

**OSTEOPATHIC MEDICAL  
BOARD  
OF CALIFORNIA**

**Board Meeting, Thursday, September 27, 2018  
10:00 a.m.**

**Department of Consumer Affairs  
1747 North Market Blvd.  
Hearing Room  
Sacramento, CA 95834**

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

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# TABLE 1



**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
**BOARD MEETING NOTICE AND AGENDA**

Date: Thursday, September 27, 2018  
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business)

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.

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. Review and Approval of Minutes:
  - May 17, 2018 Board Meeting
  - July 10, 2018 Board meeting
4. President's Report
5. Budget Update – Mark Ito, DCA Budget Office
6. Executive Director's Report – Angie Burton
  - Licensing
  - Staffing – DCA HR Staff
  - CURES
  - Enforcement Report / Discipline – Corey Sparks

7. Regulations Update and Possible Action

- California Code of Regulations, Title 16, section 1690 – Post Graduate Training License Non-Refundable Application Fee
- California Code of Regulations, Title 16, section 1690 – Initial License Application fee increase
- California Code of Regulations, Title 16, section 1659.31 – Citable Offenses
- California Code of Regulations, Title 16, section 1663 - Disciplinary Guidelines and Uniform Standards

8. Legislation – Discussion and Possible Action

- AB 505 (Caballero) Physicians and Surgeons: Probation
- AB 1998 (Rodriguez) Opioids: Safe Prescribing Protocol
- AB 2138 (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
- AB 2143 (Caballero) Mental health: Licensed Mental Health Service Provider Education Program
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- SB 1448 (Hill) Controlled Substances: Healing Arts Licensees: Probation Status: Disclosure
- SB 1480 (Hill) Professions and vocations

9. Discussion regarding Mental Health Question on OMBC Initial Application

10. Discussion Regarding Guidelines for the Recommendation of Cannabis for Medical Purposes – Update

11. Agenda Items for Next Meeting

12. Future Meeting Dates

### 13. 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.

# TAB 2

# **May 17, 2018 Minutes**



## BOARD MEETING MINUTES

Thursday, May 17, 2018

**BOARD MEMBERS PRESENT:** Joseph Zammuto, D.O., President  
James Lally, D.O., Vice-President  
Cyrus Buhari, D.O., Secretary/ Treasurer  
Claudia Mercado, Board Member  
Cheryl Williams, Board Member  
Megan Blair, Board Member  
Elizabeth Jensen, D.O., Board Member

**STAFF PRESENT:** Angelina Burton, Executive Director  
Terri Thorfinnson, Asst. Executive Director  
Sabina Knight, Esq., Legal Counsel, DCA  
Machiko Chong, Executive Analyst  
Corey Sparks, Lead Enforcement Analyst

**BOARD MEMBERS ABSENT:** Andrew Moreno, 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: 04 a.m. at Chino Valley Medical Center 5451 Walnut Ave., Conference Room, 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

No Public Comment was received by the Board.

### 3. Review and Approval of Minutes

Dr. Zammuto called for a motion regarding approval of the Board Meeting minutes of January 18, 2018.

- **Motion to approve the January 18, 2018 Board meeting minutes with no corrections. Motion** – Dr. Lally **Second** – Dr. Buhari
- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Dr. Jensen, Mr. Moreno

Motion carried to approve minutes with no corrections.

### 4. Title 16 California Code of Regulations: Update, Discussion, and Possible Action

#### Discussion Section 1610.5 – Initial License Fee Schedule

Mrs. Thorfinnson provided the Board with background information regarding the Initial License Fee Schedule regulation packet.

Mrs. Thorfinnson noted that the Board had already approved the proposed regulatory language in its prior form, however she stated that there was a great chance that it could not be implemented in BreEZe as written. Therefore, it was being brought back to the Board for approval as presented.

The packet addresses the licensing prorated charges associated with the initial licensing process, which the Board would like to launch on the BreEZe system. The Board staff eliminated the even/odd year rule associated with the birth month of applicants, and chose to implement and utilize a rule that was already in use on the BreEZe database by other boards, bureaus, and committees. Previously, the even/odd birth month usage was implemented to assist with equal work distribution throughout the Board, however the new fee schedule presented in addition to the audit system previously recommended will ensure that the workload of analysts continues to be evenly distributed throughout the Board for timely processing.

Dr. Lally inquired if the intent of the regulatory packet was to lessen the workload for the staff, and was informed by Mrs. Burton that the reason for the regulatory packet was due to BreEZe's inability to accommodate the even/odd algorithm that had been previously used by the Board. Mrs. Thorfinnson added that this change would also be a benefit not only to the Board but also to the applicants because they would not only be

able to enter their own information into the database, minimizing the amount of errors incurred during the data entry process, but also have the ability to pay for the prorated licensing fee via credit card which would be calculated utilizing the new algorithm.

**Motion to approve the proposed modified text for a 45-day public comment period, and if there are no adverse comments received during the commenting period delegate to the executive director the authority to adopt the proposed regulatory changes as modified and complete the rule making file including making any technical or non-substantive changes. Motion – Dr. Lally, Second – Ms. Mercado**

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

### **Discussion Section 1659.31 – Citable Offenses**

Mrs. Thorfinnson provided the Board with background information regarding the Citable Offenses regulation packet and briefly discussed the citations being amended within the packet. She also provided the Board examples of citable offenses reported to the Board and directed the Board to their correlating offense section.

Dr. Zammuto inquired about the fines accompanying the citations being added and asked who is responsible for setting the amount. He was informed by Mrs. Thorfinnson that the Executive Director was responsible for issuing the citation amount as long as it falls within the maximum and/or minimum amounts provided in statute.

Dr. Lally inquired about BPC Section 2457.5 and who determined the unconscionable amount. He was informed by Mrs. Thorfinnson that the Executive Director may do some research to figure out what the “normal fee” is for the specific service to make further determinations on whether the fee is in fact unconscionable.

Kathleen S. Creason, Executive Director, Osteopathic Physicians & Surgeons of California (OPSC), inquired about BPC Section 2052 noting that it seemed rather odd that the section might only be a citable offense as opposed to being considered a more serious infraction. Mrs. Thorfinnson noted that if the Board felt that the section should be removed because they felt that was too egregious of an offense to be considered just a citable offense they could opt to make it a disciplinary matter as it is still a statutory violation.

Dr. Buhari inquired if the addition of the citable offenses would cause an increase in workload in the office and was advised that it would. However, it would only really increase in terms of the drafting of the citations issued in office by the Board's enforcement staff. Also, it would cut down on investigation costs as the offenses would now be established and issued by the Board's enforcement staff in the office.

Mrs. Thorfinnson asked Ms. Knight for clarification regarding removal of section 2052 and how it would correlate with the disciplinary guidelines as the board felt that it should be a disciplinary matter as opposed to a citable offense. Ms. Knight stated that she would conduct additional review of BPC Section and provide the Board with an answer regarding the final outcome of the sections removal and/or implementation as a disciplinary matter.

**Motion to approve the proposed modified text for a 45-day public comment period, and if there are no adverse comments received during the commenting period delegate to the executive director the authority to adopt the proposed regulatory changes as modified and complete the rule making file including making any technical or non-substantive changes. Motion – Dr. Lally, Second – Mrs. Williams**

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Mr. Moreno
- Motion carried to accept changes as presented subject to legal counsel review regarding removal of Section 2052 or whether it should stay a citable offense.

### **Discussion Section 1663 – Disciplinary Guidelines**

Mrs. Thorfinnson provided the Board with background information regarding the Disciplinary Guidelines regulation packet.

It was noted that the Uniform Standards Regarding Substance Abusing Licensees and all references made to the uniform standards were removed from the Disciplinary Guidelines as there would be future amendments made to the language. Therefore, the Board opted to remove the uniform standards and move forward with submitting the proposed Disciplinary Guidelines language.

The actual Disciplinary Guidelines package remains the same as previously presented apart from the redacted uniform standards language. Additionally, the Board opted to add a separate section regarding sexual misconduct for ease of access which also

remains the same, however it is in its own section as opposed to being included in the Disciplinary Guidelines section.

Dr. Zammuto inquired whether there were any major and/or substantive changes made to the document, and was advised by Mrs. Thorfinnson that it is in fact the same language. However, it is necessary for the Board to document all dialogue regarding each regulatory packet and approvals of all proposed language for documentation purposes of the regulation packet.

Ms. Knight noted that the Medical Board of California notes BPC Section 2052 in both their citable offenses and Disciplinary Guidelines however they have model Disciplinary Language and it is being used to describe the practice of medicine. Dr. Buhari asked if the Board could list BCP Section 2052 in both the Board's citable offenses and Disciplinary Guidelines and was advised that the initial motion for Section 1659.31 Citable Offenses should stand as is until further research can be done and the Board should move forward with the proposed Disciplinary Guidelines language as is until further notice.

Dr. Lally wanted to clarify that the Board had the ability to make further amendments to the statutory language after adoptions are made, and was advised that the Board would still have the ability to take action once the package moves forward, however this process is just ensuring that the approval process of the regulatory packet is able to commence.

**Motion to approve the proposed modified text for a 45-day public comment period, and if there are no adverse comments received during the commenting period delegate to the executive director the authority to adopt the proposed regulatory changes as modified and complete the rule making file including making any technical or non-substantive changes. Motion – Dr. Lally, Second – Dr. Jensen**

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

**5. SB 798 (Hill) Healing Arts: Boards - Kathleen S. Creason, Executive Director, Osteopathic Physicians & Surgeons of California (OPSC) - Update, Discussion, and Possible Action**

Mrs. Creason addressed the concerns that OPSC had with SB 798's implementation mandating that all licensees complete a minimum of three (3) years of training prior to issuance of an unrestricted license by the Board. The bill was introduced during OMBC's sunset review held in 2017, however its implementation date is not until 2020. Mrs. Creason also noted that in addition to the letter submitted to Senator Jerry Hill expressing OPSC concerns, OPSC has also been in discussions with Senate Business and Professions staff regarding the implications that this bill may have. In addition to the concerns addressed in the letter transmitted to Senator Hill OPSC also addressed the fact that there are a multitude of two-year training programs that do not offer a 3rd year to physicians as required, noting that the bill would not only affect those residency programs but would also affect those military personnel who will have completed only two of the three years required to obtain an unrestricted license. Representatives from OPSC recommended that the bill allow alternative pathways for licensees to obtain licensure if they were not able to provide proof of a 3-year program. Additionally, OPSC would like to ensure that there are no restrictions to patient outreach or patient care and ensure that if they are in a rural or underserved area that they are still able to obtain services while there.

Ms. Mercado asked if OPSC knew of the potential impacts implementation that the bill would have on the public in underserved and rural areas; and if representatives of the Senate have been receptive to OPSC's requests regarding data extraction, and was informed by Mrs. Creason that the Senate has been receptive and noted that they are actively looking for additional data and attempting to come to a resolution.

## **6. Pending Legislation: Discussion and Possible Action**

Mrs. Creason informed the board that OPSC established a physician opioid work group in response to the proposed legislation included in the pending legislation section regarding opioids to ensure that physicians are able to provide recommendations on ways to address the opioid epidemic in California. The goal of OPSC as an association is to ensure that they are able to give guidance and recommendations on actions that may be taken to appropriately address the opioid crisis to effectively handle the opioid issues.

### **AB 505: Physicians and Surgeons: Probation**

AB 505 would take away the Board's ability to enter into a stipulated settlement in an enforcement matter where the complaint alleges a felony conviction resulting in harm to patient safety; drug or alcohol abuse directly resulting in harm to patient safety or, sexual acts or sexual exploitation. There would be increased cost in enforcement because any case that involved any of the allegations would have to go to hearing instead of having the option to enter into a stipulated settlement agreement.

**Motion to oppose AB 505: Physicians and Surgeons: Probation.**  
**Motion – Dr. Lally, Second – Dr. Buhari**

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Mr. Moreno
- Motion carried to oppose AB 505: Physicians and Surgeons: Probation.

### **AB 1998: Opioids: Safe Prescribing Protocol**

Mrs. Burton informed the board that the bill is now in an appropriation suspension file.

Mrs. Thorfinnson felt that although the bill was in suspense it should be discussed by the Board, as it could be pulled out of suspense at any time prompting the Board to take a stance of support or opposition.

Dr. Buhari noted that there is a templated process on how to handle safe prescribing practices, however as a physician he has refrained from issuing narcotics on a temporary basis to ensure that there is no mishap that occurs from missing something within the patient's chart and/or failing to comply with the prescribing guidelines.

**Motion to oppose AB 1998: Opioids: Safe Prescribing Protocol. Motion** – Dr. Lally, **Second** – Dr. Buhari

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Mr. Moreno
- Motion carried to oppose AB 1998: Opioids: Safe Prescribing Protocol.

### **AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction**

Mrs. Burton explained that she and Mrs. Thorfinnson recently attended a meeting with consultants of the Assembly regarding AB 2138 which would ease the restrictions regarding licensing requirements for licensees who were prior offenders.

Should this bill move forward applicants who have previously been charged and convicted of a felony where five (5) or more years have lapsed will have the ability to apply for licensure without being automatically denied.

That applicant could subsequently obtain eligibility to be granted a license to practice in the state regardless of the licensing agency's opinion. However, the Board feels that it should be the discretion of the individual board, bureau, or committee to make the determination whether it feels an applicant should be eligible for licensure. More specifically, if the conviction is substantially related to the practice of medicine, the Board would have no ability to determine whether or not the physician is fully rehabilitated nor review any documentation with regard to the physician's ability to practice safely as the bill would require automatic licensure of the applicant.

The bill would also limit the Board's ability to place a physician on probation for any timeframe longer than 24 months. However, the Board has found that probationers in general spend their first year becoming acclimated to being on probation and registering for programs such as the PACE Program and/or complying with all other probationary requirements. Under AB 2138 the probationer could petition for early termination of probation after the first year, forcing the Board to not only grant the petition request, but also complete all administrative duties in response to the request to ensure that a response is provided to the petitioner within 90 days. Unfortunately, if the Board does not comply with the 90-day timeframe set forth by the bill the probation is automatically terminated and the probationer is free to continue practicing with no restrictions.

The bill was written to provide easier access for individuals to get back into the workforce, however the Board does not feel that this bill should apply to those individuals licensed by the Board. Additionally, based on the review of applicants who were denied licensure in the years prior, the Board found that there were no more than 5 individuals who had been denied licensure, making the bill unnecessary for use by the board.

Ms. Mercado inquired if the bill applied to all individuals licensed under DCA and was advised that it did. Dr. Jensen recommended that the Board also note in the opposition letter that the bill is not only restricting public safety, the Board's statistical research has shown that there is not a substantial number of physicians who would be impacted by the bill, and the infractions would involve convictions and felonies and not small offenses. Additionally, the 90-day timeframe set forth does not leave the Board or other involved entities to properly prepare the required documents.

**Motion to oppose AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction. Motion – Dr. Lally, Second – Dr. Buhari**

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

- **Absent** – Mr. Moreno
- Motion carried to oppose AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction.

**AB 2487: Physician and Surgeons: Education: Opiate – Dependent Patient Treatment and Management**

This bill would require a physician and surgeon to complete a continuing education course on opiate-dependent patient treatment and management, as specified, within 6 months of first receiving, or next renewing, a federal Drug Enforcement Administration registration to dispense narcotic drugs for patient treatment, unless the physician and surgeon meets the requirements of a qualifying physician within the federal Comprehensive Addiction Recovery Act of 2016.

Dr. Jensen felt that as a family practice physician, those physicians who are not pain management specialists should not be required to comply with and/or be held to the same standard of continuing education requirements surrounding courses for pain management treatment and management. She believed that the course requirement was a good idea, however the requirement should either be revised for those physicians who are not pain management specialists or be a requirement that is solely meant for pain management specialist.

**Motion to oppose AB 2487: Physician and Surgeons: Education: Opiate – Dependent Patient Treatment and Management. Motion** – Dr. Lally, **Second** – Dr. Buhari

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Mr. Moreno
- Motion carried to oppose AB 2487: Physician and Surgeons: Education: Opiate – Dependent Patient Treatment and Management.

**AB 2741: Prescription Drugs: Opioid Medications: Minors**

This bill would prohibit a prescriber from prescribing more than a 5-day supply of an opioid medication to a minor except in specified instances. It would also require a prescriber to take certain steps prior to prescribing a minor a course of treatment with

opioid medications including a discussion regarding opioid risks and obtaining consent except in specific instances.

Dr. Lally felt that most minors rarely if ever require the use of narcotics unless there is an extreme medical necessity for one such as reduction of broken bones or instances of cancer, where the prescribed amount would be more than a 5-day supply.

Dr. Jensen noted that the instances of acute trauma that were addressed by Dr. Lally were ones that were not noted in the bill as exceptions that should be. Additionally, Dr. Zammuto felt it disconcerting that a bill would be proposed that would set limitations on treatment practices of physicians in cases where aggressive treatment is necessary. Dr. Lally noted that although he believed in the theory of the proposed bill, he felt that the bill should be opposed pending amendment.

Ms. Mercado also raised concern with the fact that a 5-day supply may not be sufficient for a minor who is severely suffering and may either be waiting to see his primary care physician or may have a parent who is not able to take time off from work to pick up their prescription from the pharmacy prior to them closing. The minor would ultimately end up suffering because of the bill.

**Motion to oppose AB 2741 unless amended: Prescription Drugs: Opioid Medications: Minors. Motion – Dr. Lally, Second – Dr. Jensen**

- Roll Call Vote was taken
  - **Aye** – Mrs. Blair, Dr. Buhari, Dr. Jensen, Dr. Lally, Ms. Mercado, Mrs. Williams, Dr. Zammuto
  - **Nay** – None
  - **Abstention** – None
  - **Absent** – Mr. Moreno
- Motion carried to oppose AB 2741 unless amended: Prescription Drugs: Opioid Medications: Minors.

**7. Presentation on the Bureau of Cannabis Control – Sara Gardner, Attorney III**

Sara Gardner, Attorney III, Bureau of Cannabis Control presented the Board with a Power Point Presentation regarding the process and procedures of the Bureau and answered all questions from the Board related to the Bureau's approval process for dispensaries.

**8. Board President's Report**

Dr. Zammuto informed the Board that he traveled to Sacramento on May 7, 2018, to attend the Osteopathic Physicians and Surgeons of California (OPSC) board meeting where he also participated in the legislative committee's bill review. After conclusion of the board meeting, OPSC hosted a reception for attendees as well as additional guests within the medical profession. During the reception Dr. Jim Wood, Co-Chair, Assembly Select Committee on Health Care Delivery Systems and Universal Coverage, announced that a proposed infusion of \$1 billion for health care in the State of California and another \$2-3 million dollars for the Song-Brown Training Program – Office of Statewide Health Planning and Development (OSHPD) has been requested for implementation.

Dr. Zammuto also informed the Board that he was unable to attend the Federation of State Medical Board (FSMB) Annual meeting held in North Carolina April 25-28, 2018, however he viewed and participated in the discussions via webcast.

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

Angie Burton updated the Board on licensing statistics, staffing, Board budget activity, and diversion program statistics which were included in the Board packet.

Mrs. Burton informed the Board that the search for a new Medical Consultant is nearing an end as the ECOS posting has recently ended. All applications submitted for the position will now be reviewed for candidate selection so that the hiring process may continue. Additionally, the executive staff was just informed that an analyst of the Enforcement Unit intends to retire at the end of May 2018, and the search to refill the vacancy will begin shortly thereafter.

Mrs. Burton informed the Board that she was not able to provide an accurate detailed report of the Board's budget as there have been issues with report productions under the new system being utilized. However, the information that was provided should be as accurate as possible to the actual fund projection. She provided updates regarding the remodeling of the Board's office space and notified the members that the Board was approved to purchase a high density filing system, which should provide a major space saving in suite with regards to storage.

The DOJ certification of CURES commenced April 2, 2018, which triggered the 6-month grace period before the site's mandatory use which begins October 2, 2018. The Board will be emailing all physicians with a brochure explaining the usage requirements which will also be posted on the Board's website for ease of access.

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

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

- B&P Section 2052
- SB 1448 (*Dr. Zammuto*)

**11. Future Meeting Dates**

- Thursday, September 27, 2018 @ 10:00 am – San Diego, CA
- Thursday, January 17, 2019 @ 10:00 am - Sacramento, CA
- Thursday, May 16, 2019 @ 10:00 am – Pomona, CA (***TBD***)

**12. Adjournment**

There being no further business, the meeting was adjourned at 2:26 p.m.

# **July 10, 2018 Minutes**



**(DRAFT)**  
**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
**BOARD MEETING MINUTES**

Tuesday, July 10, 2018

**BOARD MEMBERS PRESENT:** Joseph Zammuto, D.O., President  
James Lally, D.O., Vice President  
Cyrus Buhari, D.O., Secretary Treasurer  
Claudia Mercado, Board Member  
Andrew Moreno, Board Member  
Cheryl Williams, Board Member

**STAFF PRESENT:** Angelina Burton, Executive Director  
Terri Thorfinnson, Assistant Executive Director  
Frederic Chan-You, Esq., Legal Counsel, DCA  
Kurt Heppler, Esq., Supervising Attorney, DCA  
Machiko Chong, Executive Analyst

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

The meeting of the Osteopathic Medical Board of California was called to order by President Joseph Zammuto, D.O., at 1:24 PM via teleconference at the noticed site of 213 Crest Road, Woodside, CA 94062. 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. Call to Order and Roll Call/Establishment of a Quorum:

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

- **James Lally, D.O.** Lally Medical Group, 5050 San Bernardino St., Montclair CA 91763, (909) 281-5800; No member of the public was present at this location
- **Cyrus Buhari, D.O.**, Osteopathic Medical Board, 1300 National Drive, Suite 150, Sacramento CA 95834, (916) 928-8340; No member of the public was present at this location
- **Andrew Moreno**, 1505 North Wishon Ave., Fresno CA 93728, (559) 449-0400; No member of the public was present at this location
- **Claudia Mercado**, 501 23<sup>rd</sup> Avenue, Oakland CA 94606, (510) 735-5999; No member of the public was present at this location

- **Cheryl Williams**, 1636 50<sup>th</sup> St., San Diego CA 92102, (619) 254-5064; No member of the public was present at this location

2. Public Comment for Items Not on the Agenda:

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

There were no public comments as upon inquiry, there were no members of the public present at any of the locations listed above.

3. Regulations Update, Discussion and Possible Action:

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

Mrs. Thorfinnson presented the board with the revised CME language as proposed and provided background information regarding why the sections were being brought back to the board for review and approval.

**Dr. Lally moved to approve the proposed modified text (*Title 16 California Code of Regulations Section(s) 1635; 1636; & 1641*) for a 45-day public comment period, and to delegate to the executive director the authority to adopt the proposed regulatory changes if there are no adverse comments received during the commenting period, to follow established procedures and processes in doing so, and also to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Motion – Dr. Lally, **Second** – Dr. Buhari**

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

4. Agenda Items for Next Meeting

- B&P Section 2052
- SB 1448 (*Dr. Zammuto*)

Board Meeting Minutes – July 10, 2018 (DRAFT)

- AB 1998 (*Dr. Buhari*)
- Postgraduate Training License (*A. Burton*)
- Updates regarding Recommendation for usage of medicinal marijuana
- Mental Health Questioning – Initial Applications (*Dr. Lally*)

5. Future Meeting Dates

- Thursday, September 27, 2018 @ 10:00 am – San Diego, CA (**TBD**)
- Thursday, January 17, 2019 @ 10:00 am - Sacramento, CA
- Thursday, May 16, 2019 @ 10:00 am – Chino, CA (**TBD**)

6. Adjournment

Meeting adjourned at 1:43 p.m.

# TAB 3

**OSTEOPATHIC MEDICAL BOARD - 0264**  
**BUDGET REPORT**  
**FY 2017-18 EXPENDITURE PROJECTION**  
**Jun-2018**

FISCAL MONTH 12

OBJECT DESCRIPTION	2016-17		2017-18				
	ACTUAL EXPENDITURES	PRIOR YEAR EXPENDITURES	BUDGET ALLOTMENT	CURRENT YEAR EXPENDITURES	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
	(MONTH 13)	6/30/2017	2017-18	6/30/2018			
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	635,329	635,329	678,000	625,584	92%	625,584	52,416
Statutory Exempt (EO)	89,949	89,949	76,000	96,621	127%	96,621	(20,621)
Temp Help Reg (Seasonals)	17,143	17,143	0	23,543	0%	23,543	(23,543)
Board Member Per Diem	1,200	1,200	3,000	3,100	103%	3,100	(100)
Committee Members (DEC)	0	0	0	0		0	0
Overtime	1,214	1,214	0	19,334		19,334	(19,334)
Staff Benefits	367,521	367,521	423,000	384,409	91%	384,409	38,591
<b>TOTALS, PERSONNEL SVC</b>	<b>1,112,356</b>	<b>1,112,356</b>	<b>1,180,000</b>	<b>1,152,591</b>	<b>98%</b>	<b>1,152,591</b>	<b>27,409</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	9,027	9,027	112,000	10,480	9%	10,480	101,520
Fingerprint Reports	41,695	41,695	25,000	30,829	123%	30,829	(5,829)
Minor Equipment	1,352	1,352	4,000	13,132	328%	13,132	(9,132)
Printing	8,881	8,881	5,000	13,610	272%	13,610	(8,610)
Communication	5,923	5,923	16,000	4,736	30%	4,736	11,264
Postage	7,506	7,506	6,000	10,509	175%	10,509	(4,509)
Insurance	11	11	0	3,361		3,361	(3,361)
Travel In State	10,942	10,942	14,000	5,666	40%	5,666	8,334
Travel, Out-of-State	0	0	0	0		0	0
Training	457	457	5,000	0	0%	0	5,000
Facilities Operations	62,144	62,144	110,000	138,801	126%	138,801	(28,801)
Utilities	0	0	0	0		0	0
C & P Services - Interdept.	0	0	101,000	45	0%	45	54
C & P Services - External	74,826	74,826	79,000	35,901	45%	39,165	39,835
<b>DEPARTMENTAL SERVICES:</b>		0					
Office of Information Services	139,754	139,754	191,000	191,000	100%	191,000	0
Administration Pro Rata	141,450	141,450	161,000	161,000	100%	161,000	0
Interagency Services	0	0	0	0		0	0
IA w/ DOI Direct	90,570	90,570	0	112,057		122,244	(122,244)
DOI-Special Operations Unit	3,680	3,680	4,000	4,000	100%	4,000	0
Communications Pro Rata	17,335	17,335	9,000	9,000	100%	9,000	0
Program Policy Review Division Pro Rata	654	654	9,000	9,000	100%	9,000	0
<b>INTERAGENCY SERVICES:</b>		0					
Consolidated Data Center	18,852	18,852	1,000	3,479	348%	3,479	(2,479)
DP Maintenance & Supply	1,218	1,218	4,000	362	9%	362	3,638
Central Admin Svc-ProRata	0	0	0	0		0	0
<b>EXAM EXPENSES:</b>		0					
Exam Supplies	0	0	0	0		0	0
Exam Freight	0	0	0	0		0	0
Exam Site Rental	0	0	0	0		0	0
C/P Svcs-External Expert Administrative	880	880	0	0		0	0
C/P Svcs-External Expert Examiners	0	0	0	0		0	0
C/P Svcs-External Subject Matter	578	578	0	0		0	0
<b>ENFORCEMENT:</b>		0					
Attorney General	291,561	291,561	324,000	177,478	55%	212,974	111,026
Office Admin. Hearings	95,131	95,131	52,000	21,265	41%	25,518	26,482
Court Reporters	3,096	3,096	0	850		3,096	(3,096)
Evidence/Witness Fees	59,245	59,245	8,000	26,805	335%	29,241	(21,241)
Invest SVS - MBC ONL	25,630	25,630	0	3,130		3,130	(3,130)
Major Equipment	0	0	0	0		0	0
Special Items of Expense	0	0	0	12,112		12,112	(12,112)
Other (Vehicle Operations)	0	0	0	0		0	0
<b>TOTALS, OE&amp;E</b>	<b>1,112,398</b>	<b>1,112,398</b>	<b>1,240,000</b>	<b>998,608</b>	<b>81%</b>	<b>1,056,490</b>	<b>82,609</b>
<b>TOTAL EXPENSE</b>	<b>2,224,754</b>	<b>2,224,754</b>	<b>2,420,000</b>	<b>2,151,199</b>	<b>178%</b>	<b>2,209,081</b>	<b>110,018</b>
Sched. Reimb. - External/Private							0
Sched. Reimb. - Fingerprints	(42,434)	(42,434)	(25,000)	(3,055)	12%	(25,000)	0
Sched. Reimb. - Other	(3,055)	(3,055)	(28,000)	(41,699)		(28,000)	0
Distributed - From Naturopathic			(14,000)				(14,000)
Unsched. Reimb. - Other	(82,666)	(82,666)	0	(64,493)			0
<b>NET APPROPRIATION</b>	<b>2,096,599</b>	<b>2,096,599</b>	<b>2,353,000</b>	<b>2,041,952</b>	<b>87%</b>	<b>2,156,081</b>	<b>96,018</b>
<b>SURPLUS/(DEFICIT):</b>							<b>4.1%</b>

# 0264 - Osteopathic Medical Board of California Contingent Analysis of Fund Condition

Prepared 9/24/18

(Dollars in Thousands)

Budget Act 2018 with preliminary FM 12 projections		Budget Act			
		PY 2017-18	CY 2018-19	BY 2019-20	BY+1 2020-21
<b>BEGINNING BALANCE</b>		\$ 3,136	\$ 3,012	\$ 2,526	\$ 3,487
Prior Year Adjustment		\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance		\$ 3,136	\$ 3,012	\$ 2,526	\$ 3,487
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
4121200	Delinquent fees	\$ 14	\$ 17	\$ 17	\$ 17
4127400	Renewal fees	\$ 1,627	\$ 1,696	\$ 1,696	\$ 1,696
4129200	Other regulatory fees	\$ 30	\$ 27	\$ 27	\$ 27
4129400	Other regulatory licenses and permits	\$ 398	\$ 454	\$ 454	\$ 454
4140000	Sales of documents	\$ 1	\$ 1	\$ 1	\$ 1
4163000	Income from surplus money investments	\$ 29	\$ 9	\$ 6	\$ 9
Totals, Revenues		\$ 2,099	\$ 2,204	\$ 2,201	\$ 2,204
Transfers from Other Funds					
F00001	GF loan repayment per Item 1485-011-0264, BA of 2002	\$ -	\$ -	\$ 1,500	\$ -
Totals, Revenues and Transfers		\$ 2,099	\$ 2,204	\$ 3,701	\$ 2,204
Totals, Resources		\$ 5,235	\$ 5,216	\$ 6,227	\$ 5,691
<b>EXPENDITURES</b>					
Disbursements:					
1111	Department of Consumer Affairs Program Expenditures (State Operations)	\$ 2,100	\$ 2,504	\$ 2,554	\$ 2,605
8880	Financial Information System for California (State Operations)	\$ 4	\$ -	\$ -	\$ -
9892	Supplemental Pension Payments (State Operations)	\$ -	\$ 25	\$ 25	\$ 25
9900	Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 119	\$ 161	\$ 161	\$ 161
Total Disbursements		\$ 2,223	\$ 2,690	\$ 2,740	\$ 2,791
<b>FUND BALANCE</b>					
Reserve for economic uncertainties		\$ 3,012	\$ 2,526	\$ 3,487	\$ 2,900
<b>Months in Reserve</b>		13.4	11.1	15.0	12.2

# TAB 4

## **Board Meeting – September 27, 2018**

*This report is to provide the Board Members with an update on licensing statistics, staffing issues, CURES and enforcement functions at the Osteopathic Medical Board of California.*

### **License Statistics Fiscal Year 2017/2018**

End of Fiscal Year 2017/2018 (June 30, 2018), OMBC's licensee count

Active - 8,868

Inactive - 573

TOTAL: 9,441

Additionally, there are 1,070 licenses in a delinquent status. (Total under OMBC's jurisdiction is 10,511.

