the medical school is approved by the board.

(3) Written certification by the head of the department in which the applicant is to be appointed of all of the following:

(A) The applicant will be under his or her direction.

(B) The applicant will not be permitted to practice medicine unless incident to and a necessary part of his or her duties as approved by the board in subdivision (a).

(C) The applicant will be accountable to the medical school's department chair or division chief for the specialty in which the applicant will practice.

(D) The applicant will be proctored in the same manner as other new faculty members, including, as appropriate, review by the medical staff of the school's medical center.

(E) The applicant will not be appointed to a supervisory position at the level of a medical school department chair or division chief.

(4) Demonstration by the dean of the medical school that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed and that shall include a written statement of the recruitment procedures followed by the medical school before offering the faculty position to the applicant.

(c) A certificate of registration shall be issued only for a faculty position at one approved medical school, and no person shall be issued more than one certificate of registration for the same period of time.

(d) (1) A certificate of registration is valid for one year from its date of issuance and may be renewed twice.

A request for renewal shall be submitted on a form prescribed by the board and shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

(2) The dean of the medical school may request renewal of the registration by submitting a plan at the beginning of the third year of the registrant's appointment demonstrating the registrant's continued progress toward licensure and, if the registrant is a graduate of a medical school other than in the United States or Canada, that the registrant has been issued a certificate by the Educational Commission for Foreign Medical Graduates. The board may, in its discretion, extend the registration for a two-year period to facilitate the registrant's completion of the licensure process.

(e) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2065 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the board may, in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in paragraph

(3) of subdivision (a) of Section 2065 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the board in its discretion, may require an applicant to pass a clinical competency examination approved by the board. The board shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

(f) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine, bill individually for medical services provided by the registrant, or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

(g) When providing clinical services, the registrant shall wear a visible name tag containing the title "visiting professor" or "visiting faculty member," as appropriate, and the institution at which the services are provided shall obtain a signed statement from each patient to whom the registrant provides services acknowledging that the patient understands that the services are provided by a person who does not hold a physician's and surgeon's certificate but who is qualified to participate in a special program as a visiting professor or faculty member.

(h) The board shall notify both the registrant and the dean of the medical school of a complaint made about the registrant. The board may terminate a registration for any act that would be grounds for discipline if done by a licensee. The board shall provide both the registrant and the dean of the medical school with written notice of the termination and the basis for that termination. The registrant may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the registrant wishes to present to the board.

(i) This section shall become operative on January 1, 2020.

SEC. 62. Section 2115 of the Business and Professions Code is amended to read:

2115. (a) Physicians who are not citizens and who seek postgraduate study may, after application to and approval by the Division of Licensing, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a clinic or hospital in a medically underserved area of this state that is licensed by the State Department of Health Services or is exempt from licensure pursuant to subdivision (b) or (c) of Section 1206 of the Health and Safety Code, and providing service is satisfactory to the division. These physicians shall at all times be under the direction and supervision of a licensed, board certified physician and surgeon who has an appointment with a medical school in California and is a specialist in the field in which the fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the division. The approval may not be renewed more than four times. The division may determine a fee, based on the cost of operating this

program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a clinic pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

(d) For purposes of this section, a medically underserved area means a federally designated Medically Underserved Area, a federally designated Health Professional Shortage Area, and any other clinic or hospital determined by the board to be medically underserved. Clinics or hospitals determined by the board pursuant to this subdivision shall be reported to the Office of Statewide Health Planning and Development.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 63. Section 2135 of the Business and Professions Code is amended to read:

2135. The board shall issue a physician and surgeon's certificate to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state or states, or in a Canadian province or Canadian provinces, which was issued upon:

(1) Successful completion of a resident course of professional instruction leading to a degree of medical doctor equivalent to that specified in Section 2089. However, nothing in this section shall be construed to require the board to evaluate for equivalency any coursework obtained at a medical school disapproved by the board pursuant to Article 4 (commencing with Section 2080).

(2) Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California.

(b) The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period.

(c) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant (1) has satisfactorily completed at least one year of approved postgraduate training and is certified by a specialty board approved

by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651; (2) has satisfactorily completed at least two years of approved postgraduate training; or (3) has satisfactorily completed at least one year of approved postgraduate training and takes and passes the clinical competency written examination.

(e) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(f) Any application received from an applicant who has held an unrestricted license to practice medicine, in a state or states, or Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program for four or more years shall be reviewed and processed pursuant to this section. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period. This subdivision does not apply to applications that may be reviewed and processed pursuant to Section 2151.

(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 64. Section 2135 is added to the Business and Professions Code, to read:

2135. The board shall issue a physician and surgeon's certificate to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state or states, or in a Canadian province or Canadian provinces, which was issued upon:

(1) Successful completion of a resident course of professional instruction leading to a degree of medical doctor from a board-approved medical school pursuant to Section 2084.

(2) Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California.

(b) The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period.

(c) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant has satisfactorily completed at least one year of approved postgraduate training and is certified by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651.

(e) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(f) Any application received from an applicant who has held an unrestricted license to practice medicine, in a state or states, or Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program for four or more years shall be reviewed and processed pursuant to this section. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period. This subdivision does not apply to applications that may be reviewed and processed pursuant to Section 2151.

(g) This section shall become operative on January 1, 2020.

SEC. 65. Section 2135.5 of the Business and Professions Code is amended to read:

2135.5. Upon review and recommendation, the Division of Licensing may determine that an applicant for a physician's and surgeon's certificate has satisfied the medical curriculum requirements of Section 2089, the clinical instruction requirements of Sections 2089.5 and 2089.7, and the examination requirements of Section 2170 if the applicant meets all of the following criteria:

(a) He or she holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of four years prior to the date of application.

(b) He or she is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(c) He or she is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(d) He or she has not graduated from a medical school that has been disapproved by the division or that does not provide a resident course of instruction.

(e) He or she has graduated from a medical school recognized by the division. If the applicant graduated from a medical school that the division recognized after the date of the applicant's graduation, the division may evaluate the applicant under its regulations.

(f) He or she has not been the subject of a disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the division, constitutes a pattern of negligence or incompetence.

(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 66. Section 2135.5 is added to the Business and Professions Code, to read:

2135.5. Upon review and recommendation, the board may determine that an applicant for a physician's and surgeon's certificate has satisfied the medical education requirements of Sections 2084 and 2135 and the

examination requirements of Section 2170 if the applicant meets all of the following criteria:

(a) He or she holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of four years prior to the date of application.

(b) He or she is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(c) He or she is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(d) He or she has not been the subject of a disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the board, constitutes a pattern of negligence or incompetence.

(e) This section shall become operative on January 1, 2020.

SEC. 67. Section 2135.7 of the Business and Professions Code is amended to read:

2135.7. (a) Upon review and recommendation, the board may determine that an applicant for a physician and surgeon's certificate who acquired his or her medical education or a portion thereof at a foreign medical school that is not recognized or has been previously disapproved by the board is eligible for a physician and surgeon's certificate if the applicant meets all of the following criteria:

(1) Has successfully completed a resident course of medical education leading to a degree of medical doctor equivalent to that specified in Sections 2089 to 2091.2, inclusive.

(2) (A) (i) For an applicant who acquired any part of his or her medical education from an unrecognized foreign medical school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has held that license and continuously practiced for a minimum of 10 years prior to the date of application.

(ii) For an applicant who acquired any part of his or her professional instruction from a foreign medical school that was disapproved by the board at the time he or she attended the school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has held that license and continuously practiced for a minimum of 12 years prior to the date of application.

(B) For the purposes of clauses (i) and (ii) of subparagraph (A), the board may combine the period of time that the applicant has held an unlimited and unrestricted license in other states, federal territories, or Canadian provinces and continuously practiced therein, but each applicant under this section shall have a minimum of two years continuous licensure and practice in a single state, federal territory, or Canadian province. For purposes of this paragraph, continuous licensure and practice includes any postgraduate training after 24 months in a postgraduate training program that is accredited by the Accreditation Council for Graduate Medical Education (ACGME)

or postgraduate training completed in Canada that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC).

(3) Is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(4) Has successfully taken and passed the examinations described in Article 9 (commencing with Section 2170).

(5) Has not been the subject of a disciplinary action by a medical licensing authority or of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes a pattern of negligence or incompetence.