In-State licensees - Active status 7,696; Inactive status 52

Number of license applications received: 873

Number of licenses issued: 891

Fictitious Name Permits count at end of Fiscal Year 2017/2018  
728

Number of Fictitious Name Permit Applications received: 142

Number of Fictitious Name Permits issued: 118

Number of days to approve a license application during fiscal year 2017/2018 was 44 days. Applications with missing documents took an average of 102 days to complete and approve.

### **Postgraduate Training License**

As you are aware, SB798 created a new license status, the Postgraduate Training license. The new law will require all physicians, both DO's and MD's to complete 36 months of residency before they will be eligible to apply for a full, unrestricted license to practice medicine in California. The current law requires physicians to complete their first year of postgraduate training and apply for and receive a full, unrestricted license before commencing their third year of residency. This new three-year requirement law will become effective January 1, 2020. Staff is currently working with the BreEZe team to make necessary changes to the database to be able to accommodate this new license. Staff attended the BreEZe Change Control Board meeting on September 10, 2018 and explained to their board, the various changes needed in BreEZe. Our liaison

with the BreEZe team has been extremely supportive and is working very closely with staff to make this process as efficient and smooth as possible. Staff is also working on all new application forms needed to implement these upcoming changes. Ms. Thorfinnson will have more details on this process during her report. We will also be updating our website to add informational articles about the change and will be conducting some educational outreach.

## **Staffing**

After a careful, extended search, the Board's selection committee chose our Medical Consultant. James Lally, D.O. was hired as our new in-house Medical Consultant. Due to a conflict, Dr. Lally had to resign his position as Board Member. I have been in contact with the Governor's office requesting appointments to replace our two professional positions, one vacated by Dr. Feinstein over two years ago, and the more recent vacancy created by Dr. Lally leaving to take our Medical Consultant position. I have also been in contact with the office of the Assembly Speaker of the House, asking for an appointment to fill the vacancy created by the departure of Ms. Megan Lim Blair.

One of our enforcement analyst retired on June 1, 2018. We announced our vacancy on the Cal-Career site. This is the site where all available State Jobs are listed. We received over 150 applications for this one position. After carefully reviewing every application, we selected the candidates with the most experience in enforcement and interviewed several excellent candidates. After narrowing our search to three top candidates, who were asked to return for a second interview, we made our final selection. I am happy to announce that Robin Matson was selected. She comes to the OMBC from the California Board of Registered Nurses, enforcement unit. Her first day at OMBC was September 17, 2018.

On September 13, 2018, I notified the board members via letter, that I will be retiring from State service after 31.5 years. My last day with OMBC will be December 29, 2018. I thank each and every one of you Board members from the bottom of my heart for giving me this wonderful opportunity to serve the OMBC and the consumers of this great State. It has been a pleasure working for you and assure you that with the current core of staff at OMBC, will assist in making sure the transition for the new Executive Director will be smooth.

DCA HR will provide assistance in this recruitment process.

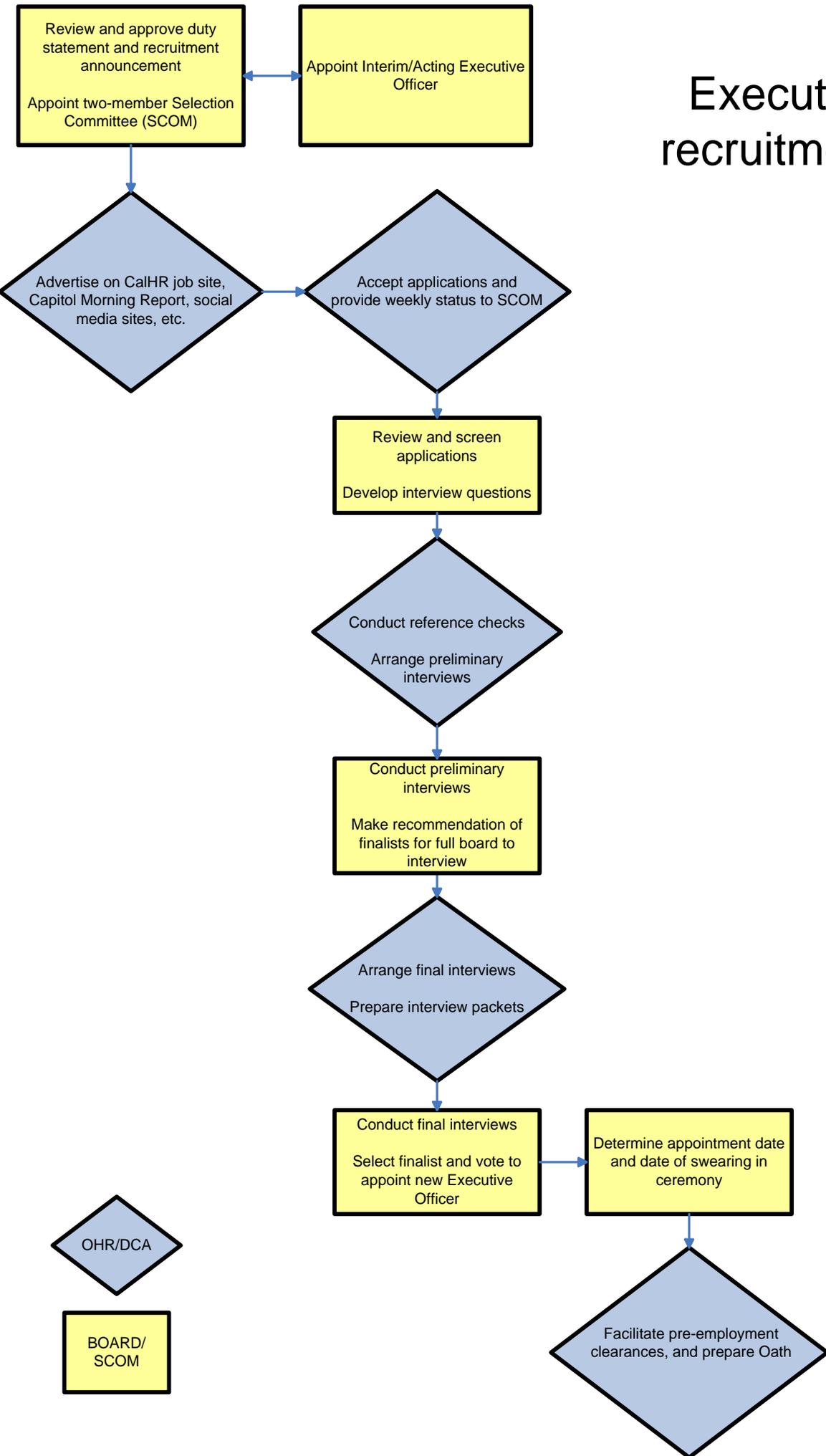
## **CURES** (Controlled Substance Utilization Review and Evaluation System)

DOJ certification of CURES occurred April 2, 2018. The six- month grace period is now triggered and mandatory use becomes effective **October 2, 2018**. The brochure we provided at the last board meeting, along with some FAQ's were emailed to all licensees who have an email address on file with the board. This information was also shared with OPSC, and all interested parties on our list-serve. Additionally, our website

has been updated with information regarding the required usage of CURES for all prescribers.

Attached is the CURES 2.0 statistics report as of August 2018.

# Executive Officer recruitment process



# CURES 2.0 August Statistics

Registered Users		AUGUST
<b>Total Registered Users</b>		<b>188,333</b>
<b>Clinical Roles</b>		
	Prescribers	142,228
	Dispensers	42,066
<b>Sub-Total A</b>		<b>184,294</b>
<b>License Type</b>		
	Doctor of Podiatric Medicine	1,205
	Registered Nurse Practitioner/Nurse Midwife	12,848
	Medical Doctor	97,788
	Naturopathic Doctor	233
	Osteopathic Doctor	6,116
	Physician Assistant	8,560
	Doctor of Optometry	606
	Pharmacist	41,628
	Doctor of Dental Surgery/Dental Medicine	11,596
	Doctor of Veterinary Medicine	2,783
	Other (Non-Specified License Type)	931
<b>Sub-Total B</b>		<b>184,294</b>
<b>Other Roles</b>		
	LEAs	1,314
	Delegates	2,488
	DOJ Administrators	16
	DOJ Analysts	65
	Regulatory Board	156
<b>Sub-Total C</b>		<b>4,039</b>
<b>NOTE:</b>		
1. Subtotal A = Subtotal B		
2. Subtotal A + Subtotal C = Total Registered Users		
3. Stats are from the 1st of the month to the last day of the month		

Number of PARs Ran: August 1, 2018 - August 31, 2018		
		<b>AUGUST</b>
<b>Total PARs Ran</b>		<b>1,522,879</b>
<b>Clinical Roles</b>		
	Prescribers	686,755
	Dispensers	830,097
<b>Sub-Total A</b>		<b>1,516,852</b>
<b>License Type</b>		
	Doctor of Podiatric Medicine	492
	Registered Nurse Practitioner/Nurse Midwife	97,245
	Medical Doctor	435,228
	Naturopathic Doctor	88
	Osteopathic Doctor	54,486
	Physician Assistant	95,526
	Doctor of Optometry	0
	Pharmacist	828,448
	Doctor of Dental Surgery/Dental Medicine	2,152
	Doctor of Veterinary Medicine	56
	Other (Non-Specified License Type)	3,131
<b>Sub-Total B</b>		<b>1,516,852</b>
<b>Other Roles</b>		
	LEAs	290
	Delegates	4,618
	DOJ Administrators	65
	DOJ Analysts	66
	Regulatory Board	988
<b>Sub-Total C</b>		<b>6,027</b>
<b>NOTE:</b>		
1. Subtotal A = Subtotal B		
2. Subtotal A + Subtotal C = Total PARs Ran		
3. Stats are from the 1st of the month to the last day of the month		

Times System was Accessed: August 1, 2018 -August 31, 2018		
		AUGUST
<b>Total Times System was Accessed</b>		
<b>Clinical Roles</b>		
	Prescribers	300,585
	Dispensers	403,878
<b>Sub-Total A</b>		<b>704,463</b>
<b>License Type</b>		
	Doctor of Podiatric Medicine	487
	Registered Nurse Practitioner/Nurse Midwife	41,758
	Medical Doctor	193,555
	Naturopathic Doctor	57
	Osteopathic Doctor	24,539
	Physician Assistant	36,694
	Doctor of Optometry	36
	Pharmacist	403,089
	Doctor of Dental Surgery/Dental Medicine	2,492
	Doctor of Veterinary Medicine	165
	Other (Non-Specified License Type)	1,591
<b>Sub-Total B</b>		<b>704,463</b>
<b>Other Roles</b>		
	LEAs	561
	Delegates	3,242
	DOJ Administrators	252
	DOJ Analysts	1,096
	Regulatory Board	384
<b>Sub-Total C</b>		<b>5,535</b>
<b>NOTE:</b>		
1. Subtotal A = Subtotal B		
2. Subtotal A + Subtotal C = Total Times System was Accessed		
3. Stats are from the 1st of the month to the last day of the month		

Number of CURES Help Desk Requests		AUGUST
Emails [Note: Email requests are not included in the breakdown below]		3,175
Total Phone Calls		3,280
<b>Clinical Roles</b>		
	Prescribers	2,645
	Dispensers	596
Sub-Total A		3,241
<b>License Type</b>		
	Doctor of Podiatric Medicine	19
	Registered Nurse Practitioner/Nurse Midwife	257
	Medical Doctor	1,935
	Naturopathic Doctor	13
	Osteopathic Doctor	99
	Physician Assistant	149
	Doctor of Optometry	10
	Pharmacist	596
	Doctor of Dental Surgery/Dental Medicine	145
	Doctor of Veterinary Medicine	18
	Other (Non-Specified License Type)	0
Sub-Total B		3,241
<b>Other Roles</b>		
	LEAs	11
	Delegates	25
	DOJ Administrators	0
	DOJ Analysts	0
	Regulatory Board	3
Sub-Total C		39

**NOTE:**

1. Subtotal A = Subtotal B
2. Subtotal A + Subtotal C = Total Help Desk Phone Calls

Number of Prescriptions Filled by Schedule	
	AUGUST
Schedule II	1,618,469
Schedule III	305,018
Schedule IV	1,642,124
Schedule V	33,519
R	12,489
Unknown	42,000
<b>TOTAL</b>	<b>3,653,619</b>

**NOTE:**

1. R = Not classified under the Controlled Substances Act; includes all other prescription drugs
2. Unknown = Over the counter product

# OMBC Enforcement Report

September 27, 2018

The following OMBC Enforcement Report covers a 12-month period starting from July 1, 2017 through June 30, 2018. 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

	3Q 2017			4Q 2017			1Q 2018			2Q 2018			
COMPLAINTS	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	YTD
Received	49	55	43	35	36	49	42	37	67	55	45	35	548
Assigned	42	43	42	54	41	42	31	37	52	30	25	114	553
Aging	28	25	28	34	25	26	34	30	31	36	42	63	34
	3Q 2017			4Q 2017			1Q 2018			2Q 2018			
CONV/ARRESTS	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	YTD
Received	1	0	2	1	3	1	2	0	1	2	2	1	16
Assigned	1	0	1	2	2	2	1	1	1	2	1	2	16
Aging	3	0	7	3	9	13	2	30	1	4	3	7	7
	3Q 2017			4Q 2017			1Q 2018			2Q 2018			
TOTAL INTAKE	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	YTD
Received	50	55	45	36	39	50	44	37	68	57	47	36	564
Assigned	43	43	43	56	43	44	32	38	53	32	26	116	569
Aging	27	25	28	32	25	26	33	30	30	34	41	62	33
Pending	44	56	58	38	34	39	51	50	65	89	109	28	28

Data Table 1: Complaint Intake with Convictions/Arrests

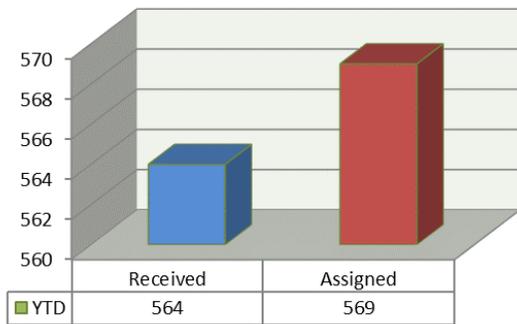


Figure 1.1: Intake Totals

In Data Table 1 above, under TOTAL INTAKE, OMBC received 564 complaints. 16 of these cases were convictions/arrests. During this period, 569 cases were referred to desk investigations. The aging for intake measures the period from the date the complaint was received (date stamped) to the date the complaint was entered into the system and referred to investigations (assigned). The average number of days to assign a case was 33. In Figure 1.2 below we see an increase in pending cases from March to May 2018 and then a spike in assigned cases in June. This was the result of a backlog.

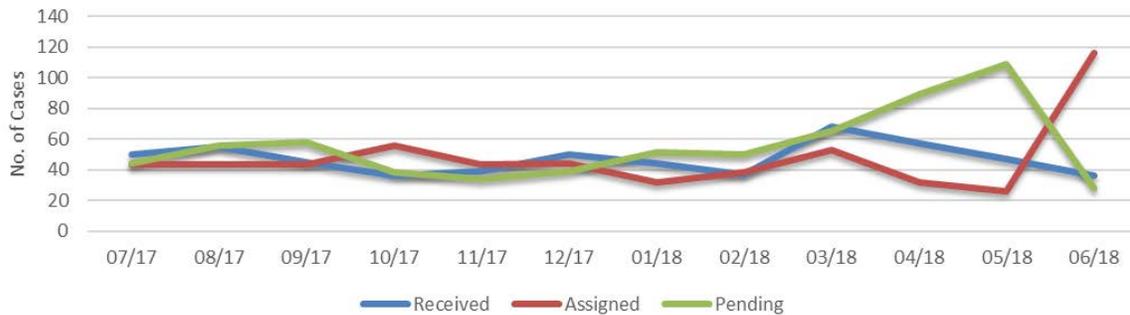


Figure 1.2: Intake Totals Per Month

# OMBC Enforcement Report

September 27, 2018

In Figure 1.3 below, the bar graph illustrates the monthly average number of days for the intake process (the date received to the date referred to investigations). The performance target for intake is 30 days. The Board did not meet the performance target in second quarter 2018 (April – June) due to staff shortage which caused a backlog. The overall average for the last 12 months was 33 days.



Figure 1.3: Average Number of Days to Assign

## INVESTIGATIONS

### Desk (internal) Investigations

	3Q 2017			4Q 2017			1Q 2018			2Q 2018			YTD
Desk Inv.	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	YTD
Assigned	43	43	43	56	43	45	32	38	53	30	26	34	486
Completed	57	29	59	36	48	43	27	38	57	42	56	45	537
Aging	104	111	69	73	113	74	63	107	79	112	119	91	93
Pending	145	158	141	160	155	157	163	163	161	151	124	115	115

Data Table 2: Desk Investigations

For all desk investigations during this period, Data Table 2 above breaks down the monthly totals for how many complaints were assigned and completed; the monthly aging and cases pending. During this period, a total of 486 cases were assigned to an enforcement analyst and 537 were completed. The average number of days to complete a desk investigation was 93 days. In Figure 2.2 below, the assigned and completed caseloads averaged 45 cases per month until April when assigned cases dropped to 30. Pending cases averaged around 150 and then decreased to 115 in June.

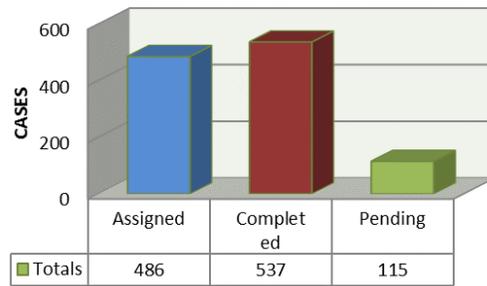


Figure 2.1: Desk Inv. Totals

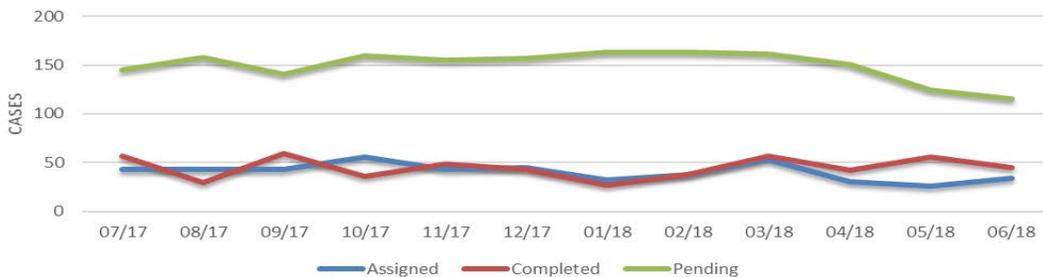


Figure 2.2: Desk Investigations Monthly Totals

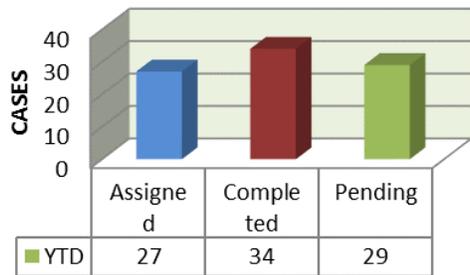
# OMBC Enforcement Report

September 27, 2018

## Field (Sworn) Investigations

Field Inv.	3Q 2017			4Q 2017			1Q 2018			2Q 2018			YTD
	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	
Assigned	1	1	6	0	4	3	1	3	3	3	2	0	27
Completed	4	1	1	3	5	5	4	4	3	1	3	0	34
Aging	562	401	985	531	458	445	849	443	596	37	450	0	480
Pending	31	31	36	33	32	29	26	26	26	29	28	29	29

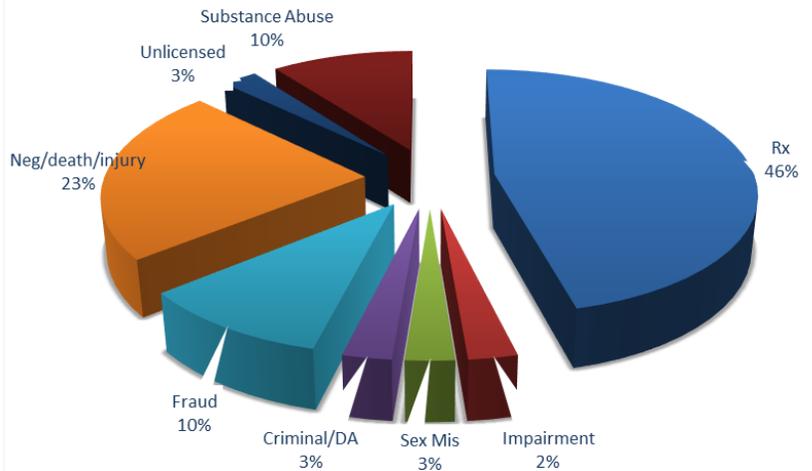
**Data Table 3: Field Investigations**



**Figure 3.1: Field Inv. Totals**

Data Table 3 above breaks down the monthly totals for cases assigned to the Division of Investigations. Completed cases are either closed with insufficient evidence or referred to the Attorney General’s office for disciplinary action. During this 12-month period, 27 cases were assigned to field investigations; 34 were completed; and 29 cases were pending at the end of June 2018.

The case complexity is the breakdown of the specific allegations that are currently under investigation. In Figure 3.2, for all current open field investigations, there are 18 (46%) excessive prescribing cases; 1 impairment case (2%); 1 sexual misconduct case (3%); 1 criminal/DA case (3%); 4 fraud cases (10%); 9 negligent/injury cases (23%); 1 unlicensed case (3%); and 4 substance abuse cases (10%).

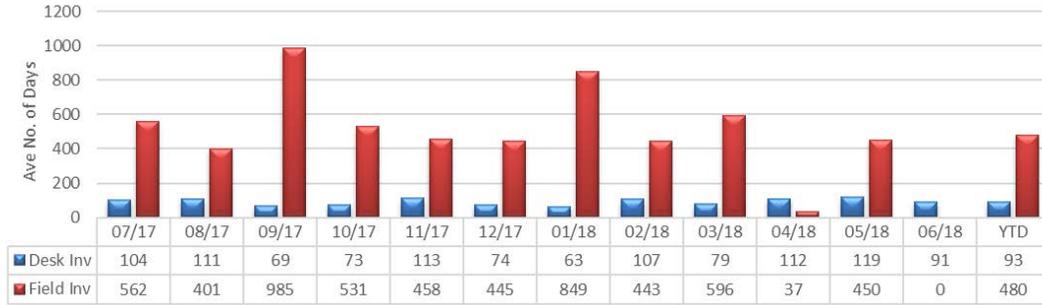


**Figure 3.2 Complexity for all current Field Investigations**

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Figure 3.3 below 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. Of the 537 desk investigations completed, the average number of days was 93. Of the 34 field investigations completed, the average number of days was 480.



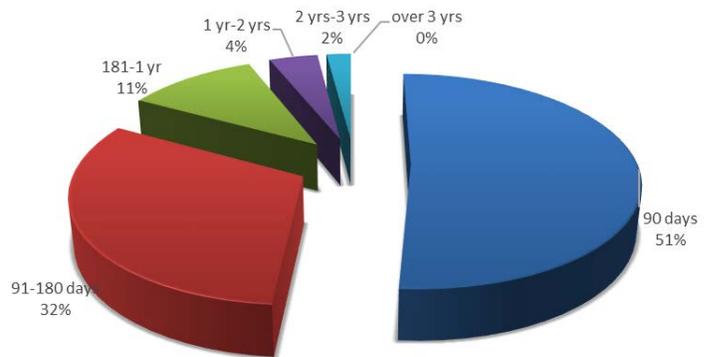
**Figure 3.3: Completed Investigations Monthly Aging**

### Aging for Desk and Field Investigations

	3Q 2017			4Q 2017			1Q 2018			2Q 2018			
All Inv Aging	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	YTD
90 days	28	11	33	17	24	28	19	19	29	17	21	31	277
91-180 days	9	13	21	18	13	10	6	10	22	17	25	7	171
181-1 yr	17	4	1	0	6	3	2	7	4	5	7	3	59
1 yr-2 yrs	1	2	1	1	5	3	1	1	2	0	3	2	22
2 yrs-3 yrs	1	0	1	1	1	1	2	1	1	1	1	0	11
over 3 yrs	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>56</b>	<b>30</b>	<b>57</b>	<b>37</b>	<b>49</b>	<b>45</b>	<b>30</b>	<b>38</b>	<b>58</b>	<b>40</b>	<b>57</b>	<b>43</b>	<b>540</b>

**Data Table 4: All Investigations Aging**

In Data Table 4 and Figure 4.1 we see the aging matrix for the number of all investigations that were closed per month within a specific time-period. 277 cases (51%) were completed within 90 days; 171 cases (32%) were completed between 91-180 days; 59 cases (11%) were completed between 181-365 days; 22 cases (4%) were completed between 1 – 2 years; 11 cases (2%) were completed between 2-3 years; and no cases were completed after 3 years. The majority of the investigations (83%) were completed within 6 months; and 94% were completed within a year.



**Figure 4.1 All Investigations Aging**

# OMBC Enforcement Report

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## ENFORCEMENT ACTIONS

	3Q 2017			4Q 2017			1Q 2018			2Q 2018			YTD
	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	
AG Cases Initiated	1	3	5	2	1	3	5	4	4	2	3	2	35
Acc/SOI Filed	0	1	0	3	2	2	0	2	2	2	2	2	18
Final Disciplinary Order	0	2	2	2	2	1	1	1	1	0	3	0	15
Acc W/drawn/declined	0	0	0	0	0	0	0	1	0	0	0	0	1
Closed w/out Disc Acti	0	0	0	0	0	2	0	0	0	0	0	0	2
Citations	1	0	1	1	0	0	0	0	0	1	0	0	4
Suspension Orders	0	2	0	1	0	0	0	1	1	0	0	1	6
AG Cases Pending	16	18	21	21	20	20	24	24	25	27	27	29	29

**Data Table 5: Enforcement Actions**

For all enforcement actions, Data Table 5 above breaks down the monthly totals for each disciplinary action. During this 12-month period, 35 cases were transmitted to the Attorney General’s Office for disciplinary actions; 18 Accusations and Statement of Issues were filed; 15 Final Disciplinary Orders were filed; 1 case was declined by the AG; 2 cases were closed without disciplinary action; 4 citations issued; and 6 Suspension Orders were filed. At the end of 2Q 2018 there were 29 AG cases pending.



**Figure 5.1: Enforcement Actions Totals**

## Final Disciplinary Orders Aging

Total Orders Aging	3Q 2017			4Q 2017			1Q 2018			2Q 2018			YTD
	07/17	08/17	09/17	10/17	11/17	12/17	01/18	02/18	03/18	04/18	05/18	06/18	
90 Days	0	0	0	1	0	0	0	0	0	0	1	0	2
91-180 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
181 - 1 Yr	0	0	0	0	0	0	0	1	0	0	2	0	3
1 - 2 Yrs	0	1	0	1	0	0	0	0	0	0	0	0	2
2 - 3 Yrs	0	0	1	0	1	1	0	0	0	0	0	0	3
3-4 Yrs	0	0	0	0	0	0	1	0	1	0	0	0	2
4 yrs	0	1	1	0	1	0	0	0	0	0	0	0	3
Totals	0	2	2	2	2	1	1	1	1	0	3	0	15

**Data Table 6: Final Orders Aging Matrix**

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In Data Table 6 (previous page) and Figure 6.1 we see the aging matrix of the 15 Final Disciplinary Orders that were completed during this 12-month period. The chart shows the percentage of cases distributed within each aging period. Of the 15 final disciplinary orders, 2 cases (14%) were completed in 90 days; no cases (0%) were completed within 180 days; 3 cases (20%) completed within 181-365 days; 2 cases (13%) completed within 1-2 years; 3 cases (20%) completed within 2-3 years; 2 cases (13%) completed within 3-4 years, and 3 cases (20%) completed over 4 years. Of the 15 Disciplinary Orders imposed (Figure 6.2 below), there were 4 probationary orders; 2 revocations; 2 surrenders; 6 reprimands; and 1 license denial (SOI Denied).

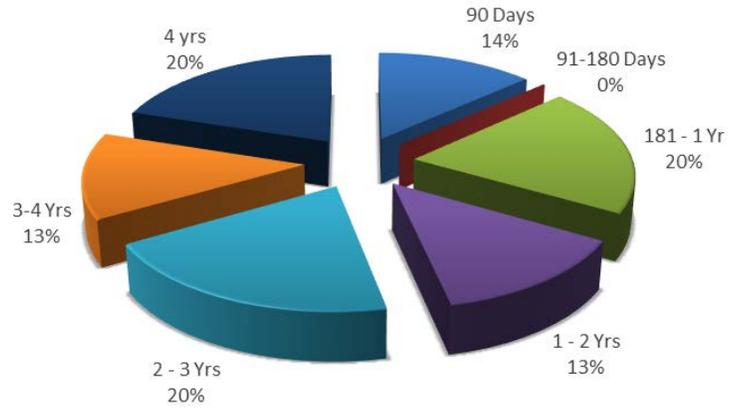


Figure 6.1: Final Orders Aging

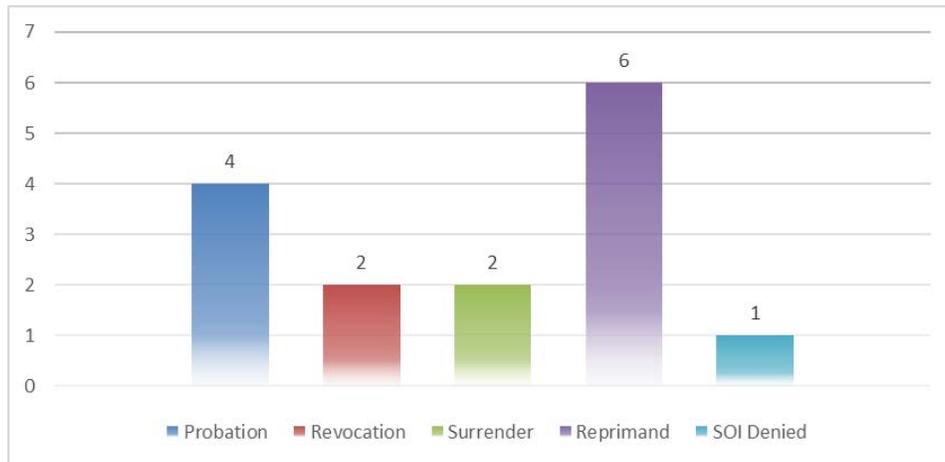


Figure 6.2: Final Disciplinary Actions Imposed

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## PERFORMANCE MEASURES

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

**Performance Measures 2: Cycle Time - Intake**



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

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



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

**Performance Measures 4: Cycle Time - Formal Discipline**



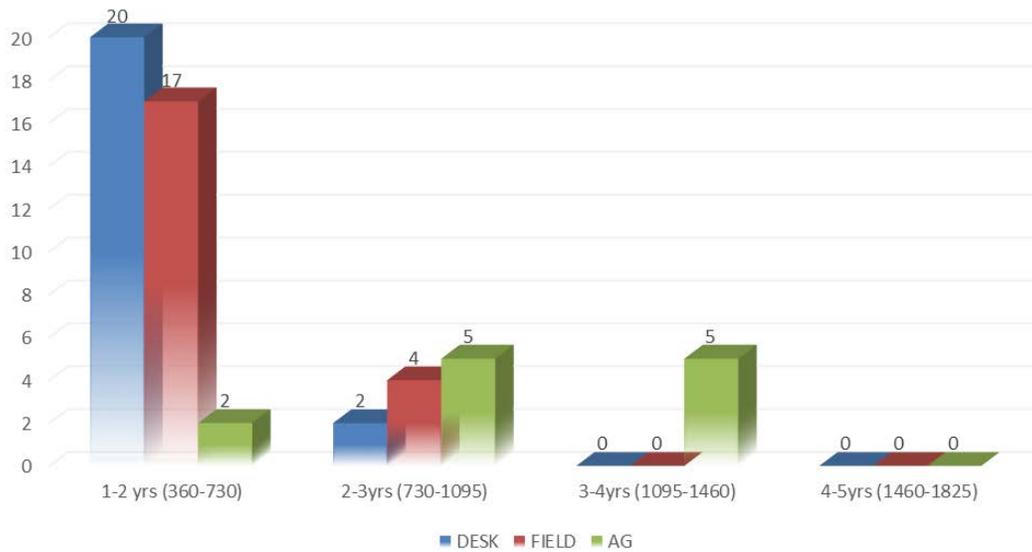
# OMBC Enforcement Report

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## PENDING CASES EXCEEDING PERFORMANCE TARGETS

For all current pending cases exceeding the Performance Targets, there are 22 desk investigations cases, 21 field investigations cases and 12 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
PM3	DESK	360 days	20	2	0	0	22	832 days
PM3	FIELD	360 days	17	4	0	0	21	1090 days
PM4	AG	540 days	2	5	5	0	12	1233 days



## PROBATION

There are currently 41 probation cases; of which 9 cases are tolled. The total cost recovery ordered is \$375,635.34. As of September 25, 2018, \$207,047.28 has been paid leaving a balance of \$168,588.06.