(6) Has successfully completed three years of approved postgraduate training. The postgraduate training required by this paragraph shall have been obtained in a postgraduate training program accredited by the ACGME or postgraduate training completed in Canada that is accredited by the RCPSC.

(7) Is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(8) Has not held a healing arts license and been the subject of disciplinary action by a healing arts board of this state or by another state, federal territory, or Canadian province.

(b) The board may adopt regulations to establish procedures for accepting transcripts, diplomas, and other supporting information and records when the originals are not available due to circumstances outside the applicant's control. The board may also adopt regulations authorizing the substitution of additional specialty board certifications for years of practice or licensure when considering the certification for a physician and surgeon pursuant to this section.

(c) This section shall not apply to a person seeking to participate in a program described in Section 2072, 2073, 2111, 2112, 2113, 2115, or 2168, or seeking to engage in postgraduate training in this state.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 68. Section 2143 of the Business and Professions Code is amended to read:

2143. An applicant for a reciprocity certificate need not have completed the postgraduate training required in Section 2096 prior to the issuance of a license in another state, if the applicant complies with the requirements of Section 2096 before application is made to the board for a reciprocity certificate.

SEC. 69. Section 2168.4 of the Business and Professions Code is amended to read:

2168.4. (a) A special faculty permit expires and becomes invalid at midnight on the last day of the month in which the permit was issued during the second year of a two-year term commencing from the date of issuance, if not renewed.

(b) A person who holds a special faculty permit shall show at the time of license renewal that he or she continues to meet the eligibility criteria set

forth in Section 2168.1. After the first renewal of a special faculty permit, the permitholder shall not be required to hold a full-time faculty position, and may instead be employed part-time in a position that otherwise meets the requirements set forth in paragraph (1) of subdivision (a) of Section 2168.1.

(c) A person who holds a special faculty permit shall show at the time of license renewal that he or she meets the continuing medical education requirements of Article 10 (commencing with Section 2190).

(d) In addition to the requirements set forth above, a special faculty permit shall be renewed in accordance with Article 19 (commencing with Section 2420) in the same manner as a physician's and surgeon's certificate.

(e) Those fees applicable to a physician's and surgeon's certificate shall also apply to a special faculty permit and shall be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California.

SEC. 70. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the board shall consider including a course in human sexuality, defined as the study of a human being as a sexual being and how he or she functions with respect thereto, and nutrition to be taken by those licensees whose practices may require knowledge in those areas.

(b) The board shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected children.

(c) The board shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

(d) The board shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

(e) The board shall consider including a course in elder abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected persons 65 years of age and older.

(f) In determining its continuing education requirements, the board shall consider including a course in the early detection and treatment of substance abusing pregnant women to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these women.

(g) In determining its continuing education requirements, the board shall consider including a course in the special care needs of drug addicted infants to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these infants.

(h) In determining its continuing education requirements, the board shall consider including a course providing training and guidelines on how to routinely screen for signs exhibited by abused women, particularly for physicians and surgeons in emergency, surgical, primary care, pediatric,

prenatal, and mental health settings. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(i) In determining its continuing education requirements, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

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

(j) In determining its continuing education requirements, the board shall give its highest priority to considering a course on pain management.

(k) In determining its continuing education requirements, the board shall consider including a course in geriatric care for emergency room physicians and surgeons.

SEC. 71. Section 2216.3 of the Business and Professions Code is amended to read:

2216.3. (a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall report an adverse event to the board no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For the purposes of this section, “adverse event” includes any of the following:

(1) Surgical or other invasive procedures, including the following:

(A) Surgical or other invasive procedure performed on a wrong body part that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action that occurs in the course of surgery or a situation that is so urgent as to preclude obtaining informed consent.

(B) Surgical or other invasive procedure performed on the wrong patient.

(C) The wrong surgical or other invasive procedure performed on a patient, which is a procedure performed on a patient that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action that occurs in the course of surgery, or a situation that is so urgent as to preclude the obtaining of informed consent.

(D) Retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained.

(E) Death of a patient during or up to 24 hours after admittance of a patient to an outpatient setting that follows induction of anesthesia after

surgery of a normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric disturbance and for whom the pathologic processes for which the operation is to be performed are localized and do not entail a systemic disturbance.

(F) Transfer of a patient to a hospital or emergency center for medical treatment for a period exceeding 24 hours following a scheduled procedure outside of a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Product or device events, including the following:

(A) Patient death or serious disability associated with the use of a contaminated drug, device, or biologic provided by the outpatient setting when the contamination is the result of generally detectable contaminants in the drug, device, or biologic, regardless of the source of the contamination or the product.

(B) Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended. For purposes of this subparagraph, “device” includes, but is not limited to, a catheter, drain, or other specialized tube, infusion pump, or ventilator.

(C) Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in an outpatient setting, excluding deaths associated with neurosurgical procedures known to present a high risk of intravascular air embolism.

(3) Patient protection events, including the following:

(A) A minor discharged to the wrong person.

(B) A patient suicide or attempted suicide resulting in serious disability while being cared for in an outpatient setting due to patient actions after admission to the outpatient setting.

(4) Care management events, including the following:

(A) A patient death or serious disability associated with a medication error, including, but not limited to, an error involving the wrong drug, the wrong dose, the wrong patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of administration, excluding reasonable differences in clinical judgment on drug selection and dose.

(B) A patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products.

(C) Patient death or serious disability directly related to hypoglycemia, the onset of which occurs while the patient is being cared for in an outpatient setting.

(D) A patient death or serious disability due to spinal manipulative therapy performed at the outpatient setting.

(5) Environmental events, including the following:

(A) A patient death or serious disability associated with an electric shock while being cared for in an outpatient setting, excluding events involving planned treatments, such as electric countershock.

(B) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by a toxic substance.

(C) A patient death or serious disability associated with a burn incurred from any source while being cared for in an outpatient setting.

(D) A patient death associated with a fall while being cared for in an outpatient setting.

(E) A patient death or serious disability associated with the use of restraints or bed rails while being cared for in an outpatient setting.

(6) Criminal events, including the following:

(A) Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider.

(B) The abduction of a patient of any age.

(C) The sexual assault on a patient within or on the grounds of an outpatient setting.

(D) The death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of an outpatient setting.

(7) An adverse event or series of adverse events that cause the death or serious disability of a patient, personnel, or visitor.

(c) The outpatient setting shall inform the patient or the party responsible for the patient of the adverse event by the time the report is made.

(d) “Serious disability” means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or the loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from an inpatient health care facility, or the loss of a body part.

(e) “Surgical or other invasive procedures” are defined for the purposes of this section as operative procedures in which skin or mucous membranes and connective tissue are incised or an instrument is introduced through a natural body orifice. They include all procedures described by the codes in the surgery section of the Current Procedural Terminology.

SEC. 72. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California and the California Board of Podiatric Medicine shall prioritize their investigative and prosecutorial resources to ensure that physicians and surgeons and doctors of podiatric medicine representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon or the doctor of podiatric medicine represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon or a doctor of podiatric medicine involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

(5) Sexual misconduct with one or more patients during a course of treatment or an examination.

(6) Practicing medicine while under the influence of drugs or alcohol.

(7) Repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason therefor.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 73. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

- (7) Restrictions against engaging in certain types of medical practice.
- (8) Compliance with all provisions of this chapter.
- (9) Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(c) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

SEC. 74. Section 2232 of the Business and Professions Code is amended to read:

2232. (a) Except as provided in subdivisions (c), (d), and (e), the board shall automatically revoke the license of any person who, at any time after January 1, 1947, has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the related conviction has been appealed. The board shall notify the licensee of the license revocation and of his or her right to elect to have a hearing as provided in subdivision (b).

(b) Upon revocation of the physician's and surgeon's certificate, the holder of the certificate may request a hearing within 30 days of the revocation. The proceeding shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) (1) Five years after the effective date of the revocation and three years after successful discharge from parole, probation, or both parole and probation if under simultaneous supervision, an individual who after January 1, 1947, and prior to January 1, 2005, was subject to subdivision (a), may petition the superior court, in the county in which the individual has resided for, at minimum, five years prior to filing the petition, to hold a hearing within one year of the date of the petition, in order for the court to determine whether the individual no longer poses a possible risk to patients. The individual shall provide notice of the petition to the Attorney General and to the board at the time of its filing. The Attorney General and the board shall present written and oral argument to the court on the merits of the petition.

(2) If the court finds that the individual no longer poses a possible risk to patients, and there are no other underlying reasons for which the board pursued disciplinary action, the court shall order, in writing, the board to reinstate the individual's license within 180 days of the date of the order. The board may issue a probationary license to a person subject to this paragraph subject to terms and conditions, including, but not limited to, any of the conditions of probation specified in Section 2221.

(3) If the court finds that the individual continues to pose a possible risk to patients, the court shall deny relief. The court's decision shall be binding on the individual and the board, and the individual shall be prohibited from filing a subsequent petition under this section based on the same conviction.

(e) This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

(f) If the related conviction of the certificate holder is overturned on appeal, the revocation ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(g) The other provisions of this article setting forth a procedure for the revocation of a physician's and surgeon's certificate shall not apply to proceedings conducted pursuant to this section.

SEC. 75. Section 2334 of the Business and Professions Code is amended to read:

2334. (a) Notwithstanding any other provision of law, with respect to the use of expert testimony in matters brought by the Medical Board of California, no expert testimony shall be permitted by any party unless the following information is exchanged in written form with counsel for the other party, as ordered by the Office of Administrative Hearings:

(1) A curriculum vitae setting forth the qualifications of the expert.

(2) A complete expert witness report, which must include the following:

(A) A complete statement of all opinions the expert will express and the bases and reasons for each opinion.

(B) The facts or data considered by the expert in forming the opinions.

(C) Any exhibits that will be used to summarize or support the opinions.

(3) A representation that the expert has agreed to testify at the hearing.

(4) A statement of the expert's hourly and daily fee for providing testimony and for consulting with the party who retained his or her services.

(b) The exchange of the information described in subdivision (a) shall be completed 30 calendar days prior to the originally scheduled commencement date of the hearing, or as determined by an administrative law judge when Section 11529 of the Government Code applies.

(c) The Office of Administrative Hearings may adopt regulations governing the required exchange of the information described in this section.

SEC. 76. Section 2415 of the Business and Professions Code is amended to read:

2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

(2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(3) The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing.

(c) Each permit shall be accompanied by a notice that shall be displayed in a location readily visible to patients and staff. The notice shall be displayed at each place of business identified in the permit.

(d) This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Care Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with that medical school.

(e) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2421) pertaining to renewal of licenses.

(f) The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(g) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

(h) The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

(i) The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine and shall adopt and administer regulations specifying appropriate podiatric medical name designations.

SEC. 77. Section 2420 of the Business and Professions Code is repealed.

SEC. 78. Section 2421 of the Business and Professions Code is amended to read:

2421. As used in this article, the terms:

- (a) “License” includes “certificate,” “permit,” and “registration.”
- (b) “Licensee” includes the holder of a license.
- (c) “Licensing authority” means the board, which has jurisdiction over a particular licensee.

SEC. 79. Section 2422 of the Business and Professions Code is repealed.

SEC. 80. Section 2423 of the Business and Professions Code is amended to read:

2423. (a) All physician and surgeon’s certificates, and certificates to practice midwifery, research psychoanalyst registrations, polysomnographic trainee, technician, and technologist registrations, and fictitious-name permits shall expire at 12 midnight on the last day of the month in which the license was issued during the second year of a two-year term commencing from the date of issuance beginning July 1, 2018.

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

SEC. 81. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

(a) Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the board by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any, in an amount fixed by the board consistent with this section. The initial license fee shall not exceed seven hundred ninety dollars (\$790). An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(d) The biennial renewal fee shall be fixed by the board consistent with this section and shall not exceed seven hundred ninety dollars (\$790).

(e) Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

(f) The duplicate certificate and endorsement fees shall each be fifty dollars (\$50), and the certification and letter of good standing fees shall each be ten dollars (\$10).

(g) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California in an amount not less than two nor more than four months' operating expenditures.

(h) Not later than January 1, 2012, the Office of State Audits and Evaluations within the Department of Finance shall commence a preliminary review of the board's financial status, including, but not limited to, its projections related to expenses, revenues, and reserves, and the impact of the loan from the Contingent Fund of the Medical Board of California to the General Fund made pursuant to the Budget Act of 2008. The office shall make the results of this review available upon request by June 1, 2012. This review shall be funded from the existing resources of the office during the 2011–12 fiscal year.

SEC. 82. Section 2435.2 of the Business and Professions Code is amended to read:

2435.2. (a) Notwithstanding any other provision of law, if Article 14 (commencing with Section 2340) becomes inoperative or the diversion program described in that article is discontinued, the board shall reduce the amount of the following fees:

(1) The initial license fee, as described in subdivision (c) of Section 2435.

(2) The biennial renewal fee, as described in subdivision (d) of Section 2435.

(b) The amount of the reductions made pursuant to subdivision (a) shall equal the board's cost of operating the diversion program.

(c) The board shall not make the reductions described in subdivision (a) if a diversion program is established by statute and requires the board to fund it in whole or in part from licensure fees.

SEC. 83. Section 2445 of the Business and Professions Code is amended to read:

2445. All moneys paid to and received by the board shall be paid into the State Treasury and shall be credited to the Contingent Fund of the Medical Board of California. Those moneys shall be reported at the beginning of each month, for the month preceding, to the Controller.

Moneys in the contingent fund shall be available, upon appropriation by the Legislature, for the use of the board and from it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

If there is any surplus in these receipts after the board's salaries and expenses are paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC. 84. Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates

issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix “M.D.,” as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2022.

SEC. 85. Section 2454.5 of the Business and Professions Code is amended to read:

2454.5. In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years. Commencing January 1, 2018, the board shall require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each two-year cycle, of which 40 hours shall be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 60 hours shall be either American Osteopathic Association or American Medical Association accredited as a condition for renewal of an active license.

For purposes of this section, “American Osteopathic Association Category 1” means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

SEC. 86. Section 2460 of the Business and Professions Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the California Board of Podiatric Medicine subject to review by the appropriate policy committees of the Legislature.

(c) The amendments made by the act adding this subdivision relating to podiatrists shall not be construed to change any rights or privileges held by podiatrists prior to the enactment of the act.

SEC. 87. Section 2461 of the Business and Professions Code is amended to read:

2461. As used in this article:

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

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

SEC. 88. Section 2472 of the Business and Professions Code is amended to read:

2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, “podiatric medicine” means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart’s joint.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute

care hospital described in paragraph (1). For purposes of this section, a “freestanding physical plant” means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

SEC. 88.5. Section 2472 of the Business and Professions Code is amended to read:

2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

(b) As used in this chapter, “podiatric medicine” means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(c) A doctor of podiatric medicine shall not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

(d) (1) A doctor of podiatric medicine may do the following:

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

(B) Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

(C) Perform a partial amputation of the foot no further proximal than the Chopart’s joint.

(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and

Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a “freestanding physical plant” means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(f) Notwithstanding subdivision (b), a doctor of podiatric medicine with training or experience in wound care may treat ulcers resulting from local and systemic etiologies on the leg no further proximal than the tibial tubercle.

SEC. 89. Section 2475 of the Business and Professions Code is amended to read:

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

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

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

SEC. 90. Section 2479 of the Business and Professions Code is amended to read:

2479. The board shall issue a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the

provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

SEC. 91. Section 2486 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 92. Section 2488 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 93. Section 2492 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 94. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the Board of Podiatric Medicine Fund. Notwithstanding Section 2445, the board shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into the fund. All revenue received by the board and the division from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be available, upon appropriation of the Legislature, to carry out the provisions of this chapter relating to the regulation of the practice of podiatric medicine.

SEC. 95. Section 2499.7 is added to the Business and Professions Code, to read:

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

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

SEC. 96. Section 2525.2 of the Business and Professions Code is amended to read:

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

SEC. 97. The heading of Chapter 5.1 (commencing with Section 2529) of Division 2 of the Business and Professions Code is repealed.