# TAB 5

**Section 1690 – Post Graduate Training  
License Non-Refundable Application Fee**



## MEMORANDUM

<b>DATE</b>	September 27, 2018
<b>TO</b>	Board Members
<b>FROM</b>	Terri Thorfinnson, J.D., Assistant Executive Director
<b>SUBJECT</b>	Proposed Regulatory Language for Training License Fee

**Policy Issue:** The Board needs to create a new license and fee.

**Background:** SB 798 makes several significant changes to the licensure requirements for both D.O.s and M.D.s that become effective January 1, 2020. One change is to require all applicants for initial licensure in California to complete three years of post-graduate residency in order to be eligible for licensure. Among the changes are to require all post graduates enrolled in a Board-approved postgraduate training program on January 1, 2020, to obtain a Training License by June 30, 2020 (see Business and Professions Code (BPC) section 2064.5(f)). The Training License is issued for 39 months, after which it expires and is not renewable. There will be a new application and processing fee.

There are significant costs related to implementing this mandated Training License for which the Board needs to cover through charging a fee. The Training License will increase licensing workload and enforcement workload. The number of Training License applications and processing requires additional staff. Under this Training License, the Board will have jurisdiction over residents for their entire three year residency, which will increase the Board's already overloaded enforcement workload and require additional enforcement staff. It is estimated that Breeze implementation costs are \$80,000 but will be covered through the Board's current overhead paid to DCA, so they are not included in the estimated costs.

The overall costs of implementing the Training License are estimated to be \$350,000 including two additional staff, facilities and prorata overhead. The statute allows for the Board to charge a "non-refundable application and processing fee." The Board is proposing to set a combined fee of \$400 that would cover the application and three year license. With an estimated 300 applicants each year, this fee will generate \$120,000 per year.

**Discussion:** In setting the fee, the Board should consider what would be a reasonable fee for residents and that would cover the costs of creating and maintaining this new license. Generally, the amount of fees should match the cost that are meant to cover,

which in this case would be \$350,000, but the proposed amount of \$400 would only cover \$120,000, leaving a deficit of \$230,000. In order to cover the estimated \$350,000 cost, the fee would have to be over \$1000, which, at this time, the Board considers to be too high.

In determining what is a reasonable amount, the Board considered that \$400 would cover both the application fee and license fee for a license that would last 3 years. This would be less than applicants for a full license would pay. The Board is also proposing to increase the current application fee from \$200 to \$400 to address the Board's increasing structural deficit. A recent statutory amendment, proposed by the Medical Board of California, made it impossible for the Board to simply charge an application fee and reduced license fee as they plan to do. It was determined that \$400 is a reasonable fee to charge and would cover about a third of the costs. Under the newly amended statute, the best way to comply with the statute, charge a reasonable fee and cover some of the costs, is to charge one fee—a non-refundable \$400 application and processing fee.

This fee will not cover the full expenditures of this new license nor will it assist with the Board's current structural budget deficit.

**Recommendation:** Approve proposed regulatory language for the Training License Fee.

# OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

## POST GRADUATE TRAINING LICENSE FEE PROPOSED REGULATORY LANGUAGE

The amendment format is as follows: Existing language remains unchanged; new wording is underlined; wording proposed for deletion is identified with strikeout lines.

The Osteopathic Medical Board of California hereby amends its regulations in Division 16 of Title 16 of the California Code of Regulations to read as follows:

1) Amend CCR Section 1690 of Division 16 of Title 16 of the California Code of Regulations to read as follows:

### **§1690. Fees**

The fees charged by the Board are as follows:

- (a) Physician and surgeon's original certificate application fee: \$200 (\$100 shall be returned if applicant's credentials are insufficient).
- (b) Physician and surgeon's reciprocity certificate application fee: \$200 (\$100 shall be returned if applicant's credentials are insufficient).
- (c) Physician and surgeon's training license non-refundable application and processing fee: \$400.
- ~~(e)~~(d) Duplicate certificate, name change, certification endorsement fee: \$25.
- ~~(d)~~(e) Biennial Tax and Registration fee: \$400.
- ~~(e)~~(f) Biennial Inactive Certificate: \$300.
- ~~(f)~~(g) Delinquent Tax and Registration fee: \$100.
- ~~(g)~~(h) Fictitious Name Permit fee: \$100; Renewal: \$50.

~~Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 2456.1 and 3600-1, Business and Professions Code. Reference: Sections 2435, 2454, 2455, 2456, 2456.1 and 3535, Business and Professions Code.~~

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; Sections 3600-1, 2018, 2064.5, 2456.1, Business and Professions Code. Reference: Sections 2064.5, 2451, 2455, Business and Professions Code.

**Section 1690 – Initial License Application Fee  
Increase**



**MEMORANDUM**

<b>DATE</b>	September 27, 2018
<b>TO</b>	Board Members
<b>FROM</b>	Terri Thorfinnson, J.D., Assistant Executive Director
<b>SUBJECT</b>	Proposed Regulatory Language for Initial Application Fee Increase

**Policy Issue:** Should the Board increase its application fee for an initial license?

**Background:** The Board has not raised its fees since 1995. For the past five years, the Board has been running a structural deficit—expenditures exceed revenues. It is projected that in the near future the structural deficit will erode reserves to a point that the Board will have to increase its licensing fee. The fee for the Board’s applications and licensing are authorized by statute with a ceiling amount. Within the statutory range, the Board has authority to set the fee amount in regulations. Business and Professions Code (BPC) section 2455 (a) sets the ceiling amount for initial license application fee at \$400. The current application fee for initial license is \$200. Thus, the Board has the regulatory authority to increase its initial license application fee up to \$400.

The fiscal trend shows a steadily increasing structural deficit in two years from now will increase by over a million dollar per year. The table below provides more detail of this trend. Last year the structural deficit was \$140,000. The current year its estimated to be \$482,000. Next fiscal year it is estimated to be \$1,073,000 and the following year \$1,102,000. The rapidly increasing structural deficit demonstrates a need for the Board to begin the process of increasing its fees to increase the revenue needed to cover daily operations of the Board.

This table\* shows the structural deficit and reserves.

	PY 2017-18	CY 2018-19	BY 2019-20	BY+1 2020-21
Revenues	\$2,099,000	\$2,130,000	\$2,141,000	\$2,147,000
Expenditures	\$2,239,000	\$2,690,000	\$3,214,000	\$3,249,000
Reserves	\$2,996,000	\$2,436,000	\$2,863,000	\$1,761,000
Months in Reserve	13.4	9.1	10.6	6.4

\*Most Recent Analysis of Fund Condition

From a revenue perspective licensing renewal, fees bring in the majority of the Board’s revenue compared to the other types of fees including application fees. The reason is

the application and other fees are low in number as a multiplier and thus do not amount to enough revenue to balance the budget. In terms of what fees the Board currently has the authority to increase, that is currently limited to the initial license application fee. The Board is already at the statutory maximum for the renewal licensing fee. Thus, as a start to addressing the structure deficit, the Board is proposing to increase its application fee from \$200 to \$400.

Historically, fees charged by the Board have not changed. The application fee has remained the same. The license fee was increased temporarily between 1995-1999. In 1995, the Legislature granted authority to the Board for a temporary license fee increase for two renewal cycles from \$400 to \$600, which was repealed in 1999 when the fee decreased back to \$400. Since 1999, the license fee has remained \$400.

**Discussion:** The justification for increasing the application fee is that since 1995 there has been a significant increase in the number of applicants for initial licenses, which has caused a significant increase in the licensing workload. In 1995, the board had 1380 active in-state licensees, 344 active out of state licensees, 776 in active licensees for a total of 2501 licensees. In 1995, the Board processed 143 initial applications and issued 101 licenses. In comparison, the Board currently processes approximately 900 applications per year. The workload has increased over 529% since 1995. This proposal increases the fee by 100%. Despite the steadily increasing workload, the Board's fees have not been increased to keep pace with the increasing workload.

On average the Board receives 900 applications a year, multiplied by \$400 this proposed fee increase would generate an additional \$180,000 for a total of \$360,000. This increase would not eliminate the current or future year structural deficits, but it would decrease the structural deficit.

**Recommendation:** Approve proposed regulatory language for the Initial License Fee Increase.

# OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

## LICENSE APPLICATION FEES PROPOSED REGULATORY LANGUAGE

The amendment format is as follows: Existing language remains unchanged; new wording is underlined; wording proposed for deletion is identified with strikeout lines.

The Osteopathic Medical Board of California hereby amends its regulations in Division 16 of Title 16 of the California Code of Regulations to read as follows:

1) Amend CCR Section 1690 of Division 16 of Title 16 of the California Code of Regulations to read as follows:

### **§1690. Fees**

The fees charged by the Board are as follows:

- (a) Physician and surgeon's original certificate application fee: ~~\$200~~ 400 (~~\$100~~ \$200 shall be returned if applicant's credentials are insufficient).
- (b) Physician and surgeon's reciprocity certificate application fee: ~~\$200~~ 400 (~~\$100~~ \$200 shall be returned if applicant's credentials are insufficient).
- (c) Duplicate certificate, name change, certification endorsement fee: \$25.
- (d) Biennial Tax and Registration fee: \$400.
- (e) Biennial Inactive Certificate: \$300.
- (f) Delinquent Tax and Registration fee: \$100.
- (g) Fictitious Name Permit fee: \$100; Renewal: \$50.

~~Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 2456.1 and 3600-1, Business and Professions Code. Reference: Sections 2435, 2454, 2455, 2456, 2456.1 and 3535, Business and Professions Code.~~

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; Sections 3600-1, 2018, 2455, Business and Professions Code. Reference: Sections 2455, 2456.1, Business and Professions Code.

## **Section 1659.31 – Citable Offenses**



## MEMORANDUM

<b>DATE</b>	September 27, 2018
<b>TO</b>	Board Members
<b>FROM</b>	Terri Thorfinnson, J.D., Assistant Executive Director
<b>SUBJECT</b>	Proposed Regulatory Language for Citable Offenses, Health and Safety Code Section 11165.4 CURES Mandated Use.

**Policy Issue:** There is a new CURES requirement for consulting CURES that becomes effective October 2, 2018 that needs to be added to the list of Citable Offenses for enforcement purposes.

**Background:** Pursuant to Section 11165.4 (e) of the Health and Safety Code, the Department of Justice certifies that, as of April 2, 2018, the CURES database is ready for statewide use and that the Department of Justice has adequate staff, user support, and education. **Mandatory CURES consultation becomes effective on October 2, 2018.** This the date that use of CURES becomes mandatory.

This requirement means that unless an exemption exists in law, a physician must query the CURES database and run a Patient Activity Report (PAR) on each patient the first time a patient is prescribed, ordered, or administered a Schedule II-IV controlled substance. The PAR must be run within twenty-four hours, or the previous business day, before prescribing, ordering, or administering the controlled substance. In addition, a physician must also query the database at least once every four months if the controlled substance remains a part of the patient's treatment plan. First time' is defined as the initial occurrence in which a health care practitioner intends to prescribe, order, administer, or furnish a Schedule II-IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

Consulting CURES means the physician prescribing, ordering, administering, or furnishing the Schedule II-IV controlled substance has received a Patient Activity Report (PAR) and has reviewed the information on the document. While a physician can have a registered delegate request the CURES report, the report will go into the physician's dashboard on CURES so the physician can review the PAR prior to prescribing, ordering, administering, or furnishing.

If a physician consults CURES, it is not required to note it in the patient's file; however, the Board recommends the physician do so. It is up to the physician to determine how to document that he or she consulted CURES, e.g., document it in the chart or print the report and place it in

the patient's file. The CURES Program has the ability to audit the activity of users within the system and the Board has access to this activity. The Board can receive information about non-compliance through a number of ways. The Board may receive a complaint from a patient, another licensee, or any other source that the physician is not consulting CURES as required. In addition, during the review of any investigation into a physician's care and treatment, the investigator, as part of the investigation process, will ensure CURES was consulted prior to prescribing, ordering, administering, or furnishing controlled substances as required by law.

Failing to consult CURES is a violation of the law and it could result in the issuance of a citation and fine, or could be a cause of action in an accusation that leads to disciplinary action.

For more information, please go to the Board's website  
<https://www.ombc.ca.gov/cures/index.shtml>.

**Discussion:** This proposed amendment to Title 16, California Code of Regulations Section 1659.31 would add Health and Safety Code section 11165.4 to the Board's list of "Citable Offenses." Adding this section to the list of "Citable Offenses" would provide the Board with the authority to enforce violations of this requirement. As a "Citable Offense," it is not considered disciplinary action by the Board; however, it would be an effective enforcement tool. The Department of Justice (DOJ) has their own statutory enforcement, so violators could face enforcement actions from both the DOJ and the Board. This proposal only deals with the Board's enforcement authority. The Board already has authority to cite and fine physicians and surgeons for failure to register for CURES. This would be a similar enforcement tool to ensure compliance with the use of CURES.

**Recommendation:** Approve proposed regulatory language for Citable Offenses that amends Title 16, California Code of Regulations Section 1659.31 to add Health and Safety Code section 11165.4 to the list of "Citable Offenses."

# OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

## Citable Offenses Proposed Language

Changes to the current language are shown by underlining for new text and strikethrough for deleted text.

The Osteopathic Medical Board of California hereby amends its regulations in Division 16 of Title 16 of the California Code of Regulations to read as follows:

1. Amend Section 1659.31 of Division 16 of Title 16 of the California Code of Regulations to read as follows:

### **16 CCR § 1659.31 Citable Offenses.**

The amount of any fine to be levied by the executive director shall take into consideration the factors listed in subdivision (b)(3) of Section 125.9 of the code and also the extent to which such person has mitigated or attempted to mitigate any damage or injury caused by the violation. The fine shall be within the range set forth below.

(a) The executive director may issue a citation under section 1659.30 for a violation of the provisions listed in this section. The fine for a violation of the following code sections shall not exceed \$2500, except as specified in items ~~3431~~ and ~~4138~~ below:

- (1) Business and Professions Code Section 119
- (2) Business and Professions Code Section 125
- (3) Business and Professions Code Section 125.6
- (4) Business and Professions Code Section 475(a)(1)
- ~~(5) Business and Professions Code Section 490~~
- ~~(6) Business and Professions Code Section 580~~
- ~~(7) Business and Professions Code Section 581~~
- ~~(8) Business and Professions Code Section 582~~
- ~~(9) Business and Professions Code Section 583~~
- ~~(10)~~ (5) Business and Professions Code Section 650
- (6) Business and Professions Code Section 650.1
- ~~(11)~~ (7) Business and Professions Code Section 651
- ~~(12)~~ (8) Business and Professions Code Section 654
- ~~(13)~~ (9) Business and Professions Code Section 654.1
- ~~(14)~~ (10) Business and Professions Code Section 654.2
- ~~(15)~~ (11) Business and Professions Code Section 655.5
- ~~(16)~~ (12) Business and Professions Code Section ~~655.6~~ 655.7
- ~~(17)~~ (13) Business and Professions Code Section 702
- ~~(18)~~ (14) Business and Professions Code Section 730
- ~~(19)~~ (15) Business and Professions Code Section 732

~~(20)~~(16) Business and Professions Code Section 802~~(b)~~(a)  
~~(21)~~(17) Business and Professions Code Section 802.1  
~~(22)~~(18) Business and Professions Code Section 810  
~~(23)~~(19) Business and Professions Code Section 2021  
~~(24)~~(20) Business and Professions Code Section 2052  
~~(25)~~(21) Business and Professions Code Section 2054  
~~(26)~~(22) Business and Professions Code Section 2216  
~~(27)~~(23) Business and Professions Code Section 2216.1  
~~(28)~~(24) Business and Professions Code Section 2216.2  
~~(29)~~(25) Business and Professions Code Section 2221.1  
(26) Business and Professions Code Section 2225 (e)  
(27) Business and Professions Code Section 2234(h)  
~~(30)~~(28) Business and Professions Code Section 2236  
~~(31)~~(29) Business and Professions Code Section 2238  
~~(32)~~(30) Business and Professions Code Section 2240  
~~(33)~~(31) Business and Professions Code Section 2243  
~~(34)~~(32) Business and Professions Code Section 2244 (\$1,000)  
~~(35)~~(33) Business and Professions Code Section 2250  
~~(36)~~(34) Business and Professions Code Section 2255  
~~(37)~~(35) Business and Professions Code Section 2256  
~~(38)~~(36) Business and Professions Code Section 2257  
~~(39)~~(37) Business and Professions Code Section 2259  
~~(40)~~(38) Business and Professions Code Section 2261  
~~(41)~~(39) Business and Professions Code Section 2262 (\$500)  
~~(42)~~(40) Business and Professions Code Section 2263  
~~(43)~~(41) Business and Professions Code Section 2264  
~~(44)~~(42) Business and Professions Code Section 2266  
~~(45)~~(43) Business and Professions Code Section 2271  
~~(46)~~(44) Business and Professions Code Section 2272  
(45) Business and Professions Code Section 2273  
(46) Business and Professions Code Section 2274  
(47) Business and Professions Code Section 2276  
(48) Business and Professions Code Section 2278  
~~(48)~~(49) Business and Professions Code Section 2285  
(50) Business and Professions Code Section 2286  
(51) Business and Professions Code Section 2305  
(52) Business and Professions Code Section 2400  
~~(49)~~(53) Business and Professions Code Section 2415  
(54) Business and Professions Code Section 2426  
(55) Business and Professions Code Section 2440  
~~(50)~~(56) Business and Professions Code Section 2454.5  
~~(51)~~(57) Business and Professions Code Section 2456.1  
(58) Business and Professions Code Section 2457.5  
(59) Business and Professions Code Section 3516

(60) Business and Professions Code Section 4080  
~~(52)~~(61) Business and Professions Code Section 17500  
(62) Civil Code 56.10  
(63) Health and Safety Code Section 102795  
(64) Health and Safety Code Section 102800  
(65) Health and Safety Code Section 103785  
(66) Health and Safety Code Section 109275  
(67) Health and Safety Code Section 109277  
(68) Health and Safety Code Section 109278  
(69) Health and Safety Code Section 109282  
(70) Health and Safety Code Section 11165.1 (a) (1) (A) (i)  
(71) Health and Safety Code Section 11165.4  
(72) Health and Safety Code Section 120250  
(73) Health and Safety Code Section 120370 (a)  
(74) Health and Safety Code Section 121148  
(75) Health and Safety Code Section 121362  
(76) Health and Safety Code Section 121363  
~~(53)~~(77) Health and Safety Code Section 123110  
(78) Penal Code Section 11166  
~~(54)~~(79) Title 16 Cal. Code Regs. 1604  
(80) Title 16 Cal. Code Regs. 1610.5  
~~(55)~~(81) Title 16 Cal. Code Regs. 1633  
(82) Title 16 Cal. Code Regs. 1635  
(83) Title 16 Cal. Code Regs. 1636  
(84) Title 16 Cal. Code Regs. 1641  
~~(56)~~(85) Title 16 Cal. Code Regs. 1685  
(86) Title 17 Cal. Code Regs. 2500

(b) In his or her discretion, a board official may issue a citation under Section 1659.31 to a licensee for a violation of a term or condition contained in the decision placing that licensee on probation.

~~(b)~~ (c) Notwithstanding the administrative fine amounts specified in subsection (a), a citation may include a fine between \$2501 and \$5000, if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations that demonstrate a willful disregard of the law;
4. The citation involves a violation or violations perpetrated against a senior citizen or a disabled person.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. cxiii), Section 1; Section 3600-1 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**Citations added**

BPC 650.1 Unearned rebates, refunds and discounts

BPC 655.7 Unearned Rebates, Refunds and Discounts

BPC 802(a) Failure to Report Settlements to the Board

BPC 2052 Unlicensed Practice by Physician and Surgeon (due to inactive, suspended, revoked, or delinquent and expired license)

BPC 2225 (e) Failure to Comply with Investigation

BPC 2234(h) Unprofessional Conduct

BPC 2273 Employment of Runners, Cappers or Steerers or Persons Procure Patients

BPC 2274 Improper Use of Certificate or Letters, Prefix, Affix, Suffix or Use of D.O.

BPC 2278 Using title Doctor or Dr. and Omitting Type of Certificate held

BPC 2286 Violation of Moscone-Knox Professional Corporation Act (Note: authority to cite for failure to report address change to board CCR 1604 covers Fictitious name permits cite and fine authority.)

BPC 2305 Discipline by Other State that would be Grounds for Discipline in CA.

BPC 2400 Corporate Exemption for Services Provided to Charitable Institutions

BPC 2426 Required Reporting of Financial Interests and Definition of Financial Interests

BPC 2440 Military Exemption Practice Restrictions

BPC 2457.5 Unconscionable Fee for Services

BPC 3516 Conditions and Restrictions on Physician Assistant Supervision

BPC 4080 Authority of Inspectors to Inspect Dangerous Drugs/Devices

BPC 4081 (a) All Records Pertaining to Dangerous Drugs/Devices Open to Inspection

CIV 56.10 Disclosure of Medical Information by Provider

HSC 102795 Duty of Registering Death

HSC 102800 Required Timeframe for Registering Death

HSC 103785 Vital records Requirements—Non-Compliance is Misdemeanor

HSC 109275 Failure to Inform Patients of Alternative Forms of Treatment

## Reference Sheet for OMBC Citations Added

HSC 109277 Failure to Post Sign Requiring Provider to Offer Alternative Breast Cancer Treatment

HSC 109278 Failure to Inform Patients of Symptoms and Diagnosis Methods for Gynecological Cancer

HSC 109282 Failure to Post Sign Requiring Provider to Inform Alternative Treatments for Prostate Cancer

HSC 11165.1 (a) (1) (i) CURES Registration and use requirement

HSC 11165.4 Effective October 1, 2018 Requirement to consult CURES prior to prescribing.

HSC 120250 Requirement to Report Infectious Disease to Health Officer

HSC 120370 (a) Child Immunization Exemption Requirements

HSC 123148 Patient Access to Health Records

HSC 121362 Tuberculosis Reporting Requirements to Local Health Officer

HSC 121363 Tuberculosis Examination or Referral Requirements of Household Contacts

PC 11166 Mandated Reporting for Child Abuse Note: PC section 11166.02 defines who are mandatory reporters—physicians and surgeons are mandatory reporters.

CCR 16 1610.5 Notice to Consumers

CCR 16 1635 Required CME

CCR 16 1636 CME Progress Report (self-certification form completion)

CCR 16 1641 Sanctions for Non-Compliance

CCR 17 2500 Diseases and Conditions Reportable to Local Health Officer

### **Citations Deleted**

BPC 490 Conviction of a crime—substantial relationship required

BPC 580 Selling of medical degree

BPC 581 Unlawful procurement of medical credentials

BPC 582 Use of fraudulent records

BPC 583 False statement in affidavits

BPC 2242 Prescribing drugs without a prior examination

## **Section 1663– Disciplinary Guidelines**



## MEMORANDUM

<b>DATE</b>	September 27, 2018
<b>TO</b>	Board Members
<b>FROM</b>	Terri Thorfinnson, J.D., Assistant Executive Director
<b>SUBJECT</b>	Proposed Regulatory Language for Disciplinary Guidelines

**Policy Issue:** Should Business and Profession Code (BPC) section 2052 be considered a serious enough violation to be subject to disciplinary action by the Board.

**Background:** At the May 17, 2018 Board meeting, the issue was raised for the Board to consider whether BPC section 2052 should be a citable offense and/or subject to disciplinary action. There were two recommendations: 1) Make BPC section 2052 only a disciplinary action and remove it from the list of citable offenses; 2) Keep BPC section 2052 as a citable offense and add it to the Disciplinary Guidelines. The decision was delayed pending research and determination by the Board's Legal Counsel. The Board's Legal Counsel has determined that a violation of BPC 2052 can be both a citable offense and subject to disciplinary action by the Board. The proposed language for your consideration adds this violation to the Disciplinary Guidelines.

Unlicensed practice of medicine poses a risk to public safety. The Legislature has made unlicensed practice of medicine a crime and an administrative violation. Unlicensed practice of medicine by non-physicians and surgeons posing as physician and surgeons is both an administrative violation and it is a criminal action. The Board only has jurisdiction to enforcement administrative code violation, but not criminal offenses—that is within the jurisdiction of District Attorneys throughout the state. If a person is unlicensed, the Board lacks jurisdiction to bring disciplinary action against the person; however, the Board through the Executive Director can issue citation, fines and abatement orders as a means to stop the person from practicing medicine without a license.

BPC 2052 is an administrative violation by a physician and surgeon who is trained but unlicensed at the time of practicing medicine due to their license expiration, delinquency, suspension, surrender, revocation or is inactive license status. BPC 2052 also makes it a violation for a physician and surgeon to aid and abet a non-licensed person to practice medicine. Depending on the circumstances, the Board may want to discipline him or her rather than issuing a citation, fine and abatement order. In order to have authority to do this, the Board would need to add this section to their Disciplinary Guidelines.

**Discussion:**

From a public safety perspective, there is more risk to public safety for an untrained person to practice medicine without a license than a trained but unlicensed physician and surgeon. However, it is also a risk to public safety for a trained but unlicensed physician and surgeon to practice medicine. In the case of a physician and surgeon who has had his or her license revoked or has chosen to surrender it as a result of a disciplinary action, it is a serious risk to public safety for that physician and surgeon to practice medicine. In the case of a physician and surgeon who chooses to be inactive or is delinquent, it is a risk to public safety to have that physician and surgeon practice medicine and not be up to date with their continuing medical education. Continued competency is not only required by law, it is seen as a way to ensure that physicians and surgeon remain competent through continued learning.

This Board has a choice in determining this policy, it can keep BPC 2052 as just a citable offense or also add it to the Disciplinary Guidelines. The advantage to having this violation be both a citable offense and a violation subject to disciplinary action is that it provides the Board with greater enforcement flexibility in determining the appropriate disciplinary or non-disciplinary action for each case. For less egregious cases, the Executive Director can issue a citation, fine and abatement order; for more egregious cases, the Board can determine the appropriate discipline. Additionally, the Board may lack jurisdiction over unlicensed persons or physicians and surgeons and would only have authority to issue citations, fines and abatement orders.

In cases that the Board has jurisdiction, the Board may want to deter anyone from ignoring compliance with CME requirements by disciplining physicians and surgeons who ignore the CME and licensure requirements and continue practicing without a license. Disciplining physicians and surgeons who ignore licensing requirements may function as a deterrent for others who may think they will not be caught or disciplined. Each case varies and it is helpful for the Board to have the greatest latitude in determining the appropriate action.

Amending the Disciplinary Guidelines to add BPC 2052 (on page 31 of Disciplinary Guidelines) is the only change proposed. The Board approved the rest of the Disciplinary Guidelines at the May 17, 2018 Board meeting.

**Recommendation:** Approve proposed regulatory language that adds BPC 2052 to the Board's Disciplinary Guidelines.

**OSTEOPATHIC MEDICAL BOARD**  
**OF CALIFORNIA**  
**DISCIPLINARY GUIDELINES**



***Revised: (OAL to insert effective date)***

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The Osteopathic Medical Board of California (Board) is a consumer protection agency with the primary mission of protecting consumers of osteopathic physician and surgeon services within the State of California. In keeping with its mandate, the Board has adopted the following recommended guidelines for disciplinary orders and model terms and conditions of probation for violations of the Osteopathic and Medical Practice Acts.

The Disciplinary Guidelines are designed for use by administrative law judges (ALJs), attorneys, the Board, and others involved in the disciplinary process.

In addition, the guidelines incorporate relevant factors to be considered by the Board when imposing discipline upon a licensee, including consideration of probationary terms and conditions, and discipline guidelines for specific offenses.

The terms and conditions of probation are divided into two general categories:

Standard Terms and Conditions are those terms and conditions, which will generally appear in all cases involving probation.

Optional Terms and Conditions are those terms and conditions, which may be used to address the sustained violations and any significant mitigating or aggravating circumstances of a particular case.

### **ORGANIZATION OF DISCIPLINARY GUIDELINES**

The Disciplinary Guidelines consist of four parts:

**I. Board Policies and Guidelines** –an overview of the purpose and organization of these guidelines as well as relevant factors and considerations that ALJs and other users of the guidelines should take into account when a disciplinary matter is being resolved;

**II. Diversion Program** – for those licensees with a violation related to alcohol and/or a controlled substance, or whose license is on probation due to a substance abuse violation;

**III. Model Disciplinary Orders** – language for proposed terms and conditions of probation; and

**IV. Discipline Guidelines** - contains recommended penalties and is organized by violation.

### **GENERAL CONSIDERATIONS**

Each disciplinary matter must be considered on a case-by-case basis. The Board should carefully consider the totality of the circumstances of each disciplinary case, including any mitigating or aggravating factors present.

If at the time of hearing, the ALJ finds that the respondent or applicant, for any reason, is not capable of safe practice, the Board expects outright revocation or denial of the license.

### **Proposed Decisions**

The Board requests that Proposed Decisions include the following:

1. Specific code section(s) violated.
2. Clear description of the acts or omissions that constitute a violation.
3. Respondent's explanation of the violation in the Findings of Fact if he/she is present at the hearing.
4. Findings regarding aggravation, mitigation, and rehabilitation, where appropriate.
5. Explanation for deviation from the Board's Disciplinary Guidelines, if any.