SEC. 98. Section 2529 of the Business and Professions Code is amended to read:

2529. (a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the Medical Board of California who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Medical Board of California, presenting evidence of their student or graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2234, 2235, and 2529.1

SEC. 99. Section 2529.1 of the Business and Professions Code is amended to read:

2529.1. (a) The use of any controlled substance or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other person or to the public, or to the extent that this use impairs the ability of the registrant to practice safely or more than one misdemeanor or any felony conviction involving the use, consumption, or self-administration of any of the substances referred to in this section, or

any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of this unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order discipline of the registrant in accordance with Section 2227 or may order the denial of the registration when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing this person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(c) This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 100. Section 2529.5 of the Business and Professions Code is amended to read:

2529.5. (a) Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the Medical Board of California at a sum not in excess of one hundred dollars (\$100).

(b) The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the board at a sum not in excess of fifty dollars (\$50). Students seeking to renew their registration shall present to the board evidence of their continuing student status.

(c) The money in the Contingent Fund of the Medical Board of California shall be used for the administration of this chapter.

(d) This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 101. Section 2529.6 of the Business and Professions Code is amended to read:

2529.6. (a) Except as provided in subdivisions (b) and (c), the board shall revoke the registration of any person who has been required to register as a sex offender pursuant to Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

(b) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(c) This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

(d) A proceeding to revoke a registration pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 102. Section 2566.2 is added to the Business and Professions Code, to read:

2566.2. Every registration issued to a dispensing optician, contact lens dispenser, and spectacle lens dispenser shall expire 24 months after the initial date of issuance or renewal. To renew an unexpired registration, the registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 103. Section 4170 of the Business and Professions Code is amended to read:

4170. (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

(2) The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

(5) The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

(7) The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

(8) A certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section 3640.5, may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.

(b) The Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board,

and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) “Prescriber,” as used in this section, means a person, who holds a physician’s and surgeon’s certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice podiatry, and who is duly registered by the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, or the California Board of Podiatric Medicine.

SEC. 104. Section 4175 of the Business and Professions Code is amended to read:

4175. (a) The California State Board of Pharmacy shall promptly forward to the appropriate licensing entity, including the Medical Board of California, the Veterinary Medical Board, the Dental Board of California, the State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Bureau of Naturopathic Medicine, or the Physician Assistant Committee, all complaints received related to dangerous drugs or dangerous devices dispensed by a prescriber, certified nurse-midwife, nurse practitioner, naturopathic doctor, or physician assistant pursuant to Section 4170.

(b) All complaints involving serious bodily injury due to dangerous drugs or dangerous devices dispensed by prescribers, certified nurse-midwives, nurse practitioners, naturopathic doctors, or physician assistants pursuant to Section 4170 shall be handled by the Medical Board of California, the Dental Board of California, the State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Bureau of Naturopathic Medicine, the Board of Registered Nursing, the Veterinary Medical Board, or the Physician Assistant Committee as a case of greatest potential harm to a patient.

SEC. 105. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Section 14725 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, midwifery, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, licensed midwives, or psychologists, which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, licensed midwives or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, midwifery, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, midwifery, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, acupuncture, podiatric, pharmaceutical, chiropractic, physical therapist, veterinary, licensed marriage and family therapy, licensed clinical social work, licensed professional clinical counselor, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has fewer than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical specialty society" means an organization having as members at least 25 percent of the eligible physicians and surgeons within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) This section does not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician and surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Section 14725 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Section 14725 of the Welfare and Institutions Code or hospital, the cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 106. Section 43.8 of the Civil Code is amended to read:

43.8. (a) In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of that person to any hospital, hospital medical staff, veterinary hospital staff, professional society, medical, dental, podiatric, psychology, marriage and family therapy, professional clinical counselor, midwifery, or veterinary school, professional licensing board or division, committee or panel of a licensing board, the Senior Assistant Attorney General of the Health Quality Enforcement Section appointed under Section 12529 of the Government Code, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when the communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

(b) The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege that may be afforded by Section 47.

(c) Nothing in this section is intended in any way to affect the California Supreme Court's decision in *Hassan v. Mercy American River Hospital* (2003) 31 Cal.4th 709, holding that subdivision (a) provides a qualified privilege.

SEC. 107. Section 13401 of the Corporations Code is amended to read:  
13401. As used in this part:

(a) “Professional services” means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) “Professional corporation” means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Committee of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.

(c) “Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) “Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is, or intends to become, an officer, director, shareholder, or employee.

(e) “Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

SEC. 108. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional

corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section to only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

- (a) Medical corporation.
  - (1) Licensed doctors of podiatric medicine.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed marriage and family therapists.
  - (6) Licensed clinical social workers.
  - (7) Licensed physician assistants.
  - (8) Licensed chiropractors.
  - (9) Licensed acupuncturists.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
  - (12) Licensed physical therapists.
  - (13) Licensed pharmacists.
  - (14) Licensed midwives.
- (b) Podiatric medical corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
  - (8) Licensed physical therapists.
- (c) Psychological corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed marriage and family therapists.
  - (6) Licensed clinical social workers.
  - (7) Licensed chiropractors.
  - (8) Licensed acupuncturists.
  - (9) Naturopathic doctors.
  - (10) Licensed professional clinical counselors.
  - (11) Licensed midwives.
- (d) Speech-language pathology corporation.
  - (1) Licensed audiologists.
- (e) Audiology corporation.

- (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (12) Licensed midwives.
- (g) Marriage and family therapist corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (9) Licensed midwives.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage and family therapists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (i) Physician assistants corporation.
- (1) Licensed physicians and surgeons.
- (2) Registered nurses.
- (3) Licensed acupuncturists.
- (4) Naturopathic doctors.
- (5) Licensed midwives.
- (j) Optometric corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.

- (k) Chiropractic corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed acupuncturists.
  - (9) Naturopathic doctors.
  - (10) Licensed professional clinical counselors.
  - (11) Licensed midwives.
- (l) Acupuncture corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed physician assistants.
  - (9) Licensed chiropractors.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
  - (12) Licensed midwives.
- (m) Naturopathic doctor corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed physician assistants.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Licensed physical therapists.
  - (8) Licensed doctors of podiatric medicine.
  - (9) Licensed marriage and family therapists.
  - (10) Licensed clinical social workers.
  - (11) Licensed optometrists.
  - (12) Licensed professional clinical counselors.
  - (13) Licensed midwives.
- (n) Dental corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Dental assistants.
  - (3) Registered dental assistants.
  - (4) Registered dental assistants in extended functions.
  - (5) Registered dental hygienists.
  - (6) Registered dental hygienists in extended functions.
  - (7) Registered dental hygienists in alternative practice.

- (o) Professional clinical counselor corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Licensed clinical social workers.
  - (4) Licensed marriage and family therapists.
  - (5) Registered nurses.
  - (6) Licensed chiropractors.
  - (7) Licensed acupuncturists.
  - (8) Naturopathic doctors.
  - (9) Licensed midwives.
- (p) Physical therapy corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed acupuncturists.
  - (4) Naturopathic doctors.
  - (5) Licensed occupational therapists.
  - (6) Licensed speech-language therapists.
  - (7) Licensed audiologists.
  - (8) Registered nurses.
  - (9) Licensed psychologists.
  - (10) Licensed physician assistants.
  - (11) Licensed midwives.
- (q) Registered dental hygienist in alternative practice corporation.
  - (1) Registered dental assistants.
  - (2) Licensed dentists.
  - (3) Registered dental hygienists.
  - (4) Registered dental hygienists in extended functions.
- (r) Licensed midwifery corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed marriage and family therapists.
  - (5) Licensed clinical social workers.
  - (6) Licensed physician assistants.
  - (7) Licensed chiropractors.
  - (8) Licensed acupuncturists.
  - (9) Licensed naturopathic doctors.
  - (10) Licensed professional clinical counselors.
  - (11) Licensed physical therapists.

SEC. 109. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body,

or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or pharmacist review or veterinary review or acupuncturist review or licensed midwife review committees of local medical, dental, dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees of state or local marriage and family therapist, state or local licensed clinical social worker, state or local licensed professional clinical counselor, or state or local psychological associations or societies or licensed midwife associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, a person in attendance at a meeting of any of the committees described in subdivision (a) shall not be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by a person in attendance at a meeting of any of the committees described in subdivision (a) if that person is a party to an action or proceeding the subject matter of which was reviewed at that meeting, to a person requesting hospital staff privileges, or in an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, veterinary, acupuncture, midwifery, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if a person serves upon the committee when his or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, at the 1990 portion of the 1989–90 Regular Session of the Legislature, at the 2000 portion of the 1999–2000 Regular Session of the Legislature, at the 2011 portion of the 2011–12 Regular Session of the Legislature, or at the 2015 portion of the 2015–16 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

SEC. 110. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable

to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

- (1) To be represented by counsel.
- (2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.
- (3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

- (4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

- (1) There is a reasonable probability that the petitioner will prevail in the underlying action.
- (2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation or petition to revoke probation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation or petition to revoke probation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 111. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal

accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do all of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(3) Establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent knowledge base.