In determining whether revocation, suspension, or probation is to be imposed in a given case, the following factors should be considered:

1. Nature and severity of the act(s), offense(s), or crimes(s) under consideration.
2. Actual or potential harm to any consumer, client, or the general public.
3. Prior disciplinary record.
4. Number and/or types of current violations.
5. Mitigation or Aggravation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court- ordered probation.
8. Overall criminal record.
9. Time passed since the acts(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement and/or regulatory agencies.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

### **Reinstatement/Reduction of Disciplinary Hearings**

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Petition for Reinstatement or Modification of Discipline set forth in California Code of Regulations, Title 16, Section 1657; and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board will not retry the original revocation or probation case. The Board will consider, pursuant to Section 1657, the following criteria of rehabilitation:

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

The Board requests that comprehensive information be elicited from the petitioner regarding his or her

rehabilitation. The petitioner should provide details that include:

- A. Why the discipline should be modified or why the license should be reinstated.
- B. Specifics of rehabilitative efforts and results which should include programs, psychotherapy, medical treatment, etc., and the duration of such efforts.
- C. Continuing education pertaining to the offense and its effect on his or her practice of medicine.
- D. If applicable, copies of court documents pertinent to conviction, including documents specifying conviction and sanctions, and proof of completion of sanctions.
- E. If applicable, copy of Certificate of Rehabilitation or evidence of expungement proceedings.
- F. If applicable, evidence of compliance with and completion of terms of probation, parole, restitution, or any other sanctions.

Rehabilitation is evaluated according to an internal subjective measure of attitude (state of mind) and an external objective measure of conduct (state of facts). The state of mind demonstrating rehabilitation is one that has a mature, measured appreciation of the gravity of the misconduct and remorse for the harm caused. Petitioner must take responsibility for the misconduct and show an appreciation for why it is wrong. Petitioner must also show a demonstrated course of conduct that convinces and assures the Board that the public would be safe if petitioner is permitted to be licensed to practice medicine. Petitioner must show a track record of reliable, responsible, and consistently appropriate conduct.

In the Petition Decision, the Board requests a summary of the offense and the specific codes violated that resulted in the revocation, surrender, or probation of the license. If the Board should deny a request for reinstatement of licensure or disciplinary relief, the Board requests that the ALJ provide technical assistance in the formulation of language clearly setting forth the reasons for denial. Such language would include methodologies or approaches that demonstrate rehabilitation. If a petitioner fails to appear for his or her scheduled reinstatement or disciplinary relief hearing, the Board has the discretion to proceed without the petitioner to render a decision or to allow inaction to result in a default decision to deny reinstatement of the license or registration or reduction of disciplinary action.

~~In the Petition Decision, the Board requires a summary of the offense and the specific codes violated that resulted in the revocation, surrender, or probation of the license. If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.~~

## **DEFINITIONS**

**Revocation:** The license is revoked as a result of disciplinary action rendered by the Board. No practice is permitted and practice must cease. Once the license is revoked, respondent may take affirmative action to petition the Board for reinstatement of his/her license and demonstrate to the Board's satisfaction that he/she is rehabilitated pursuant to the Board's applicable regulations.

**Suspension:** Invalidation of a license for a temporary, fixed period. The licensee must cease practice immediately and is not permitted to practice during any period of suspension.

**Stayed Revocation:** Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation order. The stay of revocation is conditioned on full compliance with the terms and conditions of probation.

**Stayed Suspension:** Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation order. The stay of a suspension order is conditioned on full compliance with the terms and conditions of probation.

**Probation:** A period of time during which a respondent's discipline is stayed in exchange for respondent's compliance with specified terms and conditions set forth in the order relating to the violation(s).

**Diversion Program**

There are two pathways into the Board's drug and alcohol recovery monitoring program:

1) Participants with drug and/or alcohol issues who have self-referred to the program and are not under a disciplinary order;

2) Participants who have been ordered into the Board's Diversion Program as a result of violations related to drug and/or alcohol use.

**Self-Referrals**

A licensee can enroll in the Board's Diversion program at any time. In these self-referral cases, the Board may not have any conviction related information, or evidence of alcohol or substance abuse to warrant disciplinary action. When a licensee enrolls in the Board's Diversion program as a self-referral, the participation is confidential. Each licensee who requests participation in the Diversion program shall agree to cooperate with the Board's Diversion program designed for him or her. Any failure to comply with the program may result in the licensee's termination of participation in the program.

If a self-referred participant is determined to be too great a risk to the public health, safety, and welfare to continue practicing, the facts shall be reported to the Board's Executive Director and all documents and information pertaining to and supporting that determination shall be provided to the Executive Director. The matter may be referred for investigation and disciplinary action by the Board.

**Probationary Participants**

Probationary participants are required to comply with terms and conditions of probation or otherwise risk losing their license. A clinical diagnostic evaluation will be ordered as a term of probation.

Model Disciplinary Orders are divided into three categories. The first category consists of **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements. The second category consists of the **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Disciplinary Guidelines depending on the nature and circumstances of each particular case.

### **STANDARD TERMS AND CONDITIONS OF PROBATION**

The ten standard terms and conditions generally appearing in every probation case are as follows:

- (1) Obey all Laws
- (2) Quarterly Reports
- (3) Probation Surveillance Program
- (4) Interviews with Medical Consultants
- (5) Cost Recovery
- (6) License Surrender
- (7) Probation Violation/Completion of Probation
- (8) Notification to Board of Employers; Notification to Employers of Discipline
- (9) Supervision of Physician Assistants and Advanced Practice Nurses

### **Specific Language for Standard Terms and Conditions of Probation**

#### **1. Obey all Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

#### **2. Quarterly Reports**

Respondent shall submit quarterly reports to the Board using the Quarterly Declaration Report of Compliance Form, OMB 10 (5/97) (1/19), which is hereby incorporated by reference, declaring under penalty of perjury whether there has been compliance with all the conditions of probation.

#### **3. Probation Surveillance Program**

Respondent shall comply with the Board's probation surveillance program. Respondent shall, at all times, keep the Board informed of his or her addresses of Business and residence, which shall both serve as addresses of record for purposes of service of process. Changes of such addresses shall be immediately communicated in writing to the Board. A

post office box shall not be permitted to serve as an address of record.

Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California, which lasts, or is contemplated to last, more than thirty (30) calendar days.

#### **4. Interviews with Medical Consultants**

Respondent shall appear in person for interviews with the Board's medical consultants upon request at various intervals and with reasonable notice.

#### **5. Cost Recovery**

Respondent shall reimburse the Board the amount \$ \_\_\_\_\_ [insert amount] within 90 calendar days from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

#### **6. License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her certificate to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

#### **7. Tolling for Out-of-State Practice or In-State Non- Practice (Inactive)**

In the event respondent shall leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Board or its designee in writing within ten (10) calendar days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Section 2051 and /or 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Board or its designee in or out of the state shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of

non- practice within California, as defined in this condition will extend the probationary period by the period of out-of-state residence or non-practice. Respondent's period of non-practice while on probation shall not exceed two (2) years.

#### **8. Probation Violation/Completion of Probation**

If respondent violates probation in any respect, the Board may revoke probation and carry out the disciplinary order that was stayed after giving respondent notice and opportunity to be heard. If an Accusation and/or Petition to revoke is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be automatically extended until the matter is final. Respondent shall comply with all financial obligations (e.g., cost recovery) no later than 60 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's license will be fully restored.

#### **9. Notification to Board of Employers; Notification to Employers of Discipline**

Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers, and supervisors and shall give specific written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

Respondent shall notify any employer of the terms of this probation by providing a copy of this decision to each and every employer within 30 calendar days of this effective date of the decision, asking each employer to acknowledge receipt in writing, and submitting such acknowledgement to the Board.

#### **10. Supervision of Physician Assistants and Advanced Practice Nurses.**

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

### **OPTIONAL TERMS AND CONDITIONS OF PROBATION**

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

- (11) Suspension
- (12) Controlled Drugs – Total Restriction
- (13) Controlled Drugs – Surrender of DEA Permit
- (14) Controlled Drugs – Partial Restriction
- (15) Controlled Drugs – Maintain Record
- (16) Pharmacology/Prescribing Course

- (17) Record Keeping Course
- (18) Education Course
- (19) Professional Boundaries Course
- (20) Medical Ethics Course
- (21) Clinical Assessment and Training Program
- (22) Written Examination
- (23) Third-Party Presence
- (24) Prohibited Practice
- (25) Psychiatric Evaluation
- (26) Psychotherapy
- (27) Physical Health Evaluation
- (28) Medical Treatment
- (29) Community Service
- (30) Restitution
- (31) Monitoring – Billing/Practice
- (32) Solo Practice Prohibition/Supervised Structure

#### **11. Suspension**

Respondent shall be suspended from the practice of medicine for [insert] \_\_\_\_\_ beginning \_\_\_\_\_ the effective date of this decision.

[Optional: Respondent shall be suspended from the practice of medicine until terms [insert] \_\_\_\_\_ are completed and evidence of the completion is received and acknowledged by the Board.]

#### **12. Controlled Drugs: Total Restriction**

Respondent shall not prescribe, administer, dispense, order or possess any controlled substances as defined in the California Uniform Controlled Substance Act (Act) except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

#### **13. Controlled Drugs: Surrender of DEA Permit**

Respondent is prohibited from practicing medicine until respondent provides documentary proof to the Board or its designee that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any triplicate prescription forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board.

#### **14. Controlled Drugs: Partial Restriction**

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Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined in the California Uniform Controlled Substance Act, except for those drugs listed in Schedule(s) [insert] of the Act and prescribed to respondent for a bona fide illness or condition by another practitioner.

**(OR)**

Respondent is permitted to prescribe, administer, dispense or order controlled substances list in schedules [ insert ] of the California Uniform Controlled Substances Act for inpatients in a hospital setting, and not otherwise.

**NOTE:** Use the following additional paragraph only if there is an actual elimination of the authority to prescribe a Scheduled Controlled Substance.

**[OPTION]**

Respondent shall immediately surrender his/her current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order.

#### **15. Controlled Drugs: Maintain Record**

Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: (1) the name and address of the patient; (2) the date; (3) the character and quantity of the controlled substances involved; and (4) the pathology and purpose for which the controlled substance was furnished. Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

#### **16. Pharmacology/Prescribing Course**

Within 60 calendar days of the effective date of this decision, Respondent shall enroll in a course in Pharmacology/Prescribing practices course equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ("Program"), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course no later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the

course within one (1) year of enrollment. The prescribing practices/pharmacology course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirement for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board.

Respondent shall submit written evidence of successful completion of the course to the Board within fifteen (15) calendar days after successful completion.

### **17. Record Keeping Course**

Within 60 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in record keeping which respondent shall successfully complete during the first year of probation. All courses shall be at the respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of the condition if the course would have been approved by the Board.

Respondent shall submit written evidence of successful completion of the course to the Board with fifteen (15) calendar days after successful completion.

### **18. Education Course**

Within 90 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course and enroll in the approved educational course(s) related to the violations charged in the Accusation that would be equivalent to similar courses offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ("Program"), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course no later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of probation enrollment. All courses shall be at

the respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

An education course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of the condition if the course would have been approved by the Board.

Respondent shall submit written evidence of successful completion of the course to the Board with fifteen (15) calendar days after successful completion.

#### **19. Professional Boundaries Course**

Within 90 calendar days of the effective date of this decision, respondent, with prior approval from the Board, shall enroll in a Board approved Professional Boundaries course related to the violations charged in the Accusation that would be equivalent to similar courses offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ("Program"), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course no later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of probation enrollment. All courses shall be at the respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A Professional Boundaries course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of the condition if the course would have been approved by the Board.

Respondent shall submit written evidence of successful completion of the course to the Board with fifteen (15) calendar days after successful completion.

#### **20. Medical Ethics Course**

Within 60 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in medical ethics which respondent shall successfully complete during the first year of probation. All courses shall be at the respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Respondent shall submit written evidence of successful completion of the course to the Board with fifteen (15) calendar days after successful completion.

## **21. Clinical Assessment and Training Program**

Within 90 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval, an intensive clinical assessment and training program equivalent to the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine. The exact number of hours and the specific content of the program shall be determined by the Board or its designee and shall be related to the violations charged in the Accusation. Respondent shall successfully complete the program within six (6) months from the date of enrollment and may be required to pass an examination administered by the Board or its designee related to the program's contents.

The program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of respondent's physical and mental health, basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the area of practice to which the violation(s) related and, at a minimum, a 40 hour program of clinical education in the area of practice to which the violations related and that takes into account the assessment, decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the program.

Based upon respondent's performance and test results in the assessment and clinical education, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional education or training, treatment needed for any medical or psychological condition, or anything else affecting respondent's practice of medicine. Respondent shall comply with the recommendations of the program.

The Board may immediately order respondent to cease the practice of medicine without a hearing if the respondent should fail to enroll, participate in, or successfully complete the program within the time specified. The respondent may not resume the practice of medicine until enrollment or participation in the program is complete.

Respondent shall submit written evidence of successful completion of the program to the Board within fifteen (15) calendar days after successful completion.

### **OPTION # 1: Condition Precedent**

Respondent shall not practice medicine until respondent has successfully enrolled, participated in, completed, and submitted written evidence of successful completion to the Board and the Board has confirmed receipt of such evidence of completion.

**NOTE:** The condition precedent option is preferred in all cases where the physician's fitness to practice should be evaluated.

**OPTION #2: Additional Professional Enhancement Program**

Within 60 calendar days after respondent has successfully completed the clinical assessment and training program, respondent shall participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in such professional enhancement program at the respondent's own expense during the term of probation, or until the Board, or its designee, determines that further participation is no longer necessary.

**22. Written Examination**

Within 60 calendar days of the effective date of this decision, (or upon completion of the required education course) (or upon completion of the required clinical training program) respondent shall take and pass a written examination administered by the Board or its designee. The written exam will be the COMVEX. If respondent fails this examination, respondent must wait three months between re-examinations, except that after three failures respondent must wait one year to take each necessary re-examination thereafter. The respondent shall pay the costs of all examinations.

**(Use either of the following two options with the above paragraph.)**

**OPTION # 1: Condition Precedent**

Respondent shall not practice medicine until respondent has passed this examination and has been so notified by the Board in writing.

**Note:** The condition precedent option is preferred in all cases involving findings of gross negligence or incompetence or repeated acts of negligence where the physician's fitness to practice should be evaluated before he/she may practice, or any other case where public protections requires confirmation of respondent's skills prior to a return to practice medicine.

**OPTION #2: Condition Subsequent**

If respondent fails to take and pass this examination by the end of the first six (6) months of probation, respondent shall cease the practice of medicine until this examination has been successfully passed and respondent has been so notified by the Board in writing.

### **23. Third-Party Presence**

During probation, respondent shall have a third-party present while examining or treating [insert: male, female, minor] patients. Respondent shall, within 30 calendar days of the effective date of the decision, submit to the Board or its designee for its approval name(s) of persons who will act as the required third-party present. The respondent shall execute a release authorizing the third-party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis.

The respondent shall provide written notice to respondent's patients that the respondent is on probation and as a condition of probation the respondent must have a third-party monitor that shall be present during all consultations, examinations, or treatment with [insert: male, female or minor] patients. The patient must sign the notice acknowledging receipt of the notice and the respondent shall maintain a copy of the original notification in the patient's file; and shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain notification for the entire term of probation. The practice monitor shall inspect all patient files and confirm in a report to the Board the status of compliance with such notice and maintenance of signed acknowledgement in patient's file.

**NOTE:** Sexual contact, as defined in Business and Professions Code (BPC) Section 729, and BPC Section 2246 requires revocation without stay of probation. Additionally, Title 16 of the California Code of Regulations, Section 1663(b), requires revocation without stay of probation. This term should be used where public protection requires monitoring of a licensee's contact with specific patient populations.

### **24. Prohibited Practice**

During probation, respondent is prohibited from practicing [insert practice prohibition] .

### **25. Psychiatric Evaluation**

Within 30 calendar days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychiatric evaluation by a Board appointed psychiatrist who shall furnish a psychiatric report to the Board or its designee. The respondent shall pay the cost of the psychiatric evaluation.

In the event further treatment is recommended by the evaluating psychiatrist to ensure public protection, respondent may be required by the Board or its designee to undergo psychiatric treatment. Respondent shall within 30 calendar days of notice by the Board,

submit to the Board for its prior approval the name and qualification of a psychiatrist of respondent's choice to provide the further treatment. Upon approval of the treating psychiatrist, respondent shall undergo and continue psychiatric treatment until further notice from the Board. Respondent shall have the treating psychiatrist submit quarterly status reports to the Board indicating whether or not the respondent is capable of practicing medicine safely.

**(OPTIONAL)**

Respondent shall not engage in the practice of medicine until further notified by the Board of its determination that respondent is mentally fit to practice safely.

**26. Psychotherapy**

Within 60 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluation by a Board appointed psychiatrist. Respondent shall pay all costs of the psychotherapy and the psychiatric evaluation.

**NOTE:** This condition is for those cases where the evidence suggests that the respondent has been impaired.

**27. Physical Health Evaluation**

Within 30 calendar days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a physical health evaluation by a Board appointed physician who shall furnish a medical report to the Board or its designee. Respondent shall pay all costs of the physical health evaluation.

In the event further treatment is recommended by the evaluating physician to ensure public protections, respondent may be required by the Board or its designee to undergo such further treatment. Respondent shall, within 30 calendar days of the written notice by the Board, submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician, respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall pay the cost of such medical treatments.

**(OPTIONAL)**

Respondent shall not engage in the practice of medicine until notified by the Board of its

determination that respondent is medically fit to practice safely.

**28. Medical Treatment**

Within 60 calendar days of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of physician of respondent's choice. Upon approval, respondent shall undergo and continue until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports of the periodic medical evaluations. Respondent shall pay the costs of such medical treatments. Respondent shall comply with any treatment recommended by the physician that the physician determines is required to ensure that respondent may continue to practice safely.

**29. Community Service**

Within 60 calendar days of the effective date of this decision, respondent shall submit to the Board for its prior approval a community service program, in which respondent provides free medical services on a regular basis to a community or charitable facility or agency for at least [ insert ] hours a month for the first [insert ] months of probation.

**NOTE:** Not for quality of care issues.

**30. Restitution**

Respondent shall provide restitution to [insert] in the amount of [insert] prior to the completion of the first year of probation.

**31. Monitoring: Practice/Billing**

Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board or its designee for prior approval a [insert: practice, billing or practice and billing monitor(s)], the names and qualifications of one or more licensed physicians (D.O. or M.D.) whose licenses are valid and in good standing. A monitor shall have no prior business relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to be neutral and objectively monitor the respondent. Respondent shall pay for all monitoring costs. The monitor shall be provided with copies of all decision(s), accusation(s) and other information deemed relevant by the Board or its designee. Failure to comply with this term and condition may result in an automatic order from the Board for the Respondent to cease the practice of medicine until such a monitor has been approved by the Board.

### **32. Solo Practice Prohibition/Supervised Structure**

Within 30 calendar days of the effective date of this decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a licensed physician (D.O. or M.D.) whose license is valid and in good standing and who will supervise the respondent. Respondent shall not engage in the solo practice of medicine, and shall be employed as a physician, in which there is a supervised structure and environment, and wherein respondent reports to directly to another licensed physician (D.O. or M.D.). The Respondent shall pay all costs incurred by supervision of the respondent by the licensed physician.

Notice of changes to the Respondent's employment or nature of practice shall be provided to the Board or its designee within five (5) calendar days of such change. Respondent shall cease the practice of medicine when the respondent is no longer in a supervised environment. The Respondent shall not engage in the practice of medicine until such time as the Board appoints another licensed physician to supervise the Respondent.

### **33. Diversion Program: Alcohol and Drugs**

Within thirty (30) calendar days of this decision, respondent shall enroll and participate in the Board's Diversion Program until the Board determines that further treatment and rehabilitation is no longer necessary. Failure to comply with the requirements of the Diversion program, quitting the Diversion Program without the Board's permission, or being expelled from the program for cause shall constitute a violation of probation by respondent. Respondent's probation shall be automatically extended until respondent successfully completes the program.

Respondent shall comply with all components of the Board's Diversion program. Respondent shall sign a release authorizing the Board's Diversion program to report all aspects of participation of the Diversion program as requested by the Board or its designee. Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.

### **34. Abstain from Controlled Substances**

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

### **35. Abstain from Use of Alcohol**

Respondent shall completely abstain from the intake of alcohol during the period of probation.

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Osteopathic Medical Board of California and the appropriate range of discipline for each violation. Each disciplinary action listed is followed in parenthesis by a number, which corresponds with a number under Part III (Model Disciplinary Orders). Optional terms and conditions listed are those the Board deems most appropriate for the particular violation; optional terms and conditions not listed as potential minimum penalties, should nonetheless be imposed where appropriate.

If there are deviations from the guidelines in a Proposed Decision, the Board requires that the ALJ hearing the case include an explanation of the deviations, including all mitigating factors considered by the ALJ in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

### **STANDARD OF CARE VIOLATIONS**

#### **BPC §2234(b) GROSS NEGLIGENCE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Pharmacology/Prescribing Course [if warranted] (16)
4. Written Examination (22)
5. Clinical Assessment and Training Program (21)
6. Monitor: Practice/ Billing (31)
7. Solo Practice Prohibition/ Supervised Structure (32)
8. Prohibited Practice (24)
9. Medical Ethics Course (20)

#### **BPC §2234 (c) REPEATED NEGLIGENT ACTS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Pharmacology/Prescribing Course [if warranted](16)
4. Written Examination (22)
5. Clinical Assessment and Training Program (21)
6. Monitor: Practice/ Billing (31)
7. Solo Practice Prohibition/ Supervised Structure (32)
8. Prohibited Practice (24)
9. Medical Ethics Course (20)

### **BPC §2234 (d) INCOMPETENCE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Pharmacology/Prescribing Course [if warranted] (16)
4. Written Examination (22)
5. Clinical Assessment and Training Program (21)
6. Monitor: Practice/ Billing (31)
7. Solo Practice Prohibition/ Supervised Structure (32)
8. Prohibited Practice (24)
9. Medical Ethics Course (20)

### **BPC §725 EXCESSIVE PRESCRIBING OR TREATMENTS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions and

1. Controlled Drugs: Total DEA restriction (12)
2. Controlled Drugs: Surrender DEA permit(13)
3. Controlled Drugs: Partial DEA Restriction (14)
4. Controlled Drugs: Maintain Records (15)
5. Pharmacology/ Prescribing Course (16)
6. Education Course (18)
7. Written Examination (22)
8. Clinical Assessment and Training Program(21)
9. Monitoring: Practice/Billing (31)
10. If warranted, suspension: 30 calendar days or more (11)

### **BPC §820 MENTAL OR PHYSICAL ILLNESS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Psychiatric Evaluation/Psychotherapy (25),(26) 2. Physical Health Evaluation (27)
3. Written Examination (22)
4. Solo Practice Prohibition/Supervised Environment (32)
5. Prohibited Practice (24)
6. Monitoring: Practice/Billing (31)

7. Clinical Assessment and Training Program (21)

**BPC §2241 FURNISHING DRUGS TO AN ADDICT**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

If warranted,

1. Suspension: 10 calendar days or more (11)
2. Pharmacology/ Prescribing Course (16)
3. Education Course (18)
4. Clinical Assessment and Training Program (21)
5. Medical Ethics Course (20)
6. Controlled Drugs: Total DEA Restriction (12)
7. Controlled Drugs: Surrender of DEA Permit (13)
8. Controlled Drugs: Partial DEA Restriction (14)
9. Controlled Drugs: Maintain Record (15)
10. Psychiatric Evaluation/Psychotherapy (25),(26)
11. Monitor: Practice (31)

**BPC §2242 PRESCRIBING DRUGS WITHOUT PRIOR EXAMINATION**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 10 calendar days or more (11)
2. Pharmacology/ Prescribing Course (16)
3. Education Program (18)
4. Clinical Assessment and Training Program (21)
5. Medical Ethics Course (20)
6. Controlled Drugs: Total DEA Restriction (12)
7. Controlled Drugs: Surrender of DEA Permit (13)
8. Controlled Drugs: Partial DEA Restriction (14)
9. Controlled Drugs: Maintain Record (15)
10. Psychiatric Evaluation/Psychotherapy (25),(26)
11. Monitor: Practice (31)

**BPC §2250 FAILURE TO COMPLY WITH STERILIZATION CONSENT PROVISIONS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Education Course (18)
2. Pharmacology /Prescribing Course [if warranted] (16)
3. Written Examination (22)

4. Clinical Assessment and Training Program (21)
5. Monitor: Practice/ Billing (31)
6. Solo Practice Prohibiting/Supervised Structure (32)
7. Prohibited Practice (24)
8. Medical Ethics Course (20)

#### **BPC §2251 USE OF SILICONE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Pharmacology/ Prescribing Course (16)
3. Education Program (18)
4. Clinical Assessment and Training Program (21)
5. Medical Ethics Course (20)
6. Prohibited Practice [if warranted] (24)

#### **BPC §2252 ILLEGAL CANCER TREATMENT**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Pharmacology/ Prescribing Course (16)
3. Education Program (18)
4. Clinical Assessment and Training Program (21)
5. Medical Ethics Course (20)
6. Monitor: Practice/ Billing (31)
7. Prohibited Practice (24)
8. Solo Practice Prohibition/ Supervised Structure (32)

#### **BPC §2306 PRACTICE DURING SUSPENSION**

Maximum Discipline: Revocation

Minimum Discipline: Revocation

#### **BPC §2305 DISCIPLINE BY ANOTHER STATE OR FEDERAL AGENCY**

Minimum discipline: add actual period of suspension

Maximum discipline: impose stayed disciplinary action

## **SUBSTANCE ABUSE**

### **BPC §2239 SELF ABUSE OF DRUGS OR ALCOHOL**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 10 calendar days or more (11)
2. Controlled Drugs: Total DEA Restriction (12)
3. Controlled Drugs: Surrender of DEA Permit (13)
4. Controlled Drugs: Partial DEA Restriction (14)
5. Controlled Drugs: Maintain Record (15)
6. Psychiatric Evaluation/Psychotherapy (25), (26)
7. Monitor: Practice (31)
8. Medical Ethics Course (20)
9. Diversion Program (33)
10. Abstain from Controlled Substances (34)
11. Abstain from Alcohol (35)

### **BPC §2280 INTOXICATION WHILE TREATING PATIENTS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions,

1. Suspension: 10 calendar days or more (11)
2. Controlled Drugs: Total DEA Restriction (12)
3. DEA: Surrender of DEA Permit (13)
4. Controlled Drugs: Partial DEA Restriction (14)
5. Controlled Drugs: Maintain Record (15)
6. Psychiatric Evaluation/ Psychotherapy (25),(26)
7. Monitor Practice (31)
8. Medical Ethics Course (20)
9. Diversion Program (33)
10. Abstain from Controlled Substances (34)
11. Abstain from Alcohol(35)

## **CRIMINAL**

### **BPC §726 SEXUAL MISCONDUCT**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 10 years probation, standard terms and conditions, and

1. Suspension: 90 business days or more(11)
2. Education Course (18)

3. Clinical Assessment and Training Program (21)
4. Psychiatric Evaluation/Psychotherapy (25),(26)
5. Third-Party Presence (23)
6. Professional Boundaries Course (19) 7. Medical Ethics Course (20)

Note: If violation constitutes sexual contact or sexual exploitation, revocation must be ordered and not stayed. Sexual exploitation, as specified in BPC Section 2246 requires revocation without stay of probation.

### **BPC §729 SEXUAL EXPLOITATION**

Maximum Discipline: Revocation

Minimum Discipline: Revocation

Note: Pursuant to BPC Section 2246 and Title 16, California Code of Regulations, Section 1663.2 and This cause of action is grounds for revocation. Revocation may not be stayed by the Administrative Law Judge or Board.

### **BPC §810 INSURANCE FRAUD**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11) 2. Education Course (18)
3. Clinical Assessment and Training Program (21) 4. Monitor: Practice/Billing (31)
5. Solo Practice Prohibition/Supervised Structure (32) 6. Medical Ethics Course (20)
7. Restitution (30)

Note: Suspension or revocation may be mandated by law's provision. See Business and Professions Code Section 810 subdivision (c).

### **BPC §2236 CRIMINAL CONVICTION: FELONIES/MULTIPLE MISDEMEANORS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Psychiatric Evaluation/Psychotherapy (25),(26) 3. Education Course (18)
4. Clinical Assessment and Training Program (21) 5. Monitor: Practice/ Billing (31)
6. Medical Ethics Course (20) 7. Community Service (29)
8. Restitution (30)

### **BPC §2236 CRIMINAL CONVICTION; SINGLE MISDEMEANOR**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Education Course (18)
2. Psychiatric Evaluation/Psychotherapy (25),(26)
3. Monitor: Practice/ Billing (31)
4. Medical Ethics Course (20)
5. Community Service (29) 6. Restitution (30)

### **BPC §2237 DRUG RELATED CONVICTION**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

If warranted,

1. Suspension: 90 calendar days or more (11)
2. Pharmacology/ Prescribing Course (16)
3. Clinical Assessment and Training Program (21)
4. Medical Ethics Course (20)
5. Controlled Drugs: Total DEA Restriction (12)
6. Controlled Drugs: Surrender of DEA Permit (13)
7. Controlled Drugs: Partial DEA Restriction (14)
8. Controlled Drugs: Maintain Record (15)
9. Psychiatric Evaluation/ Psychotherapy (25),(26)
10. Monitor: Practice (31)

### **BPC §2238 VIOLATION OF DRUG STATUTE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

If warranted,

1. Suspension: 90 calendar days or more (11) 2. Pharmacology/Prescribing Course (16)
3. Clinical Assessment and Training Program (21) 4. Medical Ethics Course (20)
5. Controlled Drugs: Total DEA Restriction (12)
6. Controlled Drugs: Surrender of DEA Permit (13)
7. Controlled Drugs: Partial DEA Restriction (14)
8. Controlled Drugs: Maintain Record (15)
9. Psychiatric Evaluation/Psychotherapy (25),(26)
10. Monitor: Practice (31)

**BPC §2052 UNLICENSED PRACTICE BY PHYSICIAN AND SURGEON (due to inactive, suspended, or delinquent and expired license)**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 90 calendar days or more (11)
2. Education Course (18)
3. Medical Ethics Course (20)
4. Monitor: Billing / Practice (31)
5. Prohibited Practice (24)
6. Solo Practice Prohibition/Supervised Structure (32)

**BPC §2264 AIDING AND ABETTING UNLICENSED PRACTICE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 90 calendar days or more (11)
2. Education Course (18)
3. Medical Ethics Course (20)
4. Monitor: Billing / Practice (31)
5. Prohibited Practice (24)
6. Solo Practice Prohibition/Supervised Structure (32)

**BPC §2235 OBTAINING LICENSE BY FRAUD**

Maximum Discipline: Revocation.

Minimum Discipline: Revocation

**DECEPTION/MISREPRESENTATION**

**BPC §2271, 651 DECEPTIVE ADVERTISING**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

**BPC §2272 ANONYMOUS ADVERTISING**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

**BPC §2274 MISUSE OF TITLE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

**BPC §2275 USE OF “M.D.”**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

**BPC §2276 MISUSE OF “D.O. “**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

**BPC §2285 USE OF FICTITIOUS NAME WITHOUT PERMIT**

Maximum Discipline: Revocation.