(f) This section shall remain in effect until January 1, 2019, and as of that date is repealed.

SEC. 112. Section 11362.7 of the Health and Safety Code is amended to read:

11362.7. For purposes of this article, the following definitions shall apply:

(a) “Attending physician” means an individual who possesses a license in good standing to practice medicine, podiatry, or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.

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

(c) “Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) “Primary caregiver” means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

(1) In a case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with

chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Section 6922, 7002, 7050, or 7120 of the Family Code.

(f) “Qualified patient” means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) “Identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.

(h) “Serious medical condition” means all of the following medical conditions:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
- (10) Seizures, including, but not limited to, seizures associated with epilepsy.
- (11) Severe nausea.
- (12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient’s safety or physical or mental health.

(i) “Written documentation” means accurate reproductions of those portions of a patient’s medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

SEC. 113. Section 128335 of the Health and Safety Code is amended to read:

128335. (a) The office shall establish a nonprofit public benefit corporation, to be known as the Health Professions Education Foundation, that shall be governed by a board consisting of nine members appointed by the Governor, one member appointed by the Speaker of the Assembly, one member appointed by the Senate Committee on Rules, and two members appointed by the Medical Board of California. The members of the foundation board appointed by the Governor, Speaker of the Assembly, and Senate Committee on Rules may include representatives of minority groups which are underrepresented in the health professions, persons employed as health professionals, and other appropriate members of health or related professions. All persons considered for appointment shall have an interest in health programs, an interest in health educational opportunities for underrepresented groups, and the ability and desire to solicit funds for the purposes of this article as determined by the appointing power. The chairperson of the commission shall also be a nonvoting, ex officio member of the board.

(b) The Governor shall appoint the president of the board of trustees from among those members appointed by the Governor, the Speaker of the Assembly, the Senate Committee on Rules, and the Medical Board of California.

(c) The director, after consultation with the president of the board, may appoint a council of advisers comprised of up to nine members. The council shall advise the director and the board on technical matters and programmatic issues related to the Health Professions Education Foundation Program.

(d) Members of the board and members of the council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board or the council. The Medical Board of California shall reimburse the members it appointed to the foundation board for any actual and necessary expenses incurred in connection with their duties as members of the foundation board.

(e) The foundation shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), except that if there is a conflict with this article and the Nonprofit Public Benefit Corporation Law (Part 2

(commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), this article shall prevail.

(f) This section shall become operative January 1, 2016.

SEC. 114. (a) Section 4.5 of this bill incorporates amendments to Section 146 of the Business and Professions Code proposed by both this bill and Assembly Bill 1706. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 146 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1706, in which case Section 4 of this bill shall not become operative.

(b) Section 88.5 of this bill incorporates amendments to Section 2472 of the Business and Professions Code proposed by both this bill and Assembly Bill 1153. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 2472 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1153, in which case Section 88 of this bill shall not become operative.

SEC. 115. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 116. The repeal of the heading of Chapter 5.1 (commencing with Section 2529) of Division 2 of the Business and Professions Code contained in Section 97 of this act shall not become operative until January 1, 2019.

# TAB 7

# OMBC Enforcement Report

October 19, 2017

The following OMBC Enforcement Report covers a 12-month period starting from the 4th Quarter 2016 through 3rd Quarter 2017. The OMBC Enforcement Report is divided into five sections; Intake, Investigations, Enforcement, Performance Measures, and Probation. The data is reproduced from the Breeze Enforcement Reports.

## COMPLAINT INTAKE

	4Q 2016			1Q 2017			2Q 2017			3Q 2017			
COMPLAINTS	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	YTD
Received	38	52	30	32	39	28	58	47	40	49	28	21	462
Assigned	37	27	52	30	40	26	29	71	33	42	40	42	469
Aging	12	16	32	29	16	17	16	27	24	28	27	28	23
CONV/ARRESTS	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	YTD
Received	1	3	3	4	1	6	7	1	4	1	0	2	33
Assigned	2	3	2	5	1	5	7	2	4	1	0	1	33
Aging	9	3	3	7	3	4	3	23	4	3	0	7	6
TOTAL INTAKE	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	YTD
Received	39	55	33	36	40	34	65	48	44	50	28	23	495
Assigned	39	30	54	35	41	31	36	73	37	43	40	43	502
Aging	12	15	31	26	15	15	13	27	22	27	27	28	22
Pending	21	46	24	24	23	26	55	30	37	44	32	12	12

Table 1: Complaint Intake with Convictions/Arrests

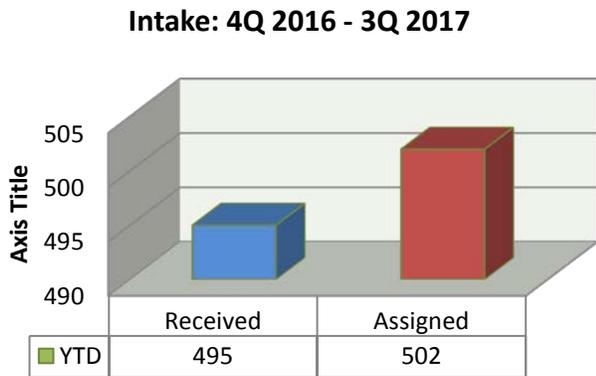


Figure 1.1: Intake Totals

In Table 1 above, under TOTAL INTAKE, OMBC received 495 complaints. 33 of these cases were convictions/arrests. During this period, 502 cases were assigned for investigations and the average number of days to assign a case was 22. In Figure 1.2 below we see the intake totals for each month. In April 2017, there was a substantial increase in received complaints while assigned complaints peaked at 73 in May. There was a slight increase in received complaints in November 2016. Pending complaints mirrored received complaints during the 12-month period.

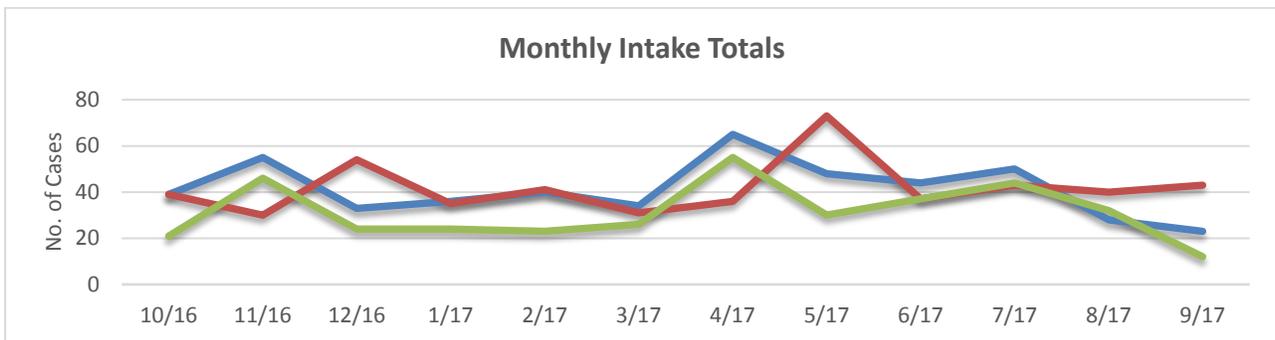


Figure 1.2: Intake Monthly Totals

# OMBC Enforcement Report

October 19, 2017

In Figure 1.3 below, the bar graph illustrates the monthly average number of days to assign or close a complaint. The aging measures the period from the time the complaint is received in the office (the date stamp) to the time the complaint is assigned to investigations. The performance target for intake is 30 days. The Board met the performance target for the last 12 months with one exception, the month of December which averaged 31 days. The overall average for the last 12 months was 22 days.