Minimum Discipline: 90 calendar days suspension, 1 year probation, standard terms and conditions, and

1. Medical Ethics Course (20)
2. Education Course (18)
3. Community Service (29)

## **DISHONESTY**

### **BPC §2234 (e) DISHONESTY**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 year probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Clinical Assessment and Training Program (21)
4. Monitor: Practice/ Billing (31)
5. Solo Practice Prohibition/Supervised Structure (32)
6. Medical Ethics Course (20)
7. Community Service (29)
8. Restitution (30)

### **BPC §2261 MAKING OR SIGNING FALSE DOCUMENT**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Record Keeping Course (17)
4. Medical Ethics Course (20)
5. Monitoring: Practice/ Billing (31)
6. Prohibited Practice (24)
7. Solo Practice Prohibition/ Supervised Structure (32)

### **BPC §2262 ALTERATION OF MEDICAL RECORDS/ FALSE MEDICAL RECORDS**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Record Keeping Course (17)
4. Pharmacology/ Prescribing Course (16)
5. Medical Ethics Course (20)
6. Monitoring: Billing/ Practice (31)

7. Prohibited Practice (24)
8. Solo Practice Prohibition/Supervised Structure (32)

### **BPC §2263 VIOLATION OF PROFESSIONAL CONFIDENCE**

Maximum Discipline: Revocation.

Minimum Discipline: Stayed revocation, 5 years probation, standard terms and conditions, and

1. Suspension: 30 calendar days or more (11)
2. Education Course (18)
3. Medical Ethics Course (20)
4. Monitoring: Billing/ Practice (31)
5. Prohibited Practice (24)
6. Solo Practice Prohibition/Supervised Structure (32)

### **BPC §2273 EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS**

Maximum Discipline: Revocation

Minimum Discipline: stayed revocation, 3 years probation, standard terms and conditions, and

1. Suspension: 90 calendar days or more (11)
2. Education Course (18)
3. Medical Ethics Course (20)
4. Monitor: Billing/ Practice (31)
5. Prohibited Practice (24)
6. Solo Practice Prohibition/Supervised Structure (32)

### **BPC §2288 IMPERSONATION OF APPLICANT IN EXAM**

Maximum Discipline: Revocation

Minimum Discipline: Revocation

## **PROBATION**

### **VIOLATION OF PROBATION: REPEATED VIOLATIONS**

A repeated similar offense or a violation of probation evidencing an unreformed attitude should call for the maximum discipline. Other violations of probation should call for at least a meaningful period of actual suspension, preferably 90 calendar days or more, as well as other appropriate terms and conditions.

~~OSTEOPATHIC MEDICAL BOARD  
OF CALIFORNIA  
DISCIPLINARY GUIDELINES OF 1996~~

~~[LOGO]~~

~~Osteopathic Medical Board of California  
2720 Gateway Oaks Drive,~~

~~Suite 350 Sacramento, CA 95833~~

~~(916)263-310~~

**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
**DISCIPLINARY GUIDELINES OF 1996**

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**I. Disciplinary Penalties**

The following disciplinary penalties for selected Business and Professions Code violations are guidelines for use by administrative law judges at hearings as well as for use in settlement of cases. Individual penalties may vary depending upon the particular circumstances of the case resulting in aggravation or mitigation of offenses alleged. If probation is imposed as part of a penalty, the probation should include: (1) standard conditions, which will appear in all cases; and (2) the optional conditions, which will be tailored according to the nature of the offense.

**A. STANDARD CONDITIONS OF PROBATION**

The standard of probation conditions are as follows:

- (1) Obey all laws (1) \*;
- (2) File quarterly reports (2);
- (3) Probation surveillance program (3);
- (4) Interviews with medical consultants (4);
- (5) Cost Recovery (5);
- (6) License Surrender (6);
- (7) Tolling of probation, if out of state (7); and
- (8) Probation violation/completion of probation (8)

*\* The number in parentheses refers to the sample model orders found in Part II: Sample Model Orders*

**B. OPTIONAL CONDITIONS OF PROBATION**

The following conditions of probation, generally listed by statute order as set forth by Business and Professions Code, are recommended by the Board for proven or stipulated violations. In all circumstances, the maximum penalty for any violation of the Business and Professions Code will be revocation. Additionally, violations of Business and Professions Code Sections 2235 (obtaining license

by fraud), 2288 (impersonation of an applicant in an examination), and 2306 (practice under suspension) shall all result in an order of revocation.

### **~~B & P 725 – EXCESSIVE PRESCRIBING~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~\_\_\_\_\_ 1. Drugs \_\_\_\_\_ Total DEA restriction (10)~~  
~~\_\_\_\_\_ Surrender DEA (11)~~  
~~\_\_\_\_\_ (or) \_\_\_\_\_ Partial DEA restriction (12) \_\_\_\_\_~~
- ~~\_\_\_\_\_ 2. Pharmacology course (18)~~
- ~~\_\_\_\_\_ 3. If warranted, education course (19)~~
- ~~\_\_\_\_\_ 4. If warranted, supervised structured environment (29)~~
- ~~\_\_\_\_\_ 5. If warranted, oral/practical examination (22)~~
- ~~\_\_\_\_\_ 6. If warranted, suspension of at least 90 days (9)~~
- ~~\_\_\_\_\_ 7. If warranted, maintain drug records for review (13)~~

### **~~B & P 725 – EXCESSIVE TREATMENTS \_\_\_\_\_~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~\_\_\_\_\_ 1. Education course (20)~~
- ~~\_\_\_\_\_ 2. If warranted, supervised structured environment (29)~~
- ~~\_\_\_\_\_ 3. If warranted, oral/practical examination (22)~~
- ~~\_\_\_\_\_ 4. If warranted, suspension of at least 90 days (9)~~

### **~~B & P 726 – SEXUAL MISCONDUCT~~**

~~Minimum penalty: Stayed revocation, 10 years probation~~

- ~~\_\_\_\_\_ 1. Education course (19)~~
- ~~\_\_\_\_\_ 2. Psychiatric evaluation (25)~~  
~~\_\_\_\_\_ Or, psychotherapy (26)~~
- ~~\_\_\_\_\_ 3. If warranted, supervised structured environment (29)~~
- ~~\_\_\_\_\_ 4. Required third part present when examining patients (23)~~

### **~~B & P 820 – MENTAL OR PHYSICAL ILLNESS~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~\_\_\_\_\_ 1. If warranted, restricted practice (24)~~
- ~~\_\_\_\_\_ 2. If warranted, monitoring (29)~~

**~~B & P 2234 (b) – GROSS NEGLIGENCE~~**

**~~B & P 2234 (c) – REPEATED NEGLIGENT ACTS~~**

**~~B & P 2234 (d) – INCOMPETENCE~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~\_\_\_\_\_ 1. Pharmacology course (18)~~
- ~~\_\_\_\_\_ 2. Education course (19)~~
- ~~\_\_\_\_\_ Clinical training program (21)(where deficiency is noted by the physician is not a present danger to the public)~~
- ~~\_\_\_\_\_ 3. Oral/practical examination (22)~~
- ~~\_\_\_\_\_ 4. If warranted, supervised structured environment (29)~~
- ~~\_\_\_\_\_ 5. If warranted, restricted practice (24)~~
- ~~\_\_\_\_\_ 6. If warranted, medical evaluation (27)~~
- ~~\_\_\_\_\_ 7. If warranted, medical treatment (28)~~

**~~B & P 810 – INSURANCE FRAUD~~**

**~~B & P 2234 (e) – DISHONESTY~~**

**~~B & P 2261 – MAKING OR SIGNING FALSE DOCUMENT~~**

**~~B & P 2262 – FALSE MEDICAL RECORDS~~**

**~~B & P 2263 – VIOLATION OF PROFESSIONAL CONFIDENCE~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~\_\_\_\_\_ 1. If warranted, community service program (30)~~
- ~~\_\_\_\_\_ 2. If warranted, actual suspension (9)~~
- ~~\_\_\_\_\_ 3. If warranted, restitution (31)~~
- ~~\_\_\_\_\_ 4. Education course (19)~~

**~~B & P 2236 – CRIMINAL CONVICTION~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

~~Terms and conditions depend on the underlying facts of the criminal offense.~~

**~~B & P 2237 – DRUG RELATED CONVICTION~~**

**~~B & P 2238 – VIOLATION OF DRUG STATUTE~~**

**~~B & P 2241 – FURNISHING DRUGS TO AN ADDICT~~**

**~~B & P 2242 – PRESCRIBING DRUGS WITHOUT PRIOR EXAMINATION~~**

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~1. Drugs – total DEA restriction (10)~~
- ~~Or – surrender DEA permit (11)~~
- ~~Partial DEA permit (11)~~
- ~~2. Pharmacology course (18)~~
- ~~3. Education Course (19) and/ or a clinical training program (21)~~
- ~~4. If warranted, oral/ practical examination (22)~~
- ~~5. If warranted, supervised structured environment (29)~~
- ~~6. If self-user or drugs: See B & P 2239~~
- ~~7. If warranted, suspension of at least 90 days (9)~~
- ~~8. If warranted, maintain drug records for review (13)~~
- ~~9. If warranted, monitoring (29)~~

~~NOTE: Unless there is extensive mitigation, outright revocation for conviction of illegal sales of controlled drugs is the proper penalty.~~

#### ~~B & P 2239 – SELF ABUSE OF DRUGS OR ALCOHOL~~

#### ~~B & P 2250 – FAILURE TO COMPLY WITH STERILIZATION CONSENT PROVISIONS~~

#### ~~B & P 2251 – USE OF SILICONE~~

#### ~~B & P 2252 – ILLEGAL CANCER TREATMENT~~

~~Minimum penalty: Stayed revocation, 5 years probation~~

- ~~1. If warranted, period of actual suspension (9)~~
- ~~2. Community service (30)~~
- ~~3. Education (19)~~
- ~~4. If warranted, monitoring (29)~~

#### ~~B & P 2264 – AIDING AND ABETTING UNLICENSED PRACTICE~~

~~Minimum penalty: Stayed revocation, at least 3 years probation~~

- ~~1. If warranted, suspension of at least 60 days (9)~~
- ~~2. If warranted, oral/practical or written examination (22)~~
- ~~3. If warranted, monitoring (29)~~
- ~~4. If warranted, restricted practice (24)~~

#### ~~B & P 2265 – USE OF QUALIFIED PHYSICIAN ASSISTANT WITHOUT APPROVAL~~

~~Minimum penalty: 90 days stayed suspension, one year probation~~

- ~~1. If warranted, period of actual suspension (9)~~
- ~~2. If warranted, community services (30)~~

**B & P 2271, 651 — DECEPTIVE ADVERTISING**

**B & P 2272 — ANONYMOUS ADVERTISING**

**B & P 2273 — EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS**

**B & P 2274 — MISUSE OF TITLE**

**B & P 2275 — USE OF “M.D.”**

**B & P 2276 — MISUSE OF “D.O.”**

**B & P 2280 — INTOXICATION WHILE TREATING PATIENTS**

Minimum penalty: Stayed revocation, 5 years probation

- \_\_\_\_\_ 1. If drugs — total DEA restriction (10)
- \_\_\_\_\_ Or — surrender or DEA permit (11)
- \_\_\_\_\_ Partial DEA restriction (12)
- \_\_\_\_\_ 2. If alcohol — abstain from alcohol (16)
- \_\_\_\_\_ 3. If warranted, in case of drug abuse, abstain from alcohol (16)
- \_\_\_\_\_ 4. Drugs — abstain from use (15)
- \_\_\_\_\_ 5. Biological fluid testing (17)
- \_\_\_\_\_ 6. Psychiatric evaluation (25)
- \_\_\_\_\_ 7. If warranted, psychiatric treatment (26)
- \_\_\_\_\_ 8. If warranted, drug or alcohol rehabilitation program (14)
- \_\_\_\_\_ 9. Medical evaluation (27) and/or medical treatment (28)
- \_\_\_\_\_ 10. Pharmacology course (18)
- \_\_\_\_\_ 11. Education course (19)
- \_\_\_\_\_ 12. If warranted, oral/practical examination (22)
- \_\_\_\_\_ 13. If warranted, supervised structured environment (29)
- \_\_\_\_\_ 14. If warranted, maintain drug records for review (13)

**B & P 2285 — USE OF FICTITIOUS NAME WITHOUT PERMIT**

Minimum penalty: 90 days stayed suspension, 3 years probation

- \_\_\_\_\_ 1. If warranted, actual suspension (9)
- \_\_\_\_\_ 2. If warranted, community service (30)
- \_\_\_\_\_ 3. If warranted, restitution (31)
- \_\_\_\_\_ 4. If warranted, education course (19)

**B & P 2305 — DISCIPLINE BY ANOTHER STATE OR FEDERAL AGENCY**

Minimum penalty: add actual period of suspension Maximum penalty: impose penalty that was stayed

A repeated similar offense or a violation of probation evidencing an unreformed attitude should call for the maximum penalty. Other violations of probation should call for at least a meaningful period of actual suspension, preferably 90 days or more.

## II. ~~SAMPLE MODEL ORDERS~~

### A. ~~STANDARD CONDITIONS OF PROBATION~~

#### 1. ~~Obey all laws—~~

~~Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.~~

#### 2. ~~Quarterly reports—~~

~~Respondent shall submit to the Board quarterly declaration under penalty of perjury on the Quarterly Report of Compliance Form, OMB 10 (5/97) which is hereby incorporated by reference, stating whether there has been compliance with all the conditions of probation.~~

#### 3. ~~Probation surveillance program—~~

~~Respondent shall comply with the Board's probation surveillance program. Respondent shall, at all times, keep the Board informed of his or her addresses of Business and residence, which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Board. Under no circumstance shall a post office box serve as an address of record.~~

~~Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California, which lasts, or is contemplated to last, more than thirty (30) days.~~

#### 4. ~~Interviews with medical consultants—~~

~~Respondent shall appear in person for interviews with the Board's medical consultants upon request at various intervals and with reasonable notice.~~

#### 5. ~~Cost recovery—~~

~~The respondent is hereby ordered to reimburse the Board the amount \$ \_\_\_\_\_ within 90 days from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.~~

#### 6. ~~License surrender—~~

~~Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her certificate to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.~~

7. ~~Tolling for out of state practice or residence, or in state non practice (inactive license).~~

~~In the event respondent shall leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-compliance within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Section 2051 and /or 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Board or its designee in or out of the state shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition shall not apply to the reduction of the probationary period.~~

8. ~~Probation violation/completion of probation—~~

~~If respondent violates probation in any respect, the Board may revoke probation and carry out the disciplinary order that was stayed after giving respondent notice and opportunity to be heard. If an Accusation and/or Petition to revoke is filed against respondent during probation, the Board shall continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. Upon successful completion of probation, respondent's certificate will be fully restored.~~

B. ~~OPTIONAL CONDITIONS OF PROBATION~~

9. ~~Actual suspension—~~

~~Respondent shall be suspended from the practice of medicine for \_\_\_\_\_ beginning the effective date of this decision.~~

10. ~~Controlled drugs—total restriction-~~

~~Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined in the California Uniform Controlled Substance Act except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.~~

11. ~~Controlled drugs—surrender of DEA permit—~~

~~Respondent is prohibited from practicing medicine until respondent provides documentary proof to the Board or its designee that the respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any triplicate prescription forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board.~~

12. ~~Controlled drugs—partial restriction—~~

~~Respondent shall not prescribe, administer, dispense, order or possess any controlled substance as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedule(s) \_\_\_\_\_ of the Act and prescribed to respondent for a bona fide illness or condition by another practitioner.~~

~~(or)~~

~~Respondent is permitted to prescribe, administer, dispense or order controlled substances listed in Schedule(s) \_\_\_\_\_ of the Act for in-patients in a hospital setting, and not otherwise.~~

~~Note: Use the following paragraph only if there is an actual elimination of authority to prescribe a Scheduled Controlled Substance.~~

~~Respondent shall immediately surrender his/her current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order.~~

~~13.      Controlled drugs — maintain record —~~

~~Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing the following: (1) the name and address of the patient (2) the date, (3) the character and quantity of controlled substances involved and (4) the pathology and purpose for which the controlled substance was furnished.~~

~~Respondent shall keep these records in a separate file or ledger, in chronological order and shall make them available for inspection and copying by the Board or its designee, upon request.~~

~~14.      Diversion program — alcohol and drugs —~~

~~Within 30 days of the effective date of this decision, respondent shall enroll and participate in the Board's Diversion Program until the Board determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation by respondent.~~

~~15.      Drugs — abstain from use —~~

~~Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined the Business and Professions Code, or any drugs requiring a prescription except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.~~

~~16.      Alcohol — abstain from use —~~

~~Respondent shall abstain from the use of alcoholic beverages.~~

~~17.      Biological fluid testing —~~

~~Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.~~

~~18.      Pharmacology course —~~

~~Within 60 days of the effective date of this decision, respondent shall enroll in a course in Pharmacology course, approved in advance by the Board or its designee, and shall successfully complete the course during the first year of probation.~~

19. ~~Education course—~~

~~Within 90 days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Board for its prior approval an education program or course related to the violations charged in the accusation. This shall be completed during the first year of probation. This program shall be in addition to the Continuing Medical Education requirements for re-licensure.~~

~~Following the completion of each course, the Board or its designee may administer an examination to test the respondent's knowledge of the course. Respondent shall provide proof of attendance for both continuing medical education requirements and education course on a yearly basis.~~

20. ~~Medical ethics course—~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in medical ethics which respondent shall successfully complete during the first year of probation.~~

21. ~~Clinical training program—~~

~~Within 90 days of the effective date of this decision, respondent shall submit to the Board for its prior approval, an intensive clinical training program. The exact number of hours and the specific content of the program shall be determined by the Board or its designee and shall be related to the violations charged in the accusation. Respondent shall successfully complete the training program and may be required to pass an examination administered by the Board or its designee related to the program's contents.~~

22. ~~Oral/practical or written examination—~~

~~Within 60 days of the effective date of this decision, (or upon completion of the required education course)(or upon completion of the required clinical training program) respondent shall take and pass a(n) oral/practical and/or written) examination to be administered by the Board or its designee.~~

~~Written examination may be the Special Purpose Exam. If respondent fails this examination, respondent must wait three months between re-examinations, except that after three failures respondent must wait one year to take each necessary re-examination thereafter. The respondent shall pay the costs of all examinations.~~

~~(Use either of the following two options with the above paragraph)~~

~~OPTION #1: Condition precedent~~

~~Respondent shall not practice medicine until respondent has passed this examination and has been so notified by Board in writing.~~

~~OPTION # 2: Condition subsequent~~

~~If respondent fails to take and pass this examination by the end of the first six months of probation, respondent shall cease the practice of medicine until this examination has been successfully passed and respondent has been so notified by the Board in writing.~~

23. ~~Third party presence—~~

~~During probation, respondent shall have a third party present while examining or treating (male, female, minor) patients. Respondent shall within 30 days of the effective date of the decision, submit to the Board or its designee for its approval name(s) of persons who will act as the third party present. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis.~~

NOTE: Sexual transgressors should normally be placed in a supervised structured environment.

24. ~~Prohibited practice—~~

~~During probation, respondent is prohibited from practicing \_\_\_\_\_.~~

25. ~~Psychiatric evaluation—~~

~~Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychiatric evaluation by a Board appointed psychiatrist who shall furnish a psychiatric report to the Board or its designee. The respondent shall pay the cost of the psychiatric evaluation.~~

~~If respondent is required by the Board or its designee to undergo psychiatric treatment, respondent shall within 30 days of the requirement notice submit to the Board for its prior approval the name and qualifications of a psychiatrist of respondent's choice. Upon approval of the treating psychiatrist, respondent shall undergo and continue psychiatric treatment until further notice from the Board. Respondent shall have the treating psychiatrist submit quarterly status report to the Board indicating whether the defendant is capable of practicing medicine safely.~~

~~(OPTIONAL)~~

~~Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is mentally fit to practice safely.~~

26. ~~Psychotherapy—~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status report to the Board. The Board may require response to undergo psychiatric evaluation by a Board appointed psychiatrist. Respondent shall pay all cost of the psychiatric evaluation.~~

~~NOTE: This condition is for those cases where the evidence demonstrated that the respondent has had impairment (impairment by mental illness, alcohol abuse and drug self abuse) related to the violations but is not at present a danger to his/her patients.~~

~~27. Medical evaluation—~~

~~Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board appointed physician who shall furnish a medical report to the Board or its designee. Respondent shall pay all costs of the medical evaluation.~~

~~If respondent is required by the Board or its designee to undergo medical treatment, respondent shall within 30 days of the requirement notice submit to the Board for its prior approval the name and qualifications of a physician of the respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further medical treatment is necessary. Respondent shall not engage in the practice of medicine until notified by the Board of its determination that the respondent is medically fit to practice safely. Respondent shall pay the costs of such medical treatment.~~

~~NOTE: This condition is for those cases where the evidence demonstrates drug or alcohol impairment or medical illness or disability was a contributing cause of the violations.~~

~~28. Medical treatment—~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval, response shall undergo and continuing treatment until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports of the periodic medical evaluations by a Board appointed physician. Respondent shall pay the cost of such medical treatments.~~

~~29. Supervised structured environment—~~

~~Respondent is prohibited from engaging in solo practice. With 30 days of the effective date of this decision, respondent shall submit to the Board and receive its prior approval, for a plan of practice limited to a supervised structured environment in which respondent's activities will be overseen and supervised by another physician, who shall provide reports to the Board.~~

~~30. Community services—~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least \_\_\_ hours a month for the first \_\_\_\_\_ months of probation.~~

*NOTE:* Not for quality of care issues.

31. Restitution—

— Respondent shall provide restitution to \_\_\_\_\_ in the amount of \_\_\_\_\_ prior to the completion of the first year of probation.

*NOTE:* For patients only.

# TAB 6



## **LEGISLATIVE SUMMARY**

### **AB 505** (Caballero) Medical Board of California: Adjudication: expert testimony **Enrolled 8/29/2018**

*(This bill was originally written to prohibit the Medical Board of California from entering into a stipulation for disciplinary action if the stipulation places a licensee on probation and the operative accusation included a felony involving patient harm, drug or alcohol abuse directly resulting in patient harm, sexual act or sexual exploitation, as defined).* Current law prohibits the use of expert testimony in matters brought by the Medical Board of California unless specified information is exchanged with counsel for the other party, and requires the exchange of the information to be completed 30 calendar days prior to the start date of the hearing or as specified. This bill would authorize the Administrative Law Judge to extend the time for the exchange of information, upon a motion based on a showing of good cause, for a period not to exceed 100 calendar days, as specified.

### **AB 1998** (Rodriguez) Opioids; Safe Prescribing Protocol. **Suspense File** *Status: In Senate Committee: Held under submission 8/16/18*

This bill would require, by July 1, 2019, every health care practitioner authorized to prescribe opioids classified as Schedule II and Schedule III to adopt a safe prescribing protocol, as specified. The bill would require the health care practitioner to note the reason the safe prescribing protocol was not followed if, in the health care practitioner's professional judgment, adherence to the safe prescribing protocol is not appropriate for a patient's condition. The bill would make the failure to develop or adhere to the protocol, except as specified, unprofessional conduct and enforceable by the health care practitioner's licensing board.

### **AB 2138** (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction **Enrolled 9/4/18**

This bill would ease the restrictions regarding licensure requirements for prior offenders by limiting a board's discretion to deny a new license application, or suspend or revoke an existing license to cases where the applicant or licensee was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board. Nonviolent offenses older than seven years would also not be eligible for license denial or suspension.

**AB 2143** (Caballero) Mental health: Licensed Mental Health Service Provider Education Program **Enrolled 8/28/18**

Current law establishes the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Current law establishes the Mental Health Practitioner Education Fund in the State Treasury and provides that moneys in that fund are available, upon appropriation, for expenditure by the Office of Statewide Planning and Development for purposes of the program. This bill would expand the program to apply to persons eligible under existing law who attain further education in order to practice as psychiatric-mental health nurse practitioners or physician assistants in psychiatric mental health settings, thereby allowing those practitioners to apply for grants under the program for reimbursement of those later-incurred educational loans.

**AB 2487** (McCarty) Physicians and Surgeons: education: opiate-dependent patient treatment management. **Chaptered 9/7/18**

This authorizes a physician and surgeon to complete a one-time, 12 hour continuing education course on opiate-dependent patient treatment and management, as specified, as an alternative to the mandatory continuing education course on pain management and the treatment of terminally ill and dying patients.

**AB 2721** (Quirk) Cannabis: testing laboratories. **Chaptered 9/19/18**

This law would authorize a testing laboratory to receive and test samples of cannabis or cannabis products from a person over 21 years of age when the cannabis has been grown by that person and will be used solely for his or her personal use pursuant to AUMA. The bill would prohibit a testing laboratory from certifying samples from the person over 21 years of age for resale or transfer to another person. The bill would require all tests pursuant to these provisions to be recorded with the name of the person submitting the sample and the amount of cannabis or cannabis product received.

**AB 2741** (Burke) Prescription drugs: opioid medications: minors – **Amended in Senate June 13, 2018**

Existing law provides for the licensure and regulation of health care practitioners by various boards and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. Existing law makes repeated acts of clearly excessive prescribing or administering of drugs or treatment unprofessional conduct for certain health care practitioners.

This bill *would, with certain exceptions*, prohibit a prescriber, as defined, from prescribing more than a 5-day supply of opioid medication to a minor unless the prescription is for specified uses. The bill would also require a prescriber to take certain steps before prescribing a minor a course of treatment with opioid medication, including discussing opioid risks and obtaining verbal consent, except in specified instances. The bill would make a violation of the bill's provisions unprofessional conduct and would subject the prescriber to discipline by the board charged with regulating his or her license.

**AB 2760** (Wood) Prescription Drugs: Naloxone Hydrochloride - **Chaptered 9/10/18**

This bill would require a prescriber to offer naloxone hydrochloride or another opioid antagonist to patients when they are prescribed a large dosage of opioid medication, prescribed an opioid and benzodiazepine, or have an increased risk for overdose. This bill would also require the prescriber to provide education on overdose prevention and the use of the opioid antagonist.

**AB 2783** (O'Donnell) Controlled Substances: Hydrocodone Combination Products: Schedules. **Chaptered 9/20/18**

This bill would reclassify specified hydrocodone combination products as Schedule II controlled substances. This bill would expand the scope of existing crimes that apply to Schedule II controlled substances, and impose a state-mandated local program.

**AB 2789** (Wood) Health Care Practitioners; prescriptions: electronic data transmission. **Chaptered 9/17/18**

This bill, on and after January 1, 2022, would require health care practitioners authorized to issue prescriptions to have the capability to transmit electronic data transmission prescriptions, and would require pharmacies to have the capability to receive those transmissions. The bill would require those health care practitioners to issue prescriptions as an electronic data transmission prescription, unless specified exceptions are met. The bill would not require the pharmacy to verify that a written, oral, or faxed prescription satisfies the specified exemptions. The bill would require the pharmacy receiving the electronic data transmission prescription to immediately notify the prescriber if the electronic data transmission prescription fails, is incomplete, or is otherwise not appropriately received. The bill would require the pharmacy to transfer or forward the prescription to another pharmacy at the request of the patient, as specified. The bill would exempt from these provisions a health care practitioner, pharmacist, or pharmacy when providing health care services to specified individuals under the jurisdiction of the Department of Corrections and Rehabilitation. The bill would require that a health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements imposed by this bill be referred to the appropriate state professional licensing board solely for administrative sanctions, as provided

**AB 2863** (Nazarian) Health care coverage; Prescriptions. **Enrolled 8/31/18**

This bill would limit the amount a health care service plan or health insurer may require an enrollee or insured to pay at the point of sale for a covered prescription to the lesser of the applicable cost-sharing amount or the retail price. The bill would prohibit a health care service plan or health insurer from requiring a pharmacy to charge or collect a cost-sharing amount from an enrollee or insured that exceeds the total retail price for the prescription drug, and would provide that the payment rendered by an enrollee or insured would constitute the applicable cost sharing, as specified.

The bill would require a pharmacy to inform a customer whether the retail price for a covered prescription is lower than the applicable cost-sharing amount, unless the

pharmacy automatically charges the customer the lower price. If the customer pays the retail price, the bill would require the pharmacy to submit the claim to the health care service plan or health insurer in the same manner as if the customer had purchased the prescription drug by paying the cost-sharing amount when submitted by the network pharmacy. The bill would make a contract provision that is inconsistent with these provisions void and unenforceable

**AB 2958** (Quirk) State bodies: meetings: teleconference **Enrolled 9/4/18**

The Bagley-Keene Open Meeting Act requires, with specific exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of the state body, except as provided. Current law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference site, to identify each teleconference site in the notice and agenda, and to make each teleconference site accessible to the public. This bill, for a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body, would authorize an additional way of holding a meeting be teleconference, as prescribed, provided it also complies with all other applicable requirements of the Bagley-Keene Open Meeting Act.

**AB 2968** (Levine) Psychotherapist-Client Relationship: Victim of Sexual Behavior and Sexual Contact: Informational Brochure **Enrolled 8/29/18**

Current law requires the Department of Consumer Affairs to prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual contact and their advocates, and require the brochure to be developed by the department in consultation with the office of Criminal Justice Planning and the office of the Attorney General, as specified. This bill would require the brochure to be prepared, developed and disseminated by the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California and the Osteopathic Medical Board.

**SB 762** (Hernandez) Optometry: administration of immunization **Chaptered 9/10/18**

The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry in the Department of Consumer Affairs. The act requires an optometrist who has been certified to use therapeutic pharmaceutical agents to be certified for the administration of immunizations by complying with specified requirements, including completing an immunization training program endorsed by the federal Centers for Disease Control and Prevention.

This bill would instead require the training program to be endorsed by the federal Centers for Disease Control and Prevention or the Accreditation Council for Pharmacy Education. The bill would also make non-substantive changes, including correcting erroneous cross-references.

This bill would declare that it is to take effect immediately as an urgency statute.

**SB 1447** (Hernandez) Pharmacy; automated drug delivery systems. **Chaptered 9/21/18**

Beginning on July 1, 2019, would repeal the general automated drug delivery system (ADDS) provisions and the additional conditions for an ADDS located in a health facility. The new law instead, would require an ADDS, as defined, to meet specified requirements in order to be installed, leased, owned, or operated in the state, including a license for the ADDS issued by the California Board of Pharmacy to the holder of a current, valid and active pharmacy license of a pharmacy located and licensed in California.

**SB 1448** (Hill) Healing Arts Licensees: Probation Status Disclosure. **Chaptered 9/19/18**

This bill would, on and after July 1, 2019, require the Medical Board, the Podiatric Medical Board, the Osteopathic Medical Board, the Naturopathic Medicine Committee, the Chiropractic Board, and the Acupuncture Board to require a licensee to provide a separate disclosure to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019. The bill would also require those regulatory boards to provide specified information relating to licensees on probation on the regulatory entity's online license information Internet Web site.

**SB 1480** (Hill) Professions and vocations - **Chaptered 9/19/18**

(1) Existing law establishes the Department of Consumer Affairs, specifies the various boards that comprise the department, and requires the boards to meet at least 3 times a year. This bill would instead require the boards to meet at least 2 times a year.

(2) Existing law requires the Director of Consumer Affairs to implement complaint prioritization guidelines for boards to use in prioritizing their respective complaint and investigative workloads. This bill would require the director to amend those guidelines to include the category of "allegations of serious harm to a minor," as specified.

This bill also made some amendments to the Postgraduate training license requirements.

**AB 505 (*Caballero*) Physicians and Surgeons:  
Probation**

## Assembly Bill No. 505

### CHAPTER 469

An act to amend Section 2334 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 18, 2018. Filed with  
Secretary of State September 18, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 505, Caballero. Medical Board of California: adjudication: expert testimony.

Existing law prohibits the use of expert testimony in matters brought by the Medical Board of California unless specified information is exchanged with counsel for the other party, and requires the exchange of the information to be completed 30 calendar days prior to the commencement date of the hearing or as specified.

This bill would authorize the administrative law judge to extend the time for the exchange of information, upon a motion based on a showing of good cause, for a period not to exceed 100 calendar days, as specified.

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

SECTION 1. 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. Upon

motion to extend the deadline based on a showing of good cause, the administrative law judge may extend the time for the exchange of information for a period not to exceed 100 calendar days cumulatively, but in no case shall the exchange take place less than 30 calendar days before the hearing date, whichever comes first.

(c) The Office of Administrative Hearings may adopt regulations governing the required exchange of the information described in this section.

**AB 1998 (*Rodriguez*) Opioids: Safe  
Prescribing Protocol**

AMENDED IN SENATE JULY 2, 2018  
AMENDED IN SENATE JUNE 19, 2018  
AMENDED IN ASSEMBLY MAY 25, 2018  
AMENDED IN ASSEMBLY APRIL 11, 2018  
AMENDED IN ASSEMBLY MARCH 12, 2018  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1998**

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**Introduced by Assembly Member Rodriguez**

February 1, 2018

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An act to add Section 11153.1 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1998, as amended, Rodriguez. Opioids: safe prescribing policy.

Existing law, the Uniform Controlled Substances Act, classifies opioids as Schedule II controlled substances and places restrictions on the prescription of those drugs, including prohibiting refills and specifying the requirements of a prescription for these drugs. Violation of these provisions and the Uniform Controlled Substances Act is a misdemeanor.

This bill would require, by July 1, 2019, every health care ~~practitioner~~ *practitioner, with the exception of veterinarians*, who prescribes, ~~orders~~, administers, or furnishes opioids classified as Schedule II and Schedule III to adopt, review, and periodically update a safe opioid prescribing policy, as specified. The bill would prohibit the safe opioid prescribing policy from placing a limitation on the prescription, ordering,

administration, or furnishing of opioids to patients with prescribed conditions. The bill would require a health care practitioner who determines, based on his or her professional judgment, that the safe prescribing policy is not appropriate for a specific patient’s treatment, to provide adequate documentation in the patient’s record to support the treatment decision. The bill would make the failure to establish or adopt a safe opioid prescribing policy to be referred to the appropriate state professional licensing board for administrative sanctions. Because violation of these provisions is also a crime, the bill would create a new crime, thereby imposing a state-mandated local program.

The bill would require the State Department of Public Health, utilizing data from the CURES database, to submit a report detailing progress toward the stated goals of declining opioid prescriptions, as specified.

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

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

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The opioid epidemic is a public health crisis affecting not
- 4 only the State of California, but the entire country.
- 5 (b) According to the federal Centers for Disease Control and
- 6 Prevention, 66 percent of the drug overdose deaths in the United
- 7 States involve an opioid.
- 8 (c) In 2016, there were almost 2,000 overdose deaths due to
- 9 opioids alone, and nearly 4,000 emergency room visits due to
- 10 opioid overdoses.
- 11 (d) According to a 2018 University of Southern California study,
- 12 about 83.45 percent of opioid prescriptions originated from
- 13 physician offices.
- 14 (e) In 2016, there were 23 million opioid prescriptions in
- 15 California, a state that has nearly 40 million residents.

1 (f) According to data from the State Department of Public  
2 Health, opioid prescriptions declined by an average of three percent  
3 between 2014 and 2017.

4 SEC. 2. Section 11153.1 is added to the Health and Safety  
5 Code, to read:

6 11153.1. (a) It is the intent of the Legislature that, from July  
7 1, 2019, to July 1, 2023, inclusive, opioid prescriptions in  
8 California for Schedule II and Schedule III, as defined in Sections  
9 11055 and 11056 respectively, continue in a year-over-year  
10 downward trend consistent with the average trend established  
11 between 2014 and 2017.

12 (b) By July 1, 2019, every health care practitioner who  
13 prescribes, ~~orders~~, administers, or furnishes opioids classified as  
14 Schedule II and Schedule III pursuant to Sections 11055 and 11056,  
15 respectively, shall establish or adopt a safe opioid prescribing  
16 policy, as described in subdivision (d). A group of practitioners,  
17 including a hospital pharmacy and therapeutics committee, may  
18 adopt a safe opioid prescribing policy that applies to all parties as  
19 part of a business affiliation or contract with an organized provider  
20 group.

21 (c) A health care practitioner or group of practitioners, including  
22 a hospital pharmacy and therapeutics committee, is deemed to  
23 have satisfied this section by adopting a nationally or professionally  
24 recognized guideline, or a guideline established by the state  
25 licensing board or commission that was updated after January 1,  
26 2015, for the use of opioids for managing pain if the guideline  
27 meets the criteria specified in subdivision (d).

28 (d) The safe opioid prescribing policy shall be a written  
29 document promoting the appropriate dosage and duration of opioid  
30 prescriptions for *a health care provider's* patients, with the goal  
31 of reducing the overall prescription, ~~ordering~~, administration, or  
32 furnishing of opioids to the lowest effective dose and the shortest  
33 duration necessary to treat the patient. The policy shall address,  
34 but not be limited to, all of the following:

35 (1) The appropriate dose and duration of prescriptions for adult  
36 patients, as applicable, experiencing acute pain.

37 (2) The appropriate dose and duration of prescriptions for  
38 pediatric patients, as applicable, experiencing acute pain.

1 (3) Alternatives to opioid treatment, including  
2 nonpharmacological treatment options and referral to specialty  
3 care, as appropriate.

4 (4) Recommendations for assessing patients' continued use of  
5 opioids for pain management.

6 (5) Recommendations for counseling patients on overdose and  
7 addiction risk and response.

8 (e) In addition to the requirements in subdivision (d), every  
9 policy shall include a requirement that the prescriber offer a  
10 prescription for naloxone hydrochloride or another drug approved  
11 by the United States Food and Drug Administration for the  
12 complete or partial reversal of opioid depression to a patient when  
13 one or more of the following conditions are present:

14 (1) The prescription dosage for the patient is 90 morphine  
15 ~~milligrams~~ *milligram equivalents* or more of an opioid medication  
16 per day.

17 (2) An opioid medication is prescribed concurrently with a  
18 prescription for benzodiazepine.

19 (3) The patient presents an increased risk for overdose, including  
20 a patient with a history of overdose, a patient with a history of  
21 substance use disorder, or a patient at risk of returning to a high  
22 dose of opioid medication to which the patient is no longer tolerant.

23 (f) The development of a safe opioid prescribing policy shall  
24 include review and consideration of evidence-based science,  
25 literature, research, and guidelines, including relevant  
26 recommendations and research from academia and consideration  
27 of existing guidelines and recommendations from groups including,  
28 but not limited to, the federal Centers for Disease Control and  
29 Prevention, the federal Centers for Medicare and Medicaid  
30 Services, the Medical Board of California, and the American  
31 Society of Addiction Medicine.

32 (g) The safe opioid prescribing policy shall be reviewed  
33 periodically and updated according to applicable scientific studies  
34 and available data.

35 (h) When a prescriber determines, based on his or her  
36 professional judgment, that the safe prescribing policy is not  
37 appropriate for a specific patient's treatment, the health care  
38 practitioner shall provide adequate documentation in the patient's  
39 record to support the treatment decision.

1 ~~(i) A health care practitioner who prescribes, orders, administers,~~  
2 ~~or furnishes opioids classified as Schedule II or Schedule III~~  
3 ~~pursuant to Sections 11055 and 11056, respectively, to a hospital~~  
4 ~~patient shall follow the guideline or policy of that hospital's~~  
5 ~~pharmacy and therapeutics committee adopted pursuant to~~  
6 ~~subdivision (b).~~

7 ~~(j)~~

8 (i) The safe opioid prescribing policy shall not place limitations  
9 on the prescription, ordering, administration, or furnishing of  
10 opioids to patients undergoing treatment for chronic pain, cancer,  
11 substance use disorder, sickle cell disease with acute intermittent  
12 porphyria, hospice, *palliative care*, or end-of-life care.

13 ~~(k)~~

14 (j) (1) A health care practitioner who fails to establish or adopt  
15 a safe opioid prescribing policy, as required by subdivision (b),  
16 shall be referred to the appropriate state professional licensing  
17 board solely for administrative sanctions, as deemed appropriate  
18 by that board.

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

23 ~~(l)~~

24 (k) (1) By July 1, 2024, the State Department of Public Health  
25 shall submit a report to the Legislature and publish to the public,  
26 using data from the CURES database, detailing progress toward  
27 the goal stated in subdivision (a). The department may, and is  
28 encouraged to, contract with an independent academic entity,  
29 including the University of California, to prepare the report. The  
30 report shall address, but not be limited to, all of the following:

31 (A) The overall number of opioid prescriptions, rates of opioid  
32 prescription per 1,000 persons, and morphine milligram equivalents  
33 per year in the years 2019 to 2023, inclusive. This information  
34 shall be provided in total, and by prescribing license.

35 (B) The overall year-by-year change in opioid prescriptions,  
36 rates of opioid prescription per 1,000 persons, and morphine  
37 milligram equivalents from the years 2019 to 2023, inclusive.

38 (C) The progress made toward reducing the over-prescription  
39 of opioids.

1 (D) Recommendations for whether further reduction of opioid  
2 prescription is needed.

3 (E) Information, if available, on opioid prescriptions by  
4 geographic location.

5 (2) Before publishing the final report, the department shall  
6 provide an opportunity for feedback on the draft report by relevant  
7 stakeholders.

8 (3) The report submitted pursuant to this subdivision shall be  
9 submitted in compliance with Section 9795 of the Government  
10 Code.

11 (4) The requirement for submitting a report imposed under this  
12 subdivision is inoperative on July 1, 2028, pursuant to Section  
13 10231.5 of the Government Code.

14 *(l) This section does not apply to a veterinarian licensed*  
15 *pursuant to Chapter 11 (commencing with Section 4800) of*  
16 *Division 2 of the Business and Professions Code.*

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

**AB 2138 (*Chiu*) Licensing Boards: Denial of  
Application; Revocation or Suspension of  
Licensure; Criminal Conviction**

**Assembly Bill No. 2138**

\_\_\_\_\_

Passed the Assembly August 30, 2018

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 28, 2018

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime,

or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission,

the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

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

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (A) The State Athletic Commission.
- (B) The Bureau for Private Postsecondary Education.
- (C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

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

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed

by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or

profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.
- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

(1) Been convicted of a crime.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant

knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds

a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

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

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (1) Considering the denial of a license by the board under Section 480; or
- (2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

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

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

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

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license

or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

- (A) The nature and gravity of the offense.
- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty

or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

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



Approved \_\_\_\_\_, 2018

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*Governor*

**AB 2143 (*Caballero*) Mental health: Licensed  
Mental Health Service Provider Education  
Program**

**Assembly Bill No. 2143**

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Passed the Assembly August 23, 2018

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*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 20, 2018

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 128454 of the Health and Safety Code, relating to mental health.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2143, Caballero. Mental health: Licensed Mental Health Service Provider Education Program.

Existing law establishes the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation. Existing law authorizes a licensed mental health service provider, as defined, including, among others, a psychologist and a marriage and family therapist, who provides direct patient care in a publicly funded facility or a mental health professional shortage area to apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider, as specified. Existing law establishes the Mental Health Practitioner Education Fund in the State Treasury and provides that moneys in that fund are available, upon appropriation, for expenditure by the Office of Statewide Health Planning and Development for purposes of the program.

This bill would expand the program to apply to persons eligible under existing law who attain further education in order to practice as psychiatric-mental health nurse practitioners or physician assistants in psychiatric mental health settings, thereby allowing those practitioners to apply for grants under the program for reimbursement of those later-incurred educational loans.

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

SECTION 1. Section 128454 of the Health and Safety Code, as added by Section 9 of Chapter 557 of the Statutes of 2017, is amended to read:

128454. (a) There is hereby created the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation.

(b) For purposes of this article, the following definitions shall apply:

(1) (A) “Licensed mental health service provider” means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, and associate professional clinical counselor.

(B) “Licensed mental health service provider” also includes a person described in subparagraph (A) who is currently fully licensed by his or her respective board and who has subsequently attained further education and now practices in either of the following capacities:

(i) As a nurse practitioner who is listed by the board as a “psychiatric mental health nurse” under Section 2732.05 of the Business and Professions Code.

(ii) A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, who works in a psychiatric mental health setting.

(2) “Mental health professional shortage area” means an area designated as such by the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(c) Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider.

(d) The Health Professions Education Foundation shall make recommendations to the director of the office concerning all of the following:

(1) A standard contractual agreement to be signed by the director and any licensed mental health service provider who is serving in a publicly funded facility or a mental health professional shortage area that would require the licensed mental health service provider who receives a grant under the program to work in the publicly funded facility or a mental health professional shortage area for at least one year.

(2) The maximum allowable total grant amount per individual licensed mental health service provider.

(3) The maximum allowable annual grant amount per individual licensed mental health service provider.

(e) The Health Professions Education Foundation shall develop the program, which shall comply with all of the following requirements:

(1) The total amount of grants under the program per individual licensed mental health service provider shall not exceed the amount of educational loans related to a career as a licensed mental health service provider incurred by that provider.

(2) The program shall keep the fees from the different licensed providers separate to ensure that all grants are funded by those fees collected from the corresponding licensed provider groups. A grant recipient who is a person described in subparagraph (B) of paragraph (1) of subdivision (b) shall have his or her grant funded by the fees collected from the corresponding licensed provider group described in subparagraph (A) of paragraph (1) of subdivision (b) of which he or she is a licensee.

(3) A loan forgiveness grant may be provided in installments proportionate to the amount of the service obligation that has been completed.

(4) The number of persons who may be considered for the program shall be limited by the funds made available pursuant to Section 128458.

(f) This section shall become operative on July 1, 2018.

Approved \_\_\_\_\_, 2018

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*Governor*

**AB 2487 (*McCarty*) Physicians and Surgeons:  
Education: Opiate-Dependent Patient  
Treatment and Management**

## Assembly Bill No. 2487

### CHAPTER 301

An act to add Section 2190.6 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 7, 2018. Filed with Secretary of State September 7, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2487, McCarty. Physicians and surgeons: continuing education: opiate-dependent patient treatment and management.

Existing state law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs. The board is responsible for the licensure and regulation of physicians and surgeons, and is required by the act to adopt and administer standards for the continuing education of those physicians and surgeons. Existing law requires all physicians and surgeons to complete a mandatory continuing education course on pain management and the treatment of terminally ill and dying patients, as provided.

Existing federal law, the Comprehensive Addiction Recovery Act of 2016, requires physicians and surgeons who dispense narcotic drugs for patient treatment to obtain a separate registration from the United States Attorney General. The United States Drug Enforcement Administration, within the federal Office of the Attorney General, administers the registration and requires physicians and surgeons to renew that registration at specified intervals. A physician and surgeon qualifies for a waiver of the registration if he or she is licensed under state law and completes at least one specified training, such as 8 hours of training in the treatment and management of opiate-dependent patients.

This bill would authorize a physician and surgeon to complete a one-time continuing education course on opiate-dependent patient treatment and management, as specified, as an alternative to the mandatory continuing education course on pain management and the treatment of terminally ill and dying patients.

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

SECTION 1. Section 2190.6 is added to the Business and Professions Code, to read:

2190.6. (a) As an alternative to Section 2190.5, a physician and surgeon may complete a one-time continuing education course of 12 credit hours in the subjects of treatment and management of opiate-dependent patients,

including eight hours of training in buprenorphine treatment, or other similar medicinal treatment, for opioid use disorders.

(b) A physician and surgeon who meets the requirements, as determined by the board, of a “qualifying physician” under clause (ii) of subparagraph (G) of paragraph (2) of subsection (g) of Section 823 of Title 21 of the United States Code, the Comprehensive Addiction Recovery Act of 2016 (Public Law 114-198), as that clause read on January 1, 2018, shall be deemed to have met the requirements of subdivision (a).

(c) A physician and surgeon who chooses to comply with this section as an alternative to Section 2190.5 shall complete the requirements of this section by his or her next license renewal date.

(d) The board shall determine whether a physician and surgeon has met the requirements of this section.

**AB 2721 (*Quirk*) Cannabis: testing  
laboratories**

## Assembly Bill No. 2721

### CHAPTER 546

An act to amend Section 26104 of the Business and Professions Code, relating to cannabis.

[Approved by Governor September 19, 2018. Filed with  
Secretary of State September 19, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2721, Quirk. Cannabis: testing laboratories.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which includes the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, provides for the licensure and regulation of commercial cannabis activity, including testing laboratories. Existing law prohibits the sale of cannabis or cannabis products unless a representative sample of the cannabis or cannabis product has been tested by a testing laboratory. Existing law authorizes testing laboratories to receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purposes. Existing law prohibits testing laboratories from certifying samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. Existing law requires all tests performed by a testing laboratory for a qualified patient or primary caregiver to be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received.

This bill would authorize a testing laboratory to receive and test samples of cannabis or cannabis products from a person over 21 years of age when the cannabis has been grown by that person and will be used solely for his or her personal use pursuant to AUMA. The bill would prohibit a testing laboratory from certifying samples from the person over 21 years of age for resale or transfer to another person. The bill would require all tests pursuant to these provisions to be recorded with the name of the person submitting the sample and the amount of cannabis or cannabis product received.

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

SECTION 1. Section 26104 of the Business and Professions Code is amended to read:

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The bureau shall develop procedures to do all of the following:

(1) Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5.

(2) Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the bureau.

(4) Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory.

(c) Except as provided in this division, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with this division, and shall not distribute, sell, or dispense cannabis or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(d) A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver with a valid physician's recommendation for cannabis for medicinal purposes. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another person or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received.

(e) A testing laboratory may receive and test samples of cannabis or cannabis products from a person over 21 years of age when the cannabis has been grown by that person and will be used solely for his or her personal use, as authorized pursuant to Section 11362.1 of the Health and Safety Code. A testing laboratory shall not certify samples from the person over 21 years of age for resale or transfer to another person or licensee. All tests recorded pursuant to this subdivision shall be recorded with the name of the person submitting the sample and the amount of cannabis or cannabis product received.

**AB 2741 (*Burke*) Prescriptions Drugs: Opioid  
Medications: Minors**

AMENDED IN SENATE JUNE 13, 2018

AMENDED IN SENATE MAY 24, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2741**

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**Introduced by Assembly Member Burke  
(Coauthors: Assembly Members Dahle and Cunningham)**

February 16, 2018

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An act to add Article 10.8 (commencing with Section 745) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2741, as amended, Burke. Prescription drugs: opioid medications: minors.

Existing law provides for the licensure and regulation of health care practitioners by various boards and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. Existing law makes repeated acts of clearly excessive prescribing or administering of drugs or treatment unprofessional conduct for certain health care practitioners.

This bill ~~would~~ *would, with certain exceptions*, prohibit a prescriber, as defined, from prescribing more than a 5-day supply of opioid medication to a minor unless the prescription is for specified uses. The bill would also require a prescriber to take certain steps before prescribing a minor a course of treatment with opioid medication, including discussing opioid risks and obtaining verbal consent, except in specified instances. The bill would make a violation of the bill's

provisions unprofessional conduct and would subject the prescriber to discipline by the board charged with regulating his or her license.

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

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

1 SECTION 1. Article 10.8 (commencing with Section 745) is  
2 added to Chapter 1 of Division 2 of the Business and Professions  
3 Code, to read:

4  
5 Article 10.8. Opioid Medication For Minors  
6

7 745. (a) For purposes of this section, the following definitions  
8 apply:

9 (1) "Opioid medication" means an opioid analgesic drug  
10 product, including, but not limited to, an abuse-deterrent opioid  
11 analgesic drug product.

12 (2) "Prescriber" means a person licensed, certified, registered,  
13 or otherwise subject to regulation pursuant to this division, or an  
14 initiative act referred to in this division, who is authorized to  
15 prescribe opioid medication.

16 (b) A prescriber authorized to prescribe a Schedule II controlled  
17 substance shall comply with this section when prescribing opioid  
18 medication to a minor.

19 (c) A prescriber shall not prescribe more than a five-day supply  
20 of opioid medication to a minor unless the prescription is for any  
21 of the following:

- 22 (1) Management of pain associated with cancer.
- 23 (2) Use in palliative or hospice care.
- 24 (3) Management of chronic pain not associated with cancer.
- 25 (4) Treatment of a substance use disorder.
- 26 (5) Sickle cell disease.
- 27 (6) Acute intermittent porphyria.

28 (d) Except in the case of a prescription for a use listed in  
29 subdivision (c), before prescribing a minor a course of treatment  
30 with opioid medication, regardless of whether the dosage is  
31 modified during that course of treatment, a prescriber shall do all  
32 of the following:

- 1 (1) Assess whether the minor has taken or is currently taking  
2 prescription drugs for treatment of a substance use disorder.
- 3 (2) Discuss with the minor and the minor’s parent or guardian,  
4 or other authorized adult, all of the following:
- 5 (A) The risks of addiction and overdose associated with opioid  
6 medication.
- 7 (B) The increased risk of addiction to opioid medication to  
8 individuals suffering from mental or substance abuse disorders.
- 9 (C) The dangers of taking opioid medication with  
10 benzodiazepines, alcohol, or other central nervous system  
11 depressants.
- 12 (D) Any other information deemed necessary by the prescriber.
- 13 (3) Obtain verbal consent for the prescription from the minor’s  
14 parent or guardian, or authorized adult. The prescriber shall note  
15 the consent in the minor’s record.
- 16 (e) Subdivision (c) and paragraph (3) of subdivision (d) shall  
17 not apply if the minor’s treatment with opioid medication meets  
18 either of the following criteria:
- 19 ~~(1) The treatment is associated with, or incident to, a medical~~  
20 ~~emergency as documented in the minor’s medical record.~~
- 21 ~~(2) In if, the prescriber’s professional judgment, complying with~~  
22 ~~subdivision (c) or with paragraph (3) of subdivision (d),~~  
23 ~~respectively, with respect to the minor’s treatment would be~~  
24 ~~detrimental to the minor’s health or safety. The prescriber shall~~  
25 ~~document in the minor’s medical record the factor or factors which~~  
26 ~~the prescriber believed constituted cause for not fulfilling the~~  
27 ~~requirements of subdivision (c) or paragraph (3) of subdivision~~  
28 ~~(d).~~
- 29 *(f) This section shall not apply to emergency services and care*  
30 *as defined in Section 1317.1 of the Health and Safety Code.*
- 31 ~~(f)~~
- 32 (g) A violation of this section constitutes unprofessional conduct  
33 and grounds for disciplinary action by the prescriber’s licensing  
34 board. Each licensing board established under this division, or  
35 under an initiative act referred to in this division, shall be charged  
36 with enforcing this section as it pertains to that board’s prescribers.

O

**AB 2760 (*Wood*) Prescription drugs:  
prescribers: naloxone hydrochloride and  
other FDA-Approved drugs.**

## Assembly Bill No. 2760

### CHAPTER 324

An act to add Article 10.7 (commencing with Section 740) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 10, 2018. Filed with Secretary of State September 10, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2760, Wood. Prescription drugs: prescribers: naloxone hydrochloride and other FDA-approved drugs.

Existing law provides for the regulation of health care practitioners and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. Existing law authorizes a pharmacist to furnish naloxone hydrochloride in accordance with standardized procedures or protocols developed by both the California State Board of Pharmacy and the Medical Board of California.

This bill would require a prescriber, as defined, to offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient when certain conditions are present and to provide education on overdose prevention and the use of naloxone hydrochloride or another drug to the patient and specified others, except as specified. The bill would subject a prescriber to referral to the board charged with regulating his or her license for the imposition of administrative sanctions, as that board deems appropriate, for violating those provisions.

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Abuse and misuse of opioids is a serious problem that affects the health, social, and economic welfare of the state.
- (b) After alcohol, prescription drugs are the most commonly abused substances by Americans over 12 years of age.
- (c) Almost 2,000,000 people in the United States suffer from substance use disorders related to prescription opioid pain relievers.
- (d) Nonmedical use of prescription opioid pain relievers can be particularly dangerous when the products are manipulated for snorting or injection or are combined with other drugs.
- (e) Deaths involving prescription opioid pain relievers represent the largest proportion of drug overdose deaths, greater than the number of overdose deaths involving heroin or cocaine.

(f) Driven by the continued surge in drug deaths, life expectancy in the United States dropped for the second year in a row in 2016, resulting in the first consecutive decline in national life expectancy since 1963.

(g) Should 2017 also result in a decline in life expectancy as a result of drug deaths, it would be the first three-year period of consecutive life expectancy declines since World War I and the Spanish flu pandemic in 1918.

SEC. 2. Article 10.7 (commencing with Section 740) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

#### Article 10.7 Opioid Medication

740. For purposes of this article, “prescriber” means a person licensed, certified, registered, or otherwise subject to regulation pursuant to this division, or an initiative act referred to in this division, who is authorized to prescribe prescription drugs.

741. (a) Notwithstanding any other law, a prescriber shall do the following:

(1) Offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient when one or more of the following conditions are present:

(A) The prescription dosage for the patient is 90 or more morphine milligram equivalents of an opioid medication per day.

(B) An opioid medication is prescribed concurrently with a prescription for benzodiazepine.

(C) The patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant.

(2) Consistent with the existing standard of care, provide education to patients receiving a prescription under paragraph (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression.

(3) Consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor’s parent or guardian.

(b) This section does not apply to a prescriber when prescribing to an inmate or a youth under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice within the Department of Corrections and Rehabilitation.

742. A prescriber who fails to offer a prescription, as required by paragraph (1) of subdivision (a) of Section 741, or fails to provide the education and use information required by paragraphs (2) and (3) of subdivision (a) of Section 741 shall be referred to the appropriate licensing board solely for the imposition of administrative sanctions deemed appropriate by that board. This section does not create a private right of action against a prescriber, and does not limit a prescriber's liability for the negligent failure to diagnose or treat a patient.

**AB 2783 (*O'Donnell*) Controlled substances:  
hydrocodone combination products:  
schedules**

## Assembly Bill No. 2783

### CHAPTER 589

An act to amend Sections 11055 and 11056 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2783, O'Donnell. Controlled substances: hydrocodone combination products: schedules.

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law classifies hydrocodone as a Schedule II controlled substance. Existing law classifies specified compounds, including some hydrocodone compounds, as Schedule III controlled substances. Existing law imposes stringent prescription requirements on drugs classified as Schedule II, including a limitation on refills, the violation of which are crimes.

This bill would reclassify specified hydrocodone combination products as Schedule II controlled substances. By expanding the scope of the existing crimes that apply to Schedule II controlled substances, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 11056 of the Health and Safety Code proposed by AB 2589 to be operative only if this bill and AB 2589 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. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction

from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium, opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

- (A) Raw opium.
- (B) Opium extracts.
- (C) Opium fluid extracts.
- (D) Powdered opium.
- (E) Granulated opium.
- (F) Tincture of opium.
- (G) Codeine.
- (H) Ethylmorphine.
- (I) (i) Hydrocodone.

(ii) Hydrocodone combination products with not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(iii) Oral liquid preparations of dihydrocodeinone containing the above specified amounts that contain, as its nonnarcotic ingredients, two or more antihistamines in combination with each other.

(iv) Hydrocodone combination products with not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

- (J) Hydromorphone.
- (K) Metopon.
- (L) Morphine.
- (M) Oxycodone.
- (N) Oxymorphone.
- (O) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, except as specified in Section 11054.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and

salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextropropoxyphene and levopropoxyphene excepted:

- (1) Alfentanyl.
  - (2) Alphaprodine.
  - (3) Anileridine.
  - (4) Bezitramide.
  - (5) Bulk dextropropoxyphene (nondosage forms).
  - (6) Dihydrocodeine.
  - (7) Diphenoxylate.
  - (8) Fentanyl.
  - (9) Isomethadone.
  - (10) Levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM. This substance is authorized for the treatment of narcotic addicts under federal law (see Part 291 (commencing with Section 291.501) and Part 1308 (commencing with Section 1308.01) of Title 21 of the Code of Federal Regulations).
  - (11) Levomethorphan.
  - (12) Levorphanol.
  - (13) Metazocine.
  - (14) Methadone.
  - (15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
  - (16) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
  - (17) Pethidine (meperidine).
  - (18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
  - (19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
  - (20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
  - (21) Phenazocine.
  - (22) Piminodine.
  - (23) Racemethorphan.
  - (24) Racemorphan.
  - (25) Sufentanyl.
- (d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
  - (2) Methamphetamine, its salts, isomers, and salts of its isomers.
  - (3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.

(4) N-Ethylmethamphetamine (N-ethyl, N-methylamphetamine), its salts, isomers, and salts of its isomers.

(5) Phenmetrazine and its salts.

(6) Methylphenidate.

(7) Khat, which includes all parts of the plant classified botanically as *Catha Edulis*, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.

(8) Cathinone (also known as alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone).

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidines, including the following:

(A) 1-(1-phenylcyclohexyl) piperidine (PCP).

(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

(C) Any analog of phencyclidine which is added by the Attorney General by regulation pursuant to this paragraph.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(5) Glutethimide.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

SEC. 2. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

- (2) Benzphetamine.
- (3) Chlorphentermine.
- (4) Clortermine.
- (5) Mazindol.
- (6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

- (A) Amobarbital
- (B) Secobarbital
- (C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

- (A) Amobarbital
- (B) Secobarbital
- (C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

- (4) Chlorhexadol.
- (5) Lysergic acid.
- (6) Lysergic acid amide.
- (7) Methyprylon.
- (8) Sulfondiethylmethane.

- (9) Sulfonethylmethane.
  - (10) Sulfonmethane.
  - (11) Gamma hydroxybutyric acid, and its salts, isomers and salts of isomers, contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).
- (d) Nalorphine.
  - (e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
    - (1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
    - (2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
    - (3) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.
    - (4) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
    - (5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
    - (6) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
  - (f) Anabolic steroids and chorionic gonadotropin. Any material, compound, mixture, or preparation containing chorionic gonadotropin or an anabolic steroid (excluding anabolic steroid products listed in the “Table of Exempt Anabolic Steroid Products” (Section 1308.34 of Title 21 of the Code of Federal Regulations), as exempt from the federal Controlled Substances Act (Section 801 and following of Title 21 of the United States Code)), including, but not limited to, the following:
    - (1) Androisoxazole.
    - (2) Androstenediol.
    - (3) Bolandiol.
    - (4) Bolasterone.
    - (5) Boldenone.
    - (6) Chlormethandienone.
    - (7) Clostebol.
    - (8) Dihydromesterone.
    - (9) Ethylestrenol.
    - (10) Fluoxymesterone.
    - (11) Formyldienolone.

- (12) 4-Hydroxy-19-nortestosterone.
- (13) Mesterolone.
- (14) Methandriol.
- (15) Methandrostenolone.
- (16) Methenolone.
- (17) 17-Methyltestosterone.
- (18) Methyltrienolone.
- (19) Nandrolone.
- (20) Norbolethone.
- (21) Norethandrolone.
- (22) Normethandrolone.
- (23) Oxandrolone.
- (24) Oxymestronone.
- (25) Oxymetholone.
- (26) Quinbolone.
- (27) Stanolone.
- (28) Stanozolol.
- (29) Stenbolone.
- (30) Testosterone.
- (31) Trenbolone.
- (32) Chorionic Gonadotropin (HGC).

(g) Ketamine. Any material, compound, mixture, or preparation containing ketamine.

(h) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

SEC. 2.5. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or that is the same except that it contains a lesser quantity of controlled substances.

- (2) Benzphetamine.
- (3) Chlorphentermine.

- (4) Clortermine.
- (5) Mazindol.
- (6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

- (A) Amobarbital
- (B) Secobarbital
- (C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients that are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

- (A) Amobarbital
- (B) Secobarbital
- (C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof.

- (4) Chlorhexadol.
- (5) Lysergic acid.
- (6) Lysergic acid amide.
- (7) Methyprylon.
- (8) Sulfondiethylmethane.
- (9) Sulfonethylmethane.
- (10) Sulfonmethane.