**Average Number of Days to Assign**

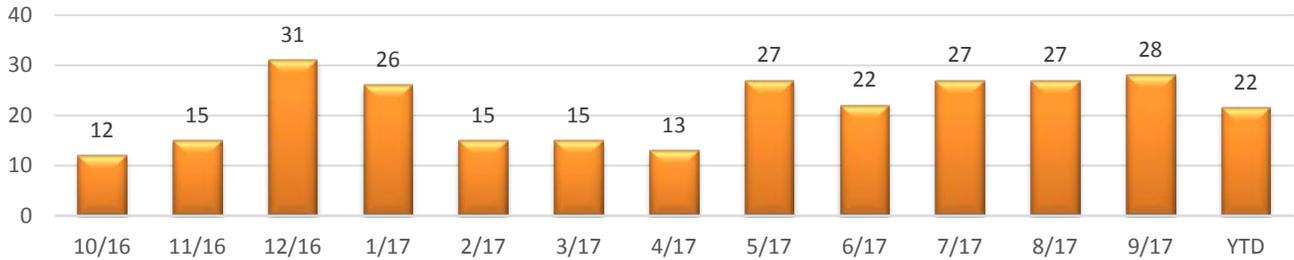


Figure 1.3: Aging for Case Assignment

## INVESTIGATIONS

### Desk (internal) Investigations

Desk Inv.	4Q 2016			1Q 2017				2Q 2017				3Q 2017				YTD
	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17				
Assigned	40	31	57	35	42	31	38	75	38	43	41	44	515			
Completed	52	30	34	53	29	37	38	30	44	52	29	51	479			
Aging	95	52	83	84	105	108	99	65	64	110	110	70	87			
Pending	104	105	129	112	125	119	119	164	158	149	161	144	144			

Table 2: Desk Investigations

For all desk investigations during this period, 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 totaled of 515 desk investigations were assigned, 479 were completed, and 144 cases were pending. The average number of days to complete a desk investigation was 87 days.

**Desk Inv. 4Q 2016 - 3Q 2017**

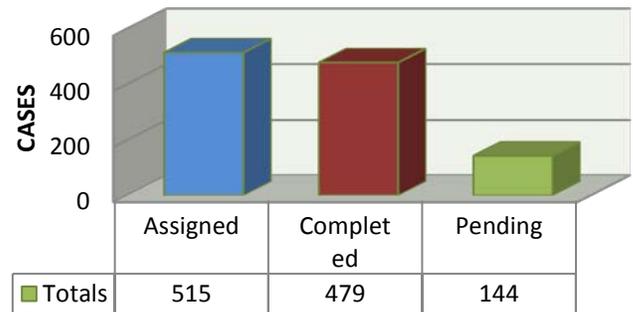


Figure 2.1: Desk Inv. Totals

# OMBC Enforcement Report

October 19, 2017

In Figure 2.2 below, the assigned and completed caseload averaged a little below 50 cases per month except for December 2016 and May 2017 in which assigned cases peaked at 57 and 75 respectively. Pending cases averaged a little above 100 during the 4Q 2016 and 1Q 2017 and then increased to an average of 150 starting 2Q 2017 to the end of 3Q 2017.

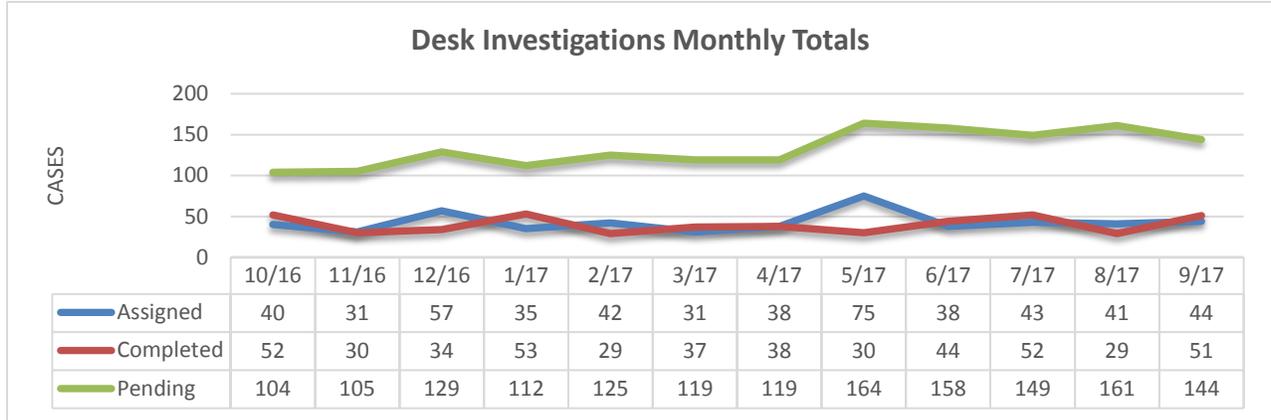


Figure 2.2: Desk Investigations

## Field (Sworn) Investigations

	4Q 2016			1Q 2017			2Q 2017			3Q 2017			YTD
Field Inv.	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	YTD
Assigned	2	7	1	1	1	3	0	1	2	1	0	6	25
Completed	2	1	3	2	1	5	3	1	2	4	1	1	26
Aging	177	3	375	353	460	454	336	573	362	562	401	985	420
Pending	37	43	41	40	40	38	35	35	35	32	31	36	36

Table 3: Field Investigations

### Field Inv. 4Q 2016 - 3Q 2017

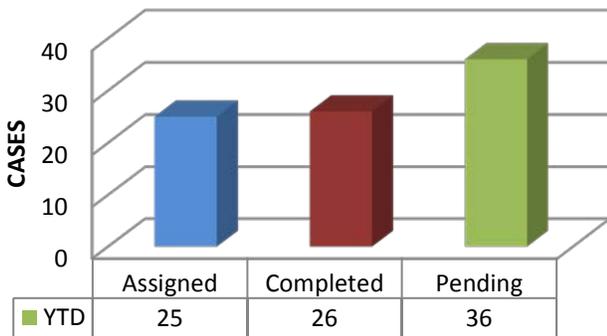


Figure 3.1

Table 3 above breaks down the monthly totals for field investigations 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, 25 cases were assigned to field investigations; 26 were completed; and the average number of days to complete an investigation was 420 (an increase from 323). 36 cases were pending at the end of September 2017.

On the following page, Figure 3.2 compares the aging of completed Desk and Field Investigations per month. The aging is the average number of days to complete an investigation starting from the complaint received date to the date that the investigation is completed. The YTD average to complete a desk (internal) investigation shows a very respectable 87, which is just under three

# OMBC Enforcement Report

October 19, 2017

months. The YTD average for Field Investigations was 420 (an increase from 323 from the last report); which is 60 days above the performance target of 360. In November 2016, one field investigation case was closed with an aging of 3 days. This was a result of the subject complying with a field inspector from another State Agency. In September 2017, the aging for Field Investigation was 985 because of one case that was completed at the time the statute of limitations ran out.