(11) Gamma hydroxybutyric acid, and its salts, isomers and salts of isomers, contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(4) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids and chorionic gonadotropin. Any material, compound, mixture, or preparation containing chorionic gonadotropin or an anabolic steroid (excluding anabolic steroid products listed in the “Table of Exempt Anabolic Steroid Products” (Section 1308.34 of Title 21 of the Code of Federal Regulations), as exempt from the federal Controlled Substances Act (Section 801 and following of Title 21 of the United States Code)), including, but not limited to, the following:

- (1) Androisoxazole.
- (2) Androstenediol.
- (3) Bolandiol.
- (4) Bolasterone.
- (5) Boldenone.
- (6) Chlormethandienone.
- (7) Clostebol.
- (8) Dihydromesterone.
- (9) Ethylestrenol.
- (10) Fluoxymesterone.
- (11) Formyldienolone.
- (12) 4-Hydroxy-19-nortestosterone.
- (13) Mesterolone.
- (14) Methandriol.
- (15) Methandrostenolone.
- (16) Methenolone.
- (17) 17-Methyltestosterone.
- (18) Methyltrienolone.
- (19) Nandrolone.
- (20) Norbolethone.
- (21) Norethandrolone.
- (22) Normethandrolone.
- (23) Oxandrolone.
- (24) Oxymestron.
- (25) Oxymetholone.
- (26) Quinbolone.
- (27) Stanolone.
- (28) Stanozolol.
- (29) Stenbolone.
- (30) Testosterone.
- (31) Trenbolone.

(32) Human chorionic gonadotropin (hCG), except when possessed by, sold to, purchased by, transferred to, or administered by a licensed veterinarian, or a licensed veterinarian’s designated agent, exclusively for veterinary use.

(g) Ketamine. Any material, compound, mixture, or preparation containing ketamine.

(h) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 11056 of the Health and Safety Code proposed by both this bill and Assembly Bill 2589. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 11056 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2589, in which case Section 2 of this bill shall not become operative.

SEC. 4. 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.

**AB 2789 (*Wood*) Health care practitioners:  
prescriptions: electronic data transmission**

**Assembly Bill No. 2789**

CHAPTER 438

An act to add Section 688 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2789, Wood. Health care practitioners: prescriptions: electronic data transmission.

Existing law provides for the regulation of health care practitioners and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. The Pharmacy Law provides that a prescription is an oral, written, or electronic data transmission order and requires electronic data transmission prescriptions to be transmitted and processed in accordance with specified requirements.

This bill, on and after January 1, 2022, would require health care practitioners authorized to issue prescriptions to have the capability to transmit electronic data transmission prescriptions, and would require pharmacies to have the capability to receive those transmissions. The bill would require those health care practitioners to issue prescriptions as an electronic data transmission prescription, unless specified exceptions are met. The bill would not require the pharmacy to verify that a written, oral, or faxed prescription satisfies the specified exemptions. The bill would require the pharmacy receiving the electronic data transmission prescription to immediately notify the prescriber if the electronic data transmission prescription fails, is incomplete, or is otherwise not appropriately received. The bill would require the pharmacy to transfer or forward the prescription to another pharmacy at the request of the patient, as specified. The bill would exempt from these provisions a health care practitioner, pharmacist, or pharmacy when providing health care services to specified individuals under the jurisdiction of the Department of Corrections and Rehabilitation. The bill would require that a health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements imposed by this bill be referred to the appropriate state professional licensing board solely for administrative sanctions, as provided.

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

SECTION 1. Section 688 is added to the Business and Professions Code, to read:

688. (a) On and after January 1, 2022, a health care practitioner authorized to issue a prescription pursuant to Section 4040 shall have the capability to issue an electronic data transmission prescription, as defined under Section 4040, on behalf of a patient and to transmit that electronic data transmission prescription to a pharmacy selected by the patient.

(b) On and after January 1, 2022, a pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall have the capability to receive an electronic data transmission prescription on behalf of a patient.

(c) For a prescription for a controlled substance, as defined by Section 4021, generation and transmission of the electronic data transmission prescription shall comply with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(d) On and after January 1, 2022, a prescription prescribed by a health care practitioner shall be issued as an electronic data transmission prescription. This subdivision shall not apply to prescriptions issued pursuant to subdivision (e).

(e) Subdivision (d) shall not apply to any of the following:

(1) The prescription is issued pursuant to Section 11159.2 of the Health and Safety Code.

(2) An electronic data transmission prescription is not available due to a temporary technological or electrical failure. For purposes of this paragraph, “temporary technological or electrical failure” means failure of a computer system, application, or device, or the loss of electrical power to that system, application, or device, or any other service interruption affecting the certified electronic data transmission prescription application used to transmit the prescription.

(3) The prescribing health care practitioner is issuing a prescription to be dispensed by a pharmacy located outside California.

(4) (A) The prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:

(i) The patient resides outside California.

(ii) The patient resides outside the geographic area of the hospital.

(iii) The patient is homeless or indigent and does not have a preferred pharmacy.

(iv) The prescription is issued at a time when a patient’s regular or preferred pharmacy is likely to be closed.

(B) Under any of the conditions described in subparagraph (A), a prescription shall be electronically issued but does not require electronic transmission and may be provided directly to the patient.

(5) The prescription is issued by a veterinarian.

(6) The prescription is for eyeglasses or contact lenses.

(7) The prescribing health care practitioner and the dispenser are the same entity.

(8) The prescription is issued by a prescribing health care practitioner under circumstances whereby the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by

an electronic data transmission prescription in a timely manner, and the delay would adversely impact the patient's medical condition.

(9) The prescription that is issued includes elements not covered by the latest version of the National Council for Prescription Drug Programs' SCRIPT standard, as amended from time to time.

(f) A health care practitioner who issues a prescription for a controlled substance but does not transmit the prescription as an electronic data transmission prescription shall document the reason in the patient's medical record as soon as practicable and within 72 hours of the end of the technological or electrical failure that prevented the electronic data transmission of the prescription.

(g) A pharmacy that receives an electronic data transmission prescription from a prescribing health care practitioner who has issued the prescription but has not dispensed the medication to the patient shall, at the request of the patient or a person authorized to make a request on behalf of the patient, immediately transfer or forward the electronic data transmission prescription to an alternative pharmacy designated by the requester.

(h) If a pharmacy, or its staff, is aware that an attempted transmission of an electronic data transmission prescription failed, is incomplete, or is otherwise not appropriately received, the pharmacy shall immediately notify the prescribing health care practitioner.

(i) A pharmacist who receives a written, oral, or faxed prescription shall not be required to verify that the prescription properly falls under one of the exceptions in subdivision (e). Pharmacists may continue to dispense medications from legally valid written, oral, or fax prescriptions pursuant to this division.

(j) A health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements of this section shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. This section does not create a private right of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(k) This section shall not apply to a health care practitioner, pharmacist, or pharmacy when providing health care services to an inmate, individual on parole, or youth under the jurisdiction of the Department of Corrections and Rehabilitation.

**AB 2863 (*Nazarian*) Health care coverage:  
prescriptions**

## Assembly Bill No. 28

### CHAPTER 4

An act to add and repeal Section 820.1 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 2017. Filed with  
Secretary of State March 29, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 28, Frazier. Department of Transportation: environmental review process: federal pilot program.

Existing law gives the Department of Transportation full possession and control of the state highway system. Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, provided that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities it assumed as a participant in the pilot program.

This bill would reinstate the operation of the latter provision. The bill would repeal that provision on January 1, 2020.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 820.1 is added to the Streets and Highways Code, to read:

820.1. (a) The State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities assumed by the department pursuant to Section 326 of, and subsection (a) of Section 327 of, Title 23 of the United States Code.

(b) In any action brought pursuant to the federal laws described in subdivision (a), no immunity from suit may be asserted by the department pursuant to the Eleventh Amendment to the United States Constitution, and any immunity is hereby waived.

(c) The department shall not delegate any of its responsibilities assumed pursuant to the federal laws described in subdivision (a) to any political subdivision of the state or its instrumentalities.

(d) This section does not affect the obligation of the department to comply with state and federal law.

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To expedite the participation of the Department of Transportation in the federal surface transportation project delivery pilot program, it is necessary for this measure to take effect immediately.

**AB 2958 (*Quirk*) State bodies: meetings:  
teleconference**

**Assembly Bill No. 2958**

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Passed the Assembly August 29, 2018

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*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 28, 2018

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

An act to add Section 11123.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL’S DIGEST

AB 2958, Quirk. State bodies: meetings: teleconference.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Existing law does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. Existing law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, to identify each teleconference location in the notice and agenda, and to make each teleconference location accessible to the public. Existing law requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, as specified.

This bill, for a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body, would authorize an additional way of holding a meeting by teleconference, as prescribed, provided it also complies with all other applicable requirements of the Bagley-Keene Open Meeting Act. In this context, the bill would require a member of a state body participating by teleconference to be listed in the meeting minutes and that notice, as specified, identifying that member to be provided to the public at least 24 hours before the meeting. The bill would require a state body to designate a primary physical meeting location on that notice where members of the public may attend the meeting and participate, to include that information in the agenda of the meeting, and to post the agenda at the primary physical meeting location. The bill would require a quorum of the body’s members to be present at the primary physical meeting location and that decisions during the teleconference meeting be made by rollcall vote. The

bill would require the state body, if a member participates remotely, to provide the public a way to hear the meeting or to observe it and to provide public notice, as specified, of how this would be done. Upon discovering that a means of remote access has failed during a meeting, the bill would require the body to end or adjourn the meeting, as specified, and would prescribe certain notice requirements and procedures in this connection.

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

SECTION 1. Section 11123.5 is added to the Government Code, to read:

11123.5. (a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its Internet Web site and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated

pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or Internet Web site, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its Internet Web site and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

- (2) “Remote location” means a location other than the primary physical location designated in the agenda of a meeting.
- (3) “Teleconference” has the same meaning as in Section 11123.
  - (i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

Approved \_\_\_\_\_, 2018

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*Governor*

**AB 2968 (*Levine*) Psychotherapist-client  
relationship: victims of sexual behavior and  
sexual contact: informational brochure**

**Assembly Bill No. 2968**

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Passed the Assembly August 28, 2018

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*Chief Clerk of the Assembly*

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Passed the Senate August 21, 2018

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 337 and 728 of the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2968, Levine. Psychotherapist-client relationship: victims of sexual behavior and sexual contact: informational brochure.

Existing law requires the Department of Consumer Affairs to prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual contact and their advocates, and requires the brochure to be developed by the department in consultation with the office of Criminal Justice Planning and the office of the Attorney General, as specified. Existing law requires the brochure to include specified subjects and requires the brochure to be provided to individuals who contact the Medical Board of California and affiliated health boards or the Board of Behavioral Sciences regarding a complaint involving psychotherapist-patient sexual relations.

This bill would instead require the brochure to be prepared, developed, and disseminated by the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California. The bill would require that the brochure also be for victims of psychotherapist-client sexual behavior. The bill would revise the required content of the brochure, would require the brochure to be made available on the Internet Web sites of the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California, and would require the brochure to be provided to each individual contacting those boards regarding a complaint involving psychotherapist-client sexual behavior and sexual contact. The bill would also make conforming changes.

Existing law requires a psychotherapist or an employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact, as defined, with a previous psychotherapist to provide a brochure developed by the department that delineates the rights of, and

remedies for, patients who have been involved sexually with their psychotherapists. Existing law defines “psychotherapist” for purposes of those provisions to include various mental health practitioners and makes a failure to comply unprofessional conduct.

This bill would make this requirement also apply in the case of alleged sexual behavior, as defined, with a previous psychotherapist and would specify that the required brochure is the above-described brochure. The bill would also expand the list of mental health practitioners included in the definition of “psychotherapist” for those purposes.

This bill would incorporate additional changes to Section 728 of the Business and Professions Code proposed by AB 93 to be operative only if this bill and AB 93 are enacted and this bill is enacted last.

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

SECTION 1. Section 337 of the Business and Professions Code is amended to read:

337. (a) The Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California shall prepare and disseminate an informational brochure for victims of psychotherapist-client sexual behavior and sexual contact and their advocates. This brochure shall be developed by the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California.

(b) The brochure shall include, but is not limited to, the following:

- (1) A legal and an informal definition of psychotherapist-client sexual behavior and sexual contact.
- (2) A brief description of common personal reactions.
- (3) A client’s bill of rights.
- (4) Instructions for reporting psychotherapist-client sexual behavior and sexual contact.
- (5) A full description of administrative complaint procedures.
- (6) Information that other civil and criminal remedies may also be available to them in regards to the incident.
- (7) A description of services available for support of victims.

(c) The brochure shall be provided to each individual contacting the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, or the Osteopathic Medical Board of California regarding a complaint involving psychotherapist-client sexual behavior and sexual contact.

(d) The brochure shall be made available on the Internet Web sites of the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California.

SEC. 2. Section 728 of the Business and Professions Code is amended to read:

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a brochure developed pursuant to Section 337 that delineates the rights of, and remedies for, clients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss the brochure with the client.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) “Psychotherapist” means any of the following:

(A) A physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy.

(B) A psychologist.

(C) A psychological assistant.

(D) A registered psychologist.

(E) A trainee under the supervision of a licensed psychologist.

(F) A marriage and family therapist.

(G) An associate marriage and family therapist.

(H) A marriage and family therapist trainee.

(I) A licensed educational psychologist.

(J) A clinical social worker.

(K) An associate clinical social worker.

(L) A licensed professional clinical counselor.

(M) An associate professional clinical counselor.

(N) A clinical counselor trainee.

(2) “Sexual behavior” means inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(3) “Sexual contact” means the touching of an intimate part of another person.

(4) “Intimate part” and “touching” have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.

(5) “The course of a prior treatment” means the period of time during which a client first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the client as being within his or her scope of practice, until the psychotherapist-client relationship is terminated.

SEC. 2.5. Section 728 of the Business and Professions Code is amended to read:

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a brochure developed pursuant to Section 337 that delineates the rights of, and remedies for, clients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss the brochure with the client.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) “Psychotherapist” means any of the following:

(A) A physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy.

(B) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).

(C) A psychological assistant.

(D) A registered psychologist.

(E) A trainee under the supervision of a licensed psychologist.

(F) A marriage and family therapist.

(G) An associate marriage and family therapist.

- (H) A marriage and family therapist trainee.
- (I) A licensed educational psychologist.
- (J) A clinical social worker.
- (K) An associate clinical social worker.
- (L) A licensed professional clinical counselor.
- (M) An associate professional clinical counselor, as specified in Chapter 16 (commencing with Section 4999.10).
- (N) A clinical counselor trainee, as specified in Chapter 16 (commencing with Section 4999.10).

(2) “Sexual behavior” means inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(3) “Sexual contact” means the touching of an intimate part of another person.

(4) “Intimate part” and “touching” have the same meanings as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.

(5) “The course of a prior treatment” means the period of time during which a client first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the client as being within his or her scope of practice, until the psychotherapist-client relationship is terminated.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 728 of the Business and Professions Code proposed by both this bill and Assembly Bill 93. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 728 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 93, in which case Section 2 of this bill shall not become operative.

Approved \_\_\_\_\_, 2018

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*Governor*

**SB 762 (*Hernandez*) Optometry:  
administration of immunizations**

## Senate Bill No. 762

### CHAPTER 330

An act to amend Section 3041 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 2018. Filed with  
Secretary of State September 10, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 762, Hernandez. Optometry: administration of immunizations.

The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry in the Department of Consumer Affairs. The act requires an optometrist who has been certified to use therapeutic pharmaceutical agents to be certified for the administration of immunizations by complying with specified requirements, including completing an immunization training program endorsed by the federal Centers for Disease Control and Prevention.

This bill would instead require the training program to be endorsed by the federal Centers for Disease Control and Prevention or the Accreditation Council for Pharmacy Education. The bill would also make nonsubstantive changes, including correcting erroneous cross-references.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of habilitative or rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye, including lenses that may be classified as drugs or devices by any law of the United States or of this state.

(5) The use of topical pharmaceutical agents for the purpose of the examination of the human eye or eyes for any disease or pathological condition.

(b) (1) An optometrist who is certified to use therapeutic pharmaceutical agents, pursuant to Section 3041.3, may also diagnose and treat the human eye or eyes, or any of its or their appendages, for all of the following conditions:

(A) Through medical treatment, infections of the anterior segment and adnexa, excluding the lacrimal gland, the lacrimal drainage system, and the sclera in patients under 12 years of age.

(B) Ocular allergies of the anterior segment and adnexa.

(C) Ocular inflammation, nonsurgical in cause except when comanaged with the treating physician and surgeon, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over 18 years of age.

(D) Traumatic or recurrent conjunctival or corneal abrasions and erosions.

(E) Nonmalignant ocular surface disease and dry eye disease.

(F) Ocular pain, nonsurgical in cause except when comanaged with the treating physician and surgeon, associated with conditions optometrists are authorized to treat.

(G) Hypotrichosis and blepharitis.

(H) Pursuant to subdivision (e), glaucoma in patients over 18 years of age, as described in subdivision (k).

(2) For purposes of this section, “treat” means the use of therapeutic pharmaceutical agents, as described in subdivision (c), and the procedures described in subdivision (d).

(c) In diagnosing and treating the conditions listed in subdivision (b), an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may use or prescribe, including for rational off-label purposes, all of the following therapeutic pharmaceutical agents:

(1) Topical pharmaceutical agents for the examination of the human eye or eyes for any disease or pathological condition, including, but not limited to, topical miotics.

(2) Topical lubricants.

(3) Antiallergy agents. In using topical steroid medication for the treatment of ocular allergies, an optometrist shall consult with an ophthalmologist if the patient’s condition worsens 21 days after diagnosis.

(4) Topical and oral anti-inflammatories.

(5) Topical antibiotic agents.

- (6) Topical hyperosmotics.
  - (7) Topical and oral antiglaucoma agents pursuant to the certification process defined in subdivision (e).
  - (8) Nonprescription medications used for the rational treatment of an ocular disorder.
  - (9) Oral antihistamines.
  - (10) Prescription oral nonsteroidal anti-inflammatory agents.
  - (11) Oral antibiotics for medical treatment of ocular disease.
  - (12) Topical and oral antiviral medication for the medical treatment of herpes simplex viral keratitis, herpes simplex viral conjunctivitis, periocular herpes simplex viral dermatitis, varicella zoster viral keratitis, varicella zoster viral conjunctivitis, and periocular varicella zoster viral dermatitis.
  - (13) Oral analgesics that are not controlled substances.
  - (14) Codeine with compounds, hydrocodone with compounds, and tramadol as listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and the United States Uniform Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use of these agents shall be limited to three days, with a referral to an ophthalmologist if the pain persists.
  - (15) Additional therapeutic pharmaceutical agents pursuant to subdivision (f).
- (d) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may also perform all of the following procedures:
- (1) Corneal scraping with cultures.
  - (2) Debridement of corneal epithelia.
  - (3) Mechanical epilation.
  - (4) Collection of blood by skin puncture or venipuncture for testing patients suspected of having diabetes.
  - (5) Suture removal, with prior consultation with the treating physician and surgeon.
  - (6) Treatment or removal of sebaceous cysts by expression.
  - (7) Administration of oral fluorescein to patients suspected as having diabetic retinopathy.
  - (8) Use of an auto-injector to counter anaphylaxis.
  - (9) Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, urinalysis, tear fluid analysis, and X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa. An optometrist may order other types of images subject to prior consultation with an ophthalmologist or appropriate physician and surgeon.
  - (10) A clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) (42 U.S.C. Sec. 263a; Public Law 100-578) and designated in paragraph (9) necessary for the diagnosis of conditions and diseases of the eye or adnexa, or if otherwise specifically authorized by this chapter.
  - (11) Punctal occlusion by plugs, excluding laser, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.

(12) The use or prescription of diagnostic or therapeutic contact lenses, including lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide.

(13) Removal of foreign bodies from the cornea, eyelid, and conjunctiva with any appropriate instrument other than a scalpel. Corneal foreign bodies shall be nonperforating, be no deeper than the midstroma, and require no surgical repair upon removal.

(14) For patients over 12 years of age, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The board shall certify any optometrist who graduated from an accredited school of optometry before May 1, 2000, to perform this procedure after submitting proof of satisfactory completion of 10 procedures under the supervision of an ophthalmologist as confirmed by the ophthalmologist. Any optometrist who graduated from an accredited school of optometry on or after May 1, 2000, shall be exempt from the certification requirement contained in this paragraph.

(15) Intravenous injection for the purpose of performing ocular angiography at the direction of an ophthalmologist as part of an active treatment plan in a setting where a physician and surgeon is immediately available.

(16) Skin testing to diagnose ocular allergies, limited to the superficial layer of the skin.

(17) Use of any noninvasive medical device or technology authorized pursuant to subdivision (f).

(e) An optometrist certified pursuant to Section 3041.3 shall be certified for the treatment of glaucoma, as described in subdivision (k), in patients over 18 years of age after the optometrist meets the following applicable requirements:

(1) For licensees who graduated from an accredited school of optometry on or after May 1, 2008, submission of proof of graduation from that institution.

(2) For licensees who were certified to treat glaucoma under this section prior to January 1, 2009, submission of proof of completion of that certification program.

(3) For licensees who completed a didactic course of not less than 24 hours in the diagnosis, pharmacological, and other treatment and management of glaucoma, submission of proof of satisfactory completion of the case management requirements for certification established by the board.

(4) For licensees who graduated from an accredited school of optometry on or before May 1, 2008, and who are not described in paragraph (2) or (3), submission of proof of satisfactory completion of the requirements for certification established by the board under Chapter 352 of the Statutes of 2008.

(f) (1) Any topical or oral therapeutic pharmaceutical agent, which is not a controlled substance, or noninvasive medical device or technology that is not expressly authorized for use or prescription by an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3

shall be deemed to be authorized if it has received a United States Food and Drug Administration approved indication for the diagnosis or treatment of a condition authorized by this chapter. A licensee shall successfully complete any clinical training imposed by a related manufacturer prior to using any of those therapeutic pharmaceutical agents or noninvasive medical devices or technologies.

(2) Any other topical or oral therapeutic pharmaceutical agent, which is not a controlled substance, or noninvasive medical device or technology that is not expressly authorized for use or prescription by an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 and does not meet the requirements in paragraph (1) shall be deemed authorized if approved by the board through regulation for the rational treatment of a condition authorized by this chapter. Any regulation under this paragraph shall require a licensee to successfully complete an appropriate amount of clinical training to qualify to use each topical or oral therapeutic pharmaceutical agent or noninvasive medical device or technology approved by the board pursuant to this paragraph.

(3) This subdivision shall not be construed to authorize any of the following:

(A) Any therapeutic pharmaceutical agent, medical device, or technology involving cutting, altering, or otherwise infiltrating human tissue by any means.

(B) A clinical laboratory test or imaging study not authorized by paragraphs (1) to (16), inclusive, of subdivision (d).

(C) Treatment of any disease or condition that could not be treated by an optometrist before January 1, 2018.

(g) (1) An optometrist certified pursuant to Section 3041.3 shall be certified for the administration of immunizations after the optometrist meets all of the following requirements:

(A) Completes an immunization training program endorsed by the federal Centers for Disease Control and Prevention (CDC) or the Accreditation Council for Pharmacy Education that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and maintains that training.

(B) Is certified in basic life support.

(C) Complies with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient's primary care provided and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.

(D) Applies for an immunization certificate on a board-approved form.

(2) For the purposes of this section, "immunization" means the administration of immunizations for influenza, herpes zoster virus, and pneumococcus in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the CDC for persons 18 years of age or older.

(h) Other than for prescription ophthalmic devices described in subdivision (b) of Section 2541, any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(i) The practice of optometry does not include performing surgery. “Surgery” means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means. “Surgery” does not include those procedures specified in paragraphs (1) to (15), inclusive, of subdivision (d). This subdivision does not limit an optometrist’s authority to utilize diagnostic laser and ultrasound technology within his or her scope of practice.

(j) An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telehealth.

(k) For purposes of this chapter, “glaucoma” means either of the following:

- (1) All primary open-angle glaucoma.
- (2) Exfoliation and pigmentary glaucoma.
- (3) (A) Steroid induced glaucoma.

(B) If an optometrist treats a patient for steroid induced glaucoma the optometrist shall promptly notify the prescriber of the steroid medication if the prescriber did not refer the patient to the optometrist for treatment.

(l) For purposes of this chapter, “adnexa” means ocular adnexa.

(m) In an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and well-being of the public by allowing appropriately trained optometrists to administer immunizations, it is necessary for this act to take effect immediately.

**SB 798 (*Hill*) Healing Arts: Boards**

## 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.

**SB 1447 (*Hernandez*) Pharmacy:  
automated drug delivery systems**

**Senate Bill No. 1447**

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Passed the Senate August 31, 2018

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*Secretary of the Senate*

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Passed the Assembly August 30, 2018

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_

*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 4400 of, to amend and repeal Sections 4105.5 and 4119.1 of, to amend, repeal, and add Sections 4008 and 4186 of, to add Section 4017.3 to, and to add Article 25 (commencing with Section 4427) to Chapter 9 of Division 2 of, the Business and Professions Code, and to amend, repeal, and add Section 1261.6 of the Health and Safety Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1447, Hernandez. Pharmacy: automated drug delivery systems.

Existing law, the Pharmacy Law, establishes the California State Board of Pharmacy, within the Department of Consumer Affairs, to license and regulate the practice of pharmacy. Existing law makes any violation of the Pharmacy Law punishable as a crime.

Existing law generally requires a pharmacy that owns or provides dangerous drugs or dangerous devices dispensed through an automated drug delivery system (ADDS) to register the system, as provided, and authorizes the pharmacy to use the ADDS only if certain conditions are satisfied. Existing law authorizes the board to prohibit a pharmacy from using an ADDS if the board determines that those conditions are not satisfied. Existing law exempts from these requirements an ADDS operated by a licensed hospital pharmacy for doses administered in a facility operated under a consolidated license. Existing law specifies additional conditions for an ADDS located in a licensed clinic, a correctional clinic, or a health facility, as defined. Existing law authorizes a pharmacy or licensed wholesaler that is also an emergency medical services provider agency to restock dangerous drugs or dangerous devices into an emergency medical services automated drug delivery system that is licensed by the board, as provided. Existing law authorizes an inspector employed by the board to enter specified locations to inspect those locations for compliance with the Pharmacy Law.

This bill, beginning on July 1, 2019, would repeal the general ADDS provisions and the additional conditions for an ADDS

located in a health facility. The bill instead would require an ADDS, as defined, to meet specified requirements in order to be installed, leased, owned, or operated in the state, including a license for the ADDS issued by the board to the holder of a current, valid, and active pharmacy license of a pharmacy located and licensed in the state. The bill would limit the placement and operation of an ADDS to specified locations, including the licensed pharmacy holding that ADDS license, a licensed health facility, a licensed clinic, or a specified medical office if the ADDS is an automated patient dispensing system (APDS), as defined. The bill would require the pharmacy holding the ADDS license to own or lease the ADDS and the drugs and devices located within it, as provided, and would require that pharmacy to supervise the operation of the ADDS. The bill would prescribe specified stocking and transfer requirements for those drugs and devices. The bill would require the pharmacy holding the ADDS license to provide training on the operation and use of that ADDS to specified individuals and would require the pharmacy to complete periodic self-assessments. The bill would also authorize a pharmacy inspector employed by the board to enter the location, or proposed location, of an ADDS to inspect the ADDS or the location pursuant to these provisions. This bill would require additional conditions for an APDS. The bill would exempt an automated unit dose system (AUDS) from licensure under these provisions if the AUDS is operated by a licensed hospital pharmacy and used to provide doses to specified patients, but would require the AUDS to comply with all other ADDS requirements described above.

This bill would require, on or before January 1, 2024, the board to report to the appropriate policy committees of the Legislature on the regulation of ADDS units, as provided. Because a violation of the Pharmacy Law is punishable as a crime, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

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

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

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

SECTION 1. Section 4008 of the Business and Professions Code is amended to read:

4008. (a) Except as provided by Section 159.5, the board may employ legal counsel and inspectors of pharmacy. The inspectors, whether the inspectors are employed by the board or the department's Division of Investigation, may inspect during business hours all pharmacies, wholesalers, dispensaries, stores, or places where drugs or devices are compounded, prepared, furnished, dispensed, or stored.

(b) Notwithstanding subdivision (a), a pharmacy inspector may inspect or examine a physician's office or clinic that does not have a permit under Section 4180 or 4190 only to the extent necessary to determine compliance with and to enforce either Section 4080 or 4081.

(c) (1) (A) A pharmacy inspector employed by the board or in the department's Division of Investigation shall have the authority, as a public officer, to arrest, without warrant, any person whenever the officer has reasonable cause to believe that the person to be arrested has, in his or her presence, violated a provision of this chapter or of Division 10 (commencing with Section 11000) of the Health and Safety Code.

(B) If the violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated any provision that is declared to be a felony, although no felony has in fact been committed, he or she may make an arrest although the violation or suspected violation did not occur in his or her presence.

(2) In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. That chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(d) There shall be no civil liability on the part of, and no cause of action shall arise against, a person, acting pursuant to subdivision

(a) within the scope of his or her authority, for false arrest or false imprisonment arising out of an arrest that is lawful, or that the arresting officer, at the time of the arrest, had reasonable cause to believe was lawful. An inspector shall not be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

(e) Any inspector may serve all processes and notices throughout the state.

(f) A pharmacy inspector employed by the board may enter a facility licensed pursuant to subdivision (c) or (d) of Section 1250 of the Health and Safety Code to inspect an automated drug delivery system operated pursuant to Section 4119 or 4119.1.

(g) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 2. Section 4008 is added to the Business and Professions Code, to read:

4008. (a) Except as provided by Section 159.5, the board may employ legal counsel and inspectors of pharmacy. The inspectors, whether the inspectors are employed by the board or the department's Division of Investigation, may inspect during business hours all pharmacies, wholesalers, dispensaries, stores, or places where drugs or devices are compounded, prepared, furnished, dispensed, or stored.

(b) Notwithstanding subdivision (a), a pharmacy inspector may inspect or examine a physician's office or clinic that does not have a permit under Section 4180 or 4190 only to the extent necessary to determine compliance with and to enforce either Section 4080 or 4081.

(c) (1) (A) A pharmacy inspector employed by the board or in the department's Division of Investigation shall have the authority, as a public officer, to arrest, without warrant, any person whenever the officer has reasonable cause to believe that the person to be arrested has, in his or her presence, violated a provision of this chapter or of Division 10 (commencing with Section 11000) of the Health and Safety Code.

(B) If the violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated any provision that is declared to be a felony, although no felony has in fact been committed, he or she may make an arrest

although the violation or suspected violation did not occur in his or her presence.

(2) In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. That chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(d) There shall be no civil liability on the part of, and no cause of action shall arise against, a person, acting pursuant to subdivision (a) within the scope of his or her authority, for false arrest or false imprisonment arising out of an arrest that is lawful, or that the arresting officer, at the time of the arrest, had reasonable cause to believe was lawful. An inspector shall not be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

(e) Any inspector may serve all processes and notices throughout the state.

(f) A pharmacy inspector employed by the board may enter a facility licensed pursuant to subdivision (c) or (d) of Section 1250 of the Health and Safety Code to inspect an automated drug delivery system operated pursuant to Section 4119.

(g) A pharmacy inspector employed by the board may enter the location, or proposed location, of an automated drug delivery system to inspect that automated drug delivery system or proposed location pursuant to Article 25 (commencing with Section 4427).

(h) This section shall become operative on July 1, 2019.

SEC. 3. Section 4017.3 is added to the Business and Professions Code, to read:

4017.3. (a) An “automated drug delivery system” (ADDS) means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, dispensing, or distribution of drugs. An ADDS shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.

(b) An “automated unit dose system” (AUDS) is an ADDS for storage and retrieval of unit doses of drugs for administration to patients by persons authorized to perform these functions.

(c) An “automated patient dispensing system” (APDS) is an ADDS for storage and dispensing of prescribed drugs directly to patients pursuant to prior authorization by a pharmacist.

(d) This section shall become operative on July 1, 2019.

SEC. 4. Section 4105.5 of the Business and Professions Code is amended to read:

4105.5. (a) For purposes of this section, an “automated drug delivery system” has the same meaning as that term is defined in paragraph (1) of subdivision (a) of Section 1261.6 of the Health and Safety Code.

(b) Except as provided by subdivision (e), a pharmacy that owns or provides dangerous drugs dispensed through an automated drug delivery system shall register the automated drug delivery system by providing the board in writing with the location of each device within 30 days of installation of the device, and on an annual basis as part of the license renewal pursuant to subdivision (a) of Section 4110. The pharmacy shall also advise the board in writing within 30 days if the pharmacy discontinues operating an automated drug delivery system.

(c) A pharmacy may only use an automated drug delivery system if all of the following conditions are satisfied:

(1) Use of the automated drug delivery system is consistent with legal requirements.

(2) The pharmacy’s policies and procedures related to the automated drug delivery system to include appropriate security measures and monitoring of the inventory to prevent theft and diversion.

(3) The pharmacy reports drug losses from the automated drug delivery system to the board as required by law.

(4) The pharmacy license is unexpired and not subject to disciplinary conditions.

(d) The board may prohibit a pharmacy from using an automated drug delivery system if the board determines that the conditions provided in subdivision (c) are not satisfied. If such a determination is made, the board shall provide the pharmacy with written notice including the basis for the determination. The pharmacy may request an office conference to appeal the board’s decision within

30 days of receipt of the written notice. The executive officer or designee may affirm or overturn the prohibition as a result of the office conference.

(e) An automated drug delivery system operated by a licensed hospital pharmacy as defined in Section 4029 for doses administered in a facility operated under a consolidated license under Section 1250.8 of the Health and Safety Code shall be exempt from the requirements of subdivision (b).

(f) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 5. Section 4119.1 of the Business and Professions Code is amended to read:

4119.1. (a) A pharmacy may provide pharmacy services to a health facility licensed pursuant to subdivision (c), (d), or both, of Section 1250 of the Health and Safety Code, through the use of an automated drug delivery system that need not be located at the same location as the pharmacy.

(b) Drugs stored in an automated drug delivery system shall be part of the inventory of the pharmacy providing pharmacy services to that facility, and drugs dispensed from the pharmacy system shall be considered to have been dispensed by that pharmacy.

(c) (1) The pharmacy shall maintain records of the acquisition and disposition of dangerous drugs and dangerous devices stored in the automated drug delivery system separate from other pharmacy records.

(2) The pharmacy shall own and operate the automated drug delivery system.

(3) The pharmacy shall provide training regarding the operation and use of the automated drug delivery system to both pharmacy and health facility personnel using the system.

(4) The pharmacy shall operate the automated drug delivery system in compliance with Section 1261.6 of the Health and Safety Code.

(d) The operation of the automated drug delivery system shall be under the supervision of a licensed pharmacist. To qualify as a supervisor for an automated drug delivery system, the pharmacist need not be physically present at the site of the automated drug delivery system and may supervise the system electronically.

(e) This section shall not be construed to revise or limit the use of automated drug delivery systems as permitted by the board in

any licensed health facility other than a facility defined in subdivision (c) or (d), or both, of Section 1250 of the Health and Safety Code.

(f) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 6. Section 4186 of the Business and Professions Code is amended to read:

4186. (a) Automated drug delivery systems, as defined in subdivision (h), may be located in any clinic licensed by the board pursuant to Section 4180. If an automated drug delivery system is located in a clinic, the clinic shall develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the quality, potency, and purity of drugs. All policies and procedures shall be maintained at the location where the automated drug system is being used.

(b) Drugs shall be removed from the automated drug delivery system only upon authorization by a pharmacist after the pharmacist has reviewed the prescription and the patient's profile for potential contraindications and adverse drug reactions. Drugs removed from the automated drug delivery system shall be provided to the patient by a health professional licensed pursuant to this division.

(c) The stocking of an automated drug delivery system shall be performed by a pharmacist.

(d) Review of the drugs contained within, and the operation and maintenance of, the automated drug delivery system shall be the responsibility of the clinic. The review shall be conducted on a monthly basis by a pharmacist and shall include a physical inspection of the drugs in the automated drug delivery system, an inspection of the automated drug delivery system machine for cleanliness, and a review of all transaction records in order to verify the security and accountability of the system.

(e) The automated drug delivery system used at the clinic shall provide for patient consultation pursuant to Section 1707.2 of Title 16 of the California Code of Regulations with a pharmacist via a telecommunications link that has two-way audio and video.

(f) The pharmacist operating the automated drug delivery system shall be located in California.

(g) Drugs dispensed from the automated drug delivery system shall comply with the labeling requirements in Section 4076.

(h) For purposes of this section, an “automated drug delivery system” means a mechanical system controlled remotely by a pharmacist that performs operations or activities, other than compounding or administration, relative to the storage, dispensing, or distribution of prepackaged dangerous drugs or dangerous devices. An automated drug delivery system shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.

(i) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 7. Section 4186 is added to the Business and Professions Code, to read:

4186. (a) Automated drug delivery systems, as defined in Section 4017.3, may be located in any clinic licensed by the board pursuant to Section 4180. If an automated drug delivery system is located in a clinic, the clinic shall develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the quality, potency, and purity of drugs. All policies and procedures shall be maintained at the location where the automated drug system is being used.

(b) Drugs shall be removed from the automated drug delivery system only upon authorization by a pharmacist after the pharmacist has reviewed the prescription and the patient’s profile for potential contraindications and adverse drug reactions. Drugs removed from the automated drug delivery system shall be provided to the patient by a health professional licensed pursuant to this division.

(c) The stocking of an automated drug delivery system shall be performed by a pharmacist.

(d) Review of the drugs contained within, and the operation and maintenance of, the automated drug delivery system shall be the responsibility of the clinic. The review shall be conducted on a monthly basis by a pharmacist and shall include a physical inspection of the drugs in the automated drug delivery system, an inspection of the automated drug delivery system machine for

cleanliness, and a review of all transaction records in order to verify the security and accountability of the system.

(e) The automated drug delivery system used at the clinic shall provide for patient consultation pursuant to Section 1707.2 of Title 16 of the California Code of Regulations with a pharmacist via a telecommunications link that has two-way audio and video.

(f) The pharmacist operating the automated drug delivery system shall be located in California.

(g) Drugs dispensed from the automated drug delivery system shall comply with the labeling requirements in Section 4076 and with Section 1707.5 of Title 16 of the California Code of Regulations.

(h) This section shall become operative on July 1, 2019.

SEC. 8. Section 4400 of the Business and Professions Code is amended to read:

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

(a) The fee for a nongovernmental pharmacy license shall be five hundred twenty dollars (\$520) and may be increased to five hundred seventy dollars (\$570). The fee for the issuance of a temporary nongovernmental pharmacy permit shall be two hundred fifty dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325).

(b) The fee for a nongovernmental pharmacy license annual renewal shall be six hundred sixty-five dollars (\$665) and may be increased to nine hundred thirty dollars (\$930).

(c) The fee for the pharmacist application and examination shall be two hundred sixty dollars (\$260) and may be increased to two hundred eighty-five dollars (\$285).

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

(e) The fee for a pharmacist license shall be one hundred ninety-five dollars (\$195) and may be increased to two hundred fifteen dollars (\$215). The fee for a pharmacist biennial renewal shall be three hundred sixty dollars (\$360) and may be increased to five hundred five dollars (\$505).

(f) The fee for a nongovernmental wholesaler or third-party logistics provider license and annual renewal shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820). The application fee for any additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(g) The fee for a hypodermic license shall be one hundred seventy dollars (\$170) and may be increased to two hundred forty dollars (\$240). The fee for a hypodermic license renewal shall be two hundred dollars (\$200) and may be increased to two hundred eighty dollars (\$280).

(h) (1) The fee for application, investigation, and issuance of a license as a designated representative pursuant to Section 4053, as a designated representative-3PL pursuant to Section 4053.1, or as a designated representative-reverse distributor pursuant to Section 4053.2 shall be one hundred fifty dollars (\$150) and may be increased to two hundred ten dollars (\$210).

(2) The fee for the annual renewal of a license as a designated representative, designated representative-3PL, or designated representative-reverse distributor shall be two hundred fifteen dollars (\$215) and may be increased to three hundred dollars (\$300).

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be one hundred fifty dollars (\$150) and may be increased to two hundred ten dollars (\$210).

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be two hundred fifteen dollars (\$215) and may be increased to three hundred dollars (\$300).

(j) (1) The application fee for a nonresident wholesaler or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820).

(2) For nonresident wholesalers or third-party logistics providers that have 21 or more facilities operating nationwide the application

fees for the first 20 locations shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820). The application fee for any additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(3) The annual renewal fee for a nonresident wholesaler license or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820).

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

(l) The fee for an intern pharmacist license shall be one hundred sixty-five dollars (\$165) and may be increased to two hundred thirty dollars (\$230). The fee for transfer of intern hours or verification of licensure to another state shall be twenty-five dollars (\$25) and may be increased to thirty dollars (\$30).

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

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

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

(p) 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 Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(q) The fee for any applicant for a nongovernmental clinic license shall be five hundred twenty dollars (\$520) for each license and may be increased to five hundred seventy dollars (\$570). The annual fee for renewal of the license shall be three hundred

twenty-five dollars (\$325) for each license and may be increased to three hundred sixty dollars (\$360).

(r) The fee for the issuance of a pharmacy technician license shall be one hundred forty dollars (\$140) and may be increased to one hundred ninety-five dollars (\$195). The fee for renewal of a pharmacy technician license shall be one hundred forty dollars (\$140) and may be increased to one hundred ninety-five dollars (\$195).

(s) The fee for a veterinary food-animal drug retailer license shall be four hundred thirty-five dollars (\$435) and may be increased to six hundred ten dollars (\$610). The annual renewal fee for a veterinary food-animal drug retailer license shall be three hundred thirty dollars (\$330) and may be increased to four hundred sixty dollars (\$460).

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(u) The fee for issuance of a nongovernmental sterile compounding pharmacy license or a hospital satellite compounding pharmacy shall be one thousand six hundred forty-five dollars (\$1,645) and may be increased to two thousand three hundred five dollars (\$2,305). The fee for a temporary license shall be five hundred fifty dollars (\$550) and may be increased to seven hundred fifteen dollars (\$715). The annual renewal fee of the license shall be one thousand three hundred twenty-five dollars (\$1,325) and may be increased to one thousand eight hundred fifty-five dollars (\$1,855).

(v) The fee for the issuance of a nonresident sterile compounding pharmacy license shall be two thousand three hundred eighty dollars (\$2,380) and may be increased to three thousand three hundred thirty-five dollars (\$3,335). The annual renewal of the license shall be two thousand two hundred seventy dollars (\$2,270) and may be increased to three thousand one hundred eighty dollars (\$3,180). In addition to paying that application fee, the nonresident sterile compounding pharmacy shall deposit, when submitting the application, a reasonable amount, as determined by the board, necessary to cover the board's estimated cost of performing the inspection required by Section 4127.2. If the required deposit is not submitted with the application, the application shall be deemed to be incomplete. If the actual cost of the inspection exceeds the

amount deposited, the board shall provide to the applicant a written invoice for the remaining amount and shall not take action on the application until the full amount has been paid to the board. If the amount deposited exceeds the amount of actual and necessary costs incurred, the board shall remit the difference to the applicant.

(w) The fee for the issuance of an outsourcing facility license shall be two thousand two hundred seventy dollars (\$2,270) and may be increased to up to three thousand one hundred eighty dollars (\$3,180) by the board. The fee for the renewal of an outsourcing facility license shall be one thousand three hundred twenty-five dollars (\$1,325) and may be increased to up to one thousand eight hundred fifty-five dollars (\$1,855) by the board. The fee for a temporary outsourcing facility license shall be seven hundred fifteen dollars (\$715).

(x) The fee for the issuance of a nonresident outsourcing facility license shall be two thousand three hundred eighty dollars (\$2,380) and may be increased to up to three thousand three hundred thirty-five dollars (\$3,335) by the board. The fee for the renewal of a nonresident outsourcing facility license shall be two thousand two hundred seventy dollars (\$2,270) and may be increased to up to three thousand one hundred eighty dollars (\$3,180) by the board. In addition to paying that application fee, the nonresident outsourcing facility shall deposit, when submitting the application, a reasonable amount, as determined by the board, necessary to cover the board's estimated cost of performing the inspection required by Section 4129.2. If the required deposit is not submitted with the application, the application shall be deemed to be incomplete. If the actual cost of the inspection exceeds the amount deposited, the board shall provide to the applicant a written invoice for the remaining amount and shall not take action on the application until the full amount has been paid to the board. If the amount deposited exceeds the amount of actual and necessary costs incurred, the board shall remit the difference to the applicant.

(y) The fee for the issuance of a centralized hospital packaging license shall be eight hundred twenty dollars (\$820) and may be increased to one thousand one hundred fifty dollars (\$1,150). The annual renewal of the license shall be eight hundred five dollars (\$805) and may be increased to one thousand one hundred twenty-five dollars (\$1,125).

(z) The fee for the issuance of a license to a correctional clinic pursuant to Article 13.5 (commencing with Section 4187) that is not owned by the state shall be five hundred twenty dollars (\$520) and may be increased to five hundred seventy dollars (\$570). The annual renewal fee for that correctional clinic license shall be three hundred twenty-five dollars (\$325) and may be increased to three hundred sixty dollars (\$360).

(aa) Beginning on and after July 1, 2019, the fee for an ADDS license shall be two hundred dollars (\$200) and may be increased to two hundred fifty dollars (\$250). The fee for the annual renewal of the license shall be two hundred dollars (\$200) and may be increased to two hundred fifty dollars (\$250).

SEC. 9. Article 25 (commencing with Section 4427) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

#### Article 25. Automated Drug Delivery System

4427. As used in this article, “drugs” or “dangerous drugs” shall have the same meaning as “dangerous drug” as provided in Section 4022 and “devices” or “dangerous devices” shall have the same meaning as “dangerous device” as provided in Section 4022.

4427.1. An ADDS shall not be installed or operated in California unless it meets the requirements of this article.

4427.2. (a) An ADDS installed, leased, owned, or operated in California shall be licensed by the board.

(b) An ADDS license shall only be issued to the holder of a current, valid, and active pharmacy license of a pharmacy located and licensed in California.

(c) A separate application and license shall be required for each ADDS.

(d) An ADDS license shall only be issued when the following conditions are met:

(1) Use of the ADDS is consistent with legal requirements.

(2) The proposed location for installation of the ADDS meets the requirements of Section 4427.3 and the ADDS is secure from access and removal by unauthorized individuals.

(3) The pharmacy’s policies and procedures related to the ADDS include appropriate security measures and monitoring of the inventory to prevent theft and diversion.

(4) The pharmacy's policies and procedures include provisions for reporting to the board drug losses from the ADDS inventory, as required by law.

(e) Prior to issuance of the license, the board shall conduct a precensure inspection, within 30 days of a completed application for an ADDS license, at the proposed location of the ADDS. Relocation of the ADDS shall require a new application for licensure. Replacement of an ADDS shall require notification to the board within 30 days.

(f) The ADDS license shall be canceled by operation of law if the underlying pharmacy license is not current, valid, and active. Upon reissuance or reinstatement of the underlying pharmacy license, a new application for an ADDS license may be submitted to the board.

(g) The holder of an ADDS license shall advise the board in writing within 30 days if use of the ADDS is discontinued.

(h) The ADDS license shall be renewed annually, and the renewal date shall be the same as the underlying pharmacy license.

(i) An AUDES operated by a licensed hospital pharmacy, as defined in Section 4029, and used solely to provide doses administered to patients while in a licensed general acute care hospital facility or a licensed acute psychiatric hospital facility, as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code, shall be exempt from the requirement of obtaining an ADDS license pursuant to this section if the licensed hospital pharmacy owns or leases the AUDES and owns the dangerous drugs and dangerous devices in the AUDES. The AUDES shall comply with all other requirements for an ADDS in this article. The licensed hospital pharmacy shall maintain a list of the locations of each AUDES it operates and shall make the list available to the board upon request.

(j) An ADDS license is not required for technology, installed within the secured licensed premises area of a pharmacy, used in the selecting, counting, packaging, and labeling of dangerous drugs and dangerous devices.

4427.3. (a) An ADDS shall be placed and operated inside an enclosed building, with a premises address, at a location approved by the board.

(b) An ADDS shall be placed and operated in one of the following locations:

(1) Adjacent to the secured pharmacy area of the pharmacy holding the ADDS license.

(2) A health facility licensed pursuant to Section 1250 of the Health and Safety Code that complies with Section 1261.6 of the Health and Safety Code.

(3) A clinic licensed pursuant to Section 1204 or 1204.1 of the Health and Safety Code, or Section 4180 or 4190 of this code.

(4) A correctional clinic licensed pursuant to Section 4187.1.

(5) If the ADDS is an APDS, in a location as provided in Section 4427.6.

(c) Prior to installation, the pharmacy holding the ADDS license and the location where the ADDS is placed pursuant to subdivision (b) shall jointly develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the ADDS, as well as quality, potency, and purity of the drugs and devices. These policies and procedures shall be maintained at the location of the ADDS and at the pharmacy holding the ADDS license.

4427.4. (a) The ADDS shall be owned or leased by the pharmacy holding the license for the ADDS.

(b) Each ADDS shall only be operated under the supervision of the pharmacy holding the ADDS license.

(c) An ADDS shall be considered an extension and part of the pharmacy holding the ADDS license, regardless of the ADDS location, and shall be subject to inspection pursuant to Section 4008.

(d) Drugs and devices stored in an ADDS shall be deemed part of the inventory and the responsibility of the pharmacy holding the ADDS license, and drugs and devices dispensed from the ADDS shall be considered to have been dispensed by that pharmacy.

(e) (1) The stocking and restocking of an ADDS shall be performed by a pharmacist, or by a pharmacy technician or intern pharmacist under the supervision of a pharmacist, except for an ADDS located in a health facility licensed pursuant to Section 1250 of the Health and Safety Code, where the stocking and restocking of the ADDS may be performed in compliance with Section 1261.6 of the Health and Safety Code.

(2) Access to the ADDS shall be controlled and tracked using an identification or password system or biosensor.

(3) The ADDS shall make a complete and accurate record of all transactions that includes all users accessing the system and all drugs added to, or removed from, the system.

(f) If drugs or devices are not immediately transferred into an ADDS upon arrival at the ADDS location, the drugs and devices shall be stored for no longer than 48 hours in a secured room within the ADDS location approved by the board under Section 4427.3. Upon retrieval of these drugs and devices from secured storage, an inventory shall be taken to detect any losses or overages.

4427.5. Prior to installation, and annually thereafter, the pharmacy holding the ADDS license shall provide training on the operation and use of the ADDS to pharmacy personnel and to personnel using the ADDS at the location where the ADDS is placed pursuant to subdivision (b) of Section 4427.3.

4427.6. In addition to any other requirements imposed by this article, an APDS shall additionally meet the following requirements:

(a) The pharmacy shall develop and implement, and review annually, written policies and procedures pertaining to the APDS, including all of the following:

(1) Maintaining the security of the APDS and the dangerous drugs and dangerous devices within that APDS.

(2) Determining and applying inclusion criteria regarding which drugs and devices are appropriate for placement in the APDS and for which patients.

(3) Ensuring that patients are aware that consultation with a pharmacist is available for any prescription medication, including for those delivered via the APDS.

(4) Describing assignment of responsibilities to, and training of, pharmacy personnel, and other personnel using the APDS at the location where the APDS is placed pursuant to subdivision (b) of Section 4427.3, regarding maintenance and filing procedures for the APDS.

(5) Orienting participating patients on the use of the APDS, notifying patients when expected prescription medications are not available in the APDS, and ensuring that patient use of the APDS does not interfere with delivery of drugs and devices.

(6) Ensuring delivery of drugs and devices to patients expecting to receive them from the APDS in the event the APDS is disabled or malfunctions.

(b) The APDS shall only be used for patients who have signed a written consent form demonstrating their informed consent to receive prescribed drugs and devices from an APDS, and whose use of the APDS meets inclusion criteria established pursuant to subdivision (a).

(c) The APDS shall have a means to identify each patient and only release the identified patient's drugs and devices to the patient or the patient's agent.

(d) A pharmacist licensed by the board shall perform all clinical services conducted as part of the dispensing process, including, but not limited to, drug utilization review and consultation.

(e) Drugs shall be dispensed from the APDS only upon authorization by a licensed pharmacist after the pharmacist has reviewed the prescription and the patient's profile for potential contraindications and adverse drug reactions.

(f) All prescribed drugs and devices dispensed to a patient from an APDS for the first time shall be accompanied by a consultation conducted by a pharmacist licensed by the board via a telecommunications link that has two-way audio and video.

(g) The APDS shall include a notice, prominently posted on the APDS, providing the name, address, and phone number of the pharmacy that holds the ADDS license for that APDS.

(h) The labels on all drugs and devices dispensed by the APDS shall comply with Section 4076 and with Section 1707.5 of Title 16 of the California Code of Regulations.

(i) Any incident involving the APDS where a complaint, error, or omission has occurred shall be reviewed as part of the pharmacy's quality assurance program pursuant to Section 4125.

(j) An APDS may be located and operated in a medical office or other location where patients are regularly seen for purposes of diagnosis and treatment, and the APDS is only used to dispense dangerous drugs and dangerous devices to patients of the practice.

(k) The board shall not issue a pharmacy more than 15 ADDS licenses for APDS units. Consistent with Section 4001.1, the board, by regulation, may reduce the number of ADDS licenses a pharmacy may be issued for APDS units.

(l) The pharmacy holding the ADDS license for an APDS shall maintain the policies and procedures developed pursuant to subdivision (a) for three years after the last date of use of that APDS.

4427.7. (a) A pharmacy holding an ADDS license shall complete an annual self-assessment, performed pursuant to Section 1715 of Title 16 of the California Code of Regulations, evaluating the pharmacy’s compliance with pharmacy law relating to the use of the ADDS. All information regarding operation, maintenance, compliance, error, omissions, or complaints pertaining to the ADDS shall be included in the self-assessment.

(b) The pharmacy shall comply with all recordkeeping and quality assurance requirements established in pharmacy law and regulation, and shall maintain those records within the licensed pharmacy holding the ADDS license and separate from other pharmacy records.

4427.8. (a) This article shall become operative on July 1, 2019.

(b) On or before January 1, 2024, as part of the board’s sunset evaluation process, and notwithstanding Sections 9795 and 10231.5 of the Government Code, the board shall report to the appropriate committees of the Legislature on the regulation of ADDS units as provided in this article. At a minimum, this report shall require all of the following:

(1) The use and dispersion of ADDS throughout the health care system.

(2) The number of ADDS inspections conducted by the board each year and the findings from the inspections.

(3) Public safety concerns relating to the use of ADDS as identified by the board.

SEC. 10. Section 1261.6 of the Health and Safety Code is amended to read:

1261.6. (a) (1) For purposes of this section and Section 1261.5, an “automated drug delivery system” means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, dispensing, or distribution of drugs. An automated drug delivery system shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.

(2) For purposes of this section, “facility” means a health facility licensed pursuant to subdivision (c), (d), or (k) of Section 1250 that has an automated drug delivery system provided by a pharmacy.

(3) For purposes of this section, “pharmacy services” means the provision of both routine and emergency drugs and biologicals to meet the needs of the patient, as prescribed by a physician.

(b) Transaction information shall be made readily available in a written format for review and inspection by individuals authorized by law. These records shall be maintained in the facility for a minimum of three years.

(c) Individualized and specific access to automated drug delivery systems shall be limited to facility and contract personnel authorized by law to administer drugs.

(d) (1) The facility and the pharmacy shall develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the quality, potency, and purity of stored drugs. Policies and procedures shall define access to the automated drug delivery system and limits to access to equipment and drugs.

(2) All policies and procedures shall be maintained at the pharmacy operating the automated drug delivery system and the location where the automated drug delivery system is being used.

(e) When used as an emergency pharmaceutical supplies container, drugs removed from the automated drug delivery system shall be limited to the following:

(1) A new drug order given by a prescriber for a patient of the facility for administration prior to the next scheduled delivery from the pharmacy, or 72 hours, whichever is less. The drugs shall be retrieved only upon authorization by a pharmacist and after the pharmacist has reviewed the prescriber’s order and the patient’s profile for potential contraindications and adverse drug reactions.

(2) Drugs that a prescriber has ordered for a patient on an as-needed basis, if the utilization and retrieval of those drugs are subject to ongoing review by a pharmacist.

(3) Drugs designed by the patient care policy committee or pharmaceutical service committee of the facility as emergency drugs or acute onset drugs. These drugs may be retrieved from an automated drug delivery system pursuant to the order of a prescriber for emergency or immediate administration to a patient of the facility. Within 48 hours after retrieval under this paragraph, the case shall be reviewed by a pharmacist.

(f) When used to provide pharmacy services pursuant to Section 4119.1 of the Business and Professions Code, the automated drug

delivery system shall be subject to all of the following requirements:

(1) Drugs removed from the automated drug delivery system for administration to a patient shall be in properly labeled units of administration containers or packages.

(2) A pharmacist shall review and approve all orders prior to a drug being removed from the automated drug delivery system for administration to a patient. The pharmacist shall review the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(3) The pharmacy providing services to the facility pursuant to Section 4119.1 of the Business and Professions Code shall control access to the drugs stored in the automated drug delivery system.

(4) Access to the automated drug delivery system shall be controlled and tracked using an identification or password system or biosensor.

(5) The automated drug delivery system shall make a complete and accurate record of all transactions that will include all users accessing the system and all drugs added to, or removed from, the system.

(6) After the pharmacist reviews the prescriber's order, access by licensed personnel to the automated drug delivery system shall be limited only to drugs ordered by the prescriber and reviewed by the pharmacist and that are specific to the patient. When the prescriber's order requires a dosage variation of the same drug, licensed personnel shall have access to the drug ordered for that scheduled time of administration.

(7) (A) Systems that allow licensed personnel to have access to multiple drugs and are not patient specific in their design, shall be allowed under this subdivision if those systems have electronic and mechanical safeguards in place to ensure that the drugs delivered to the patient are specific to that patient. Each facility using such an automated drug system shall notify the department in writing prior to the utilization of the system. The notification submitted to the department pursuant to this paragraph shall include, but is not limited to, information regarding system design, personnel with system access, and policies and procedures covering staff training, storage, and security, and the facility's administration of these types of systems.

(B) As part of its routine oversight of these facilities, the department shall review a facility's medication training, storage, and security, and its administration procedures related to its use of an automated drug delivery system to ensure that adequate staff training and safeguards are in place to make sure that the drugs delivered are appropriate for the patient. If the department determines that a facility is not in compliance with this section, the department may revoke its authorization to use automated drug delivery systems granted under subparagraph (A).

(g) The stocking of an automated drug delivery system shall be performed by a pharmacist. If the automated drug delivery system utilizes removable pockets, cards, drawers, similar technology, or unit of use or single dose containers as defined by the United States Pharmacopoeia, the stocking system may be done outside of the facility and be delivered to the facility if all of the following conditions are met:

(1) The task of placing drugs into the removable pockets, cards, drawers, or unit of use or single dose containers is performed by a pharmacist, or by an intern pharmacist or a pharmacy technician working under the direct supervision of a pharmacist.

(2) The removable pockets, cards, drawers, or unit of use or single dose containers are transported between the pharmacy and the facility in a secure tamper-evident container.

(3) The facility, in conjunction with the pharmacy, has developed policies and procedures to ensure that the removable pockets, cards, drawers, or unit of use or single dose containers are properly placed into the automated drug delivery system.

(h) Review of the drugs contained within, and the operation and maintenance of, the automated drug delivery system shall be done in accordance with law and shall be the responsibility of the pharmacy. The review shall be conducted on a monthly basis by a pharmacist and shall include a physical inspection of the drugs in the automated drug delivery system, an inspection of the automated drug delivery system machine for cleanliness, and a review of all transaction records in order to verify the security and accountability of the system.

(i) Drugs dispensed from an automated drug delivery system that meets the requirements of this section shall not be subject to the labeling requirements of Section 4076 of the Business and Professions Code or Section 111480 of this code if the drugs to

be placed into the automated drug delivery system are in unit dose packaging or unit of use and if the information required by Section 4076 of the Business and Professions Code and Section 111480 of this code is readily available at the time of drug administration. For purposes of this section, unit dose packaging includes blister pack cards.

(j) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed.

SEC. 11. Section 1261.6 is added to the Health and Safety Code, to read:

1261.6. (a) (1) For purposes of this section and Section 1261.5, an “automated drug delivery system” means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, dispensing, or distribution of drugs. An automated drug delivery system shall collect, control, and maintain all transaction information to accurately track the movement of drugs into and out of the system for security, accuracy, and accountability.

(2) For purposes of this section, “facility” means a health facility licensed pursuant to subdivision (c), (d), or (k) of Section 1250 that has an automated drug delivery system provided by a pharmacy.

(3) For purposes of this section, “pharmacy services” means the provision of both routine and emergency drugs and biologicals to meet the needs of the patient, as prescribed by a physician.

(b) Transaction information shall be made readily available in a written format for review and inspection by individuals authorized by law. These records shall be maintained in the facility for a minimum of three years.

(c) Individualized and specific access to automated drug delivery systems shall be limited to facility and contract personnel authorized by law to administer drugs.

(d) (1) The facility and the pharmacy shall develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the quality, potency, and purity of stored drugs. Policies and procedures shall define access to the automated drug delivery system and limits to access to equipment and drugs.

(2) All policies and procedures shall be maintained at the pharmacy operating the automated drug delivery system and the location where the automated drug delivery system is being used.

(e) When used as an emergency pharmaceutical supplies container, drugs removed from the automated drug delivery system shall be limited to the following:

(1) A new drug order given by a prescriber for a patient of the facility for administration prior to the next scheduled delivery from the pharmacy, or 72 hours, whichever is less. The drugs shall be retrieved only upon authorization by a pharmacist and after the pharmacist has reviewed the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(2) Drugs that a prescriber has ordered for a patient on an as-needed basis, if the utilization and retrieval of those drugs are subject to ongoing review by a pharmacist.

(3) Drugs designed by the patient care policy committee or pharmaceutical service committee of the facility as emergency drugs or acute onset drugs. These drugs may be retrieved from an automated drug delivery system pursuant to the order of a prescriber for emergency or immediate administration to a patient of the facility. Within 48 hours after retrieval under this paragraph, the case shall be reviewed by a pharmacist.

(f) When used to provide pharmacy services pursuant to Section 4017.3 of, and Article 25 (commencing with Section 4427) of Chapter 9 of Division 2 of, the Business and Professions Code, the automated drug delivery system shall be subject to all of the following requirements:

(1) Drugs removed from the automated drug delivery system for administration to a patient shall be in properly labeled units of administration containers or packages.

(2) A pharmacist shall review and approve all orders prior to a drug being removed from the automated drug delivery system for administration to a patient. The pharmacist shall