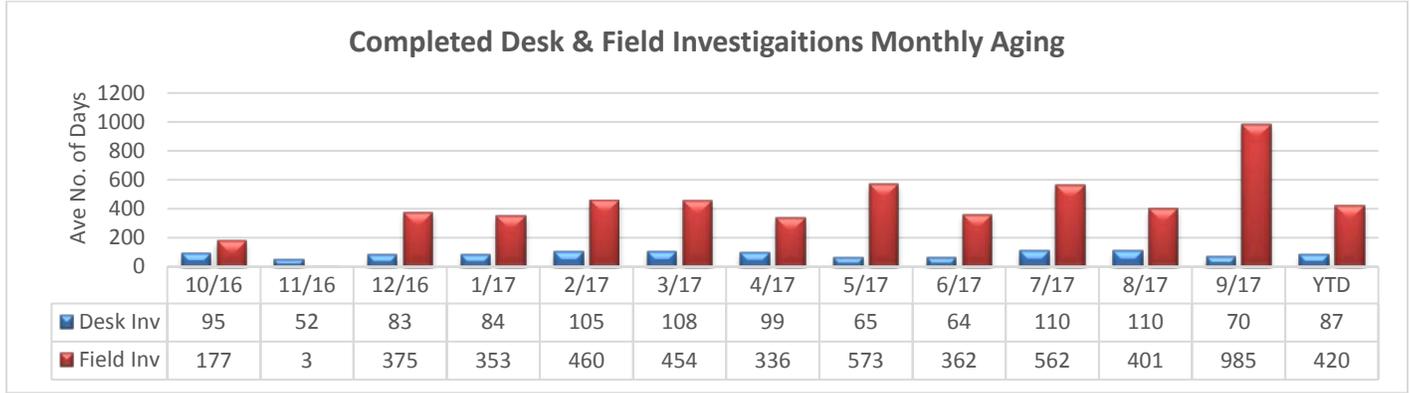


Figure 3.2: Completed Investigations Monthly Aging

### Aging for Desk and Field Investigations

	4Q 2016			1Q 2017				2Q 2017				3Q 2017			
All Inv Aging	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	YTD		
90 days	18	21	22	26	16	25	23	21	32	25	11	33	273		
91-180 days	27	3	9	19	7	6	9	4	9	8	13	22	136		
181-1 yr	2	1	1	3	5	6	2	3	4	17	4	1	49		
1 yr-2 yrs	1	0	1	0	2	1	3	1	1	1	2	1	14		
2 yrs-3 yrs	0	0	1	0	0	0	1	0	0	1	0	1	4		
over 3 yrs	0	0	0	0	0	1	0	0	1	0	0	0	2		
<b>Totals</b>	<b>48</b>	<b>25</b>	<b>34</b>	<b>48</b>	<b>30</b>	<b>39</b>	<b>38</b>	<b>29</b>	<b>47</b>	<b>52</b>	<b>30</b>	<b>58</b>	<b>478</b>		

Table 4: All Investigations Aging

In Table 4 and Figure 4.1 we see the aging matrix for the number of investigations that were closed per month within a specific time-period. 273 cases, (57%) were completed within 90 days; 136 cases (29%) were completed between 91-180 days; 49 cases (10%) were completed between 181-365 days; 14 cases (3%) were completed between 1 – 2 years; 4 cases (1%) were completed between 2-3 years; and 2 cases (less than 1%) were completed after 3 years. The majority of the investigations (86%) were completed within 6 months; and 96% were completed within a year.

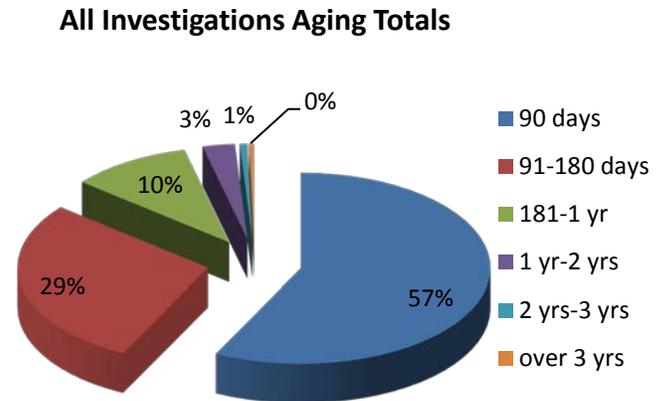


Figure 4.1 All Investigations Aging

# OMBC Enforcement Report

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## ENFORCEMENT ACTIONS

	4Q 2016			1Q 2017			2Q 2017			3Q 2017			YTD
	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	
AG Cases Initiated	2	0	3	1	3	1	0	0	1	1	1	5	18
Acc/SOI Filed	2	1	1	3	2	0	1	1	0	0	1	0	12
Final Disciplinary Order	1	1	0	1	0	2	3	3	0	0	2	2	15
Acc Withdrawn	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed w/out Disc Acti	0	0	0	0	0	2	1	0	0	0	0	0	3
Citations	1	0	0	0	0	1	0	0	1	1	0	1	5
Suspension Orders	0	0	0	0	0	1	0	0	0	0	2	0	3
AG Cases Pending	25	24	26	25	28	25	21	18	19	20	20	23	23

Table 5: Enforcement Actions

For all enforcement actions, Table 5 above breaks down the monthly totals for each disciplinary action. During this 12-month period, 18 cases were transmitted to the Attorney General’s Office for disciplinary actions; 12 Accusations and Statement of Issues were filed; 15 Final Disciplinary Orders were filed; 3 cases were closed without disciplinary action; 5 citations issued; and 3 Suspension Orders were filed. At the end of 3Q 2017 there were 23 AG cases pending.

### Enforcement Totals



Figure 5.1: Enforcement Actions Totals

### Total Final Orders Aging

Total Orders Aging	4Q 2016			1Q 2017			2Q 2017			3Q 2017			YTD
	10/16	11/16	12/16	1/17	2/17	3/17	4/17	5/17	6/17	7/17	8/17	9/17	
90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
91-180 Days	0	0	0	0	0	1	0	0	0	0	0	0	1
181 - 1 Yr	0	1	0	0	0	1	1	0	0	0	0	0	3
1 - 2 Yrs	0	0	0	0	0	0	1	1	0	0	1	0	3
2 - 3 Yrs	0	0	0	1	0	1	0	0	0	0	0	1	3
3-4 Yrs	1	0	0	0	0	0	0	1	0	0	0	1	3
4 yrs	0	0	0	0	0	0	1	0	0	0	1	0	2
Totals	1	1	0	1	0	3	3	2	0	0	2	2	15

Table 6: Total Final Orders Aging Matrix

# OMBC Enforcement Report

October 19, 2017

In Table 6 (previous page) and Figure 6.1 we see the aging matrix of the 15 Final Orders that were completed from 4Q 2016 to 3Q 2017. The aging measures the period from the date the case was received in the office to the order date (filed date) of the Final Order. The pie chart shows the percentage of cases distributed within each time period. Of the 15 final orders, 1 cases (7%) were completed within 180 days; 3 cases (20%) within 181-365 days; 3 cases (20%) within 1-2 years; 3 cases (20%) within 2-3 years; 3 cases (20%) within 3-4 years, and 2 cases (13%) over 4 years. 47% of the Final Orders were completed within 2 years.

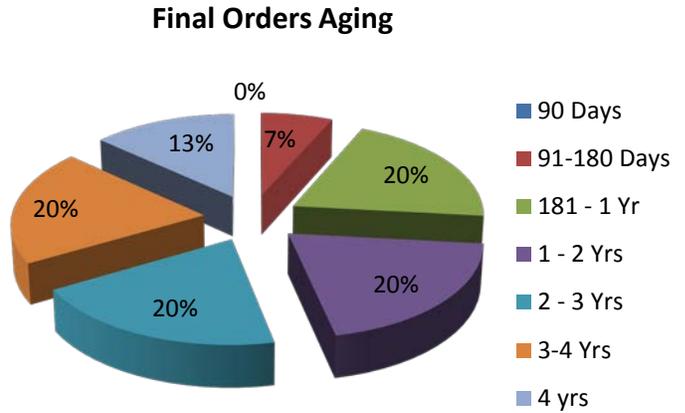
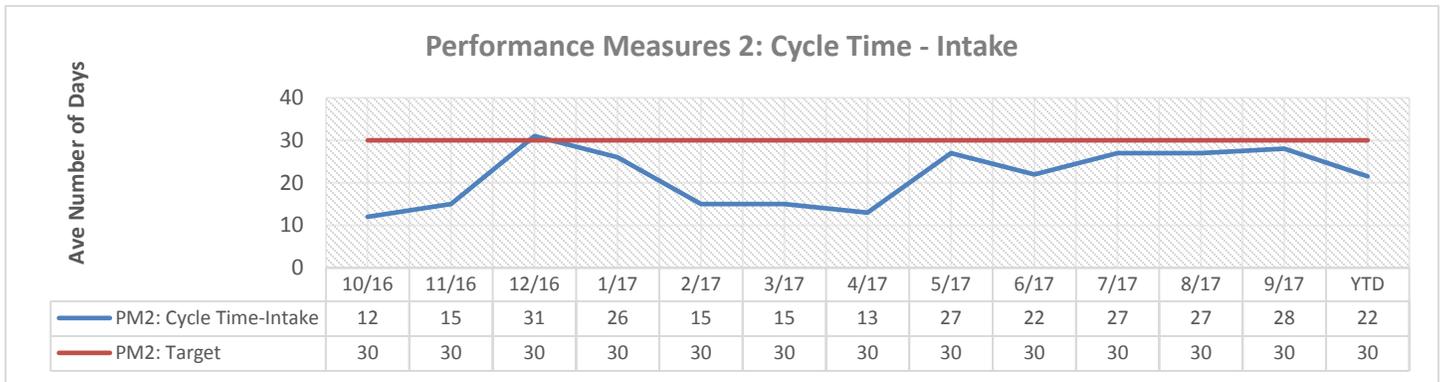


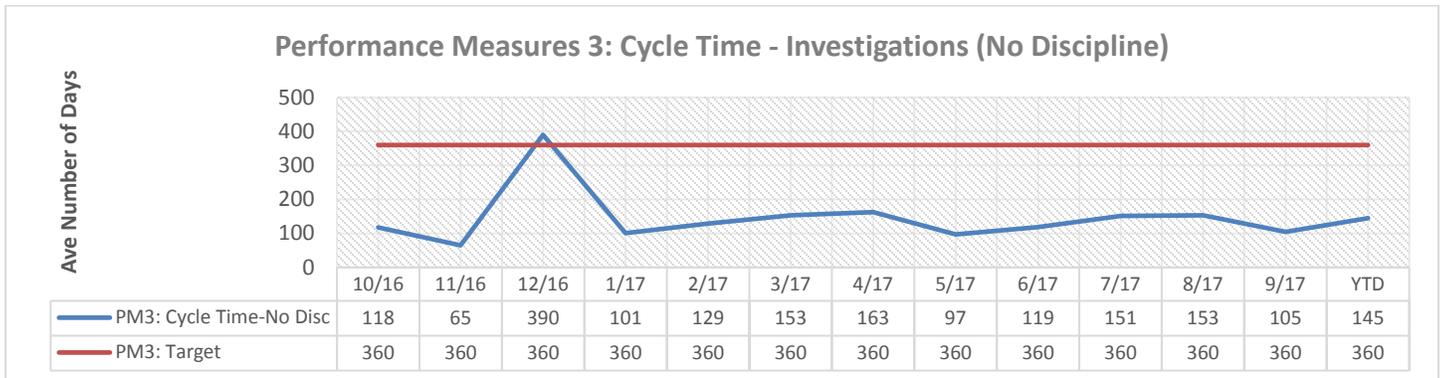
Figure 6.1: Final Orders Aging

## PERFORMANCE MEASURES

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



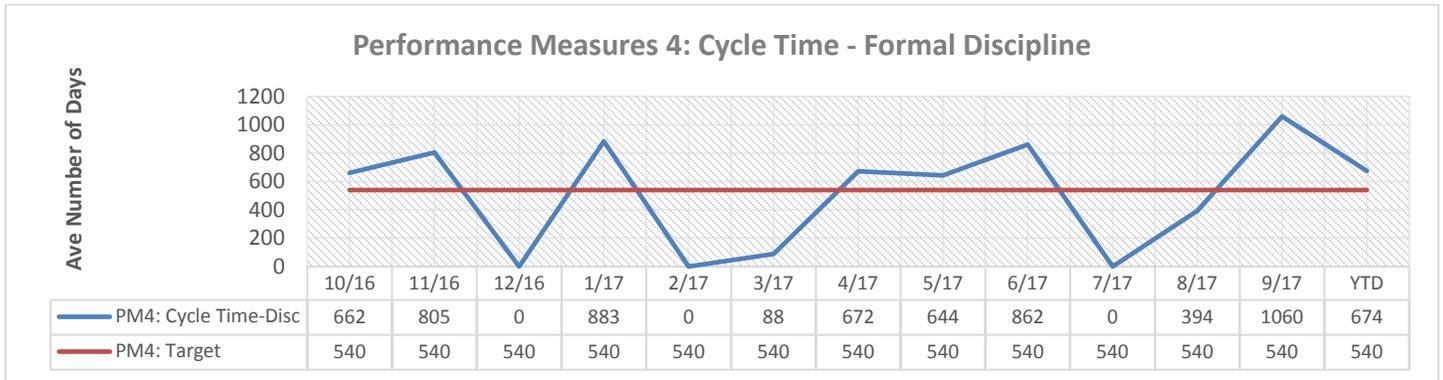
PM3: CYCLE TIME – INTAKE & INVESTIGATION: Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General. (Includes intake and Investigation)



# OMBC Enforcement Report

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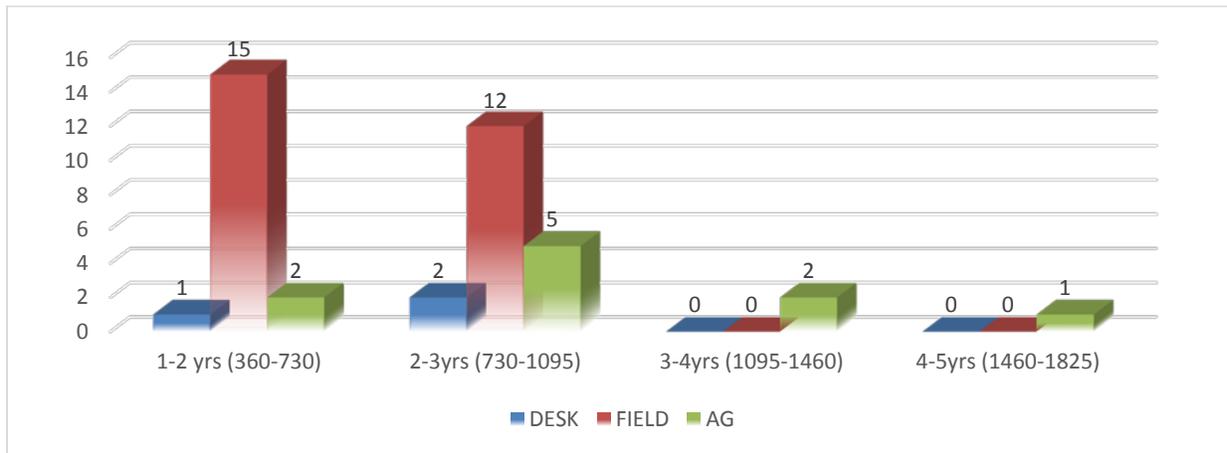
PM4: CYCLE TIME – FORMAL DISCIPLINE: Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General for formal discipline. (Includes intake, investigation, and transmittal outcome)



## PENDING CASES EXCEEDING PERFORMANCE TARGETS

For all current pending cases exceeding the Performance Targets, there are 3 desk investigations cases, 27 field investigations cases and 10 Attorney General cases.

Case Disposition	Target	1-2 yrs (360-730)	2-3yrs (730-1095)	3-4yrs (1095-1460)	4-5yrs (1460-1825)	Totals	Highest aging value
DESK	360 days	1	2	0	0	3	786 days
FIELD	360 days	15	12	0	0	27	1010 days
AG	540 days	2	5	2	1	10	1860 days



## PROBATION

There are currently 42 probation cases, of which 35 cases have a cost recovery order totaling \$361,277.44. As of October 18, 2017, \$223, 870.26 has been paid leaving a balance of \$137, 407.18.

# TAB 8

# Osteopathic Medical Board

## Future Agenda Items

Agenda Item	Requestor

# TAB 9

# Osteopathic Medical Board

## Future Meeting Dates

Date	Place	Time
Thursday January 18, 2018	Sacramento, CA	10:00 am
Thursday May 2018 (3 <sup>rd</sup> , 10 <sup>th</sup> , 17 <sup>th</sup> , 24 <sup>th</sup> , or 31 <sup>st</sup> )	TBD, CA	10:00 am
Thursday September 2018 (6 <sup>th</sup> , 13 <sup>th</sup> , 20 <sup>th</sup> , or 27 <sup>th</sup> )	TBD, CA	10:00 am
Thursday October 2018 (4 <sup>th</sup> , 11 <sup>th</sup> , 18 <sup>th</sup> , or 25 <sup>th</sup> )	<div style="text-align: center;"> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block; margin: 0 auto 10px auto;"> <span style="color: red; font-size: 10px;">or</span> </div>           TBD, CA         </div>	10:00 am
Thursday January 2019 (3 <sup>rd</sup> , 10 <sup>th</sup> , 17 <sup>th</sup> , 24 <sup>th</sup> , or 31 <sup>st</sup> )	Sacramento, CA	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.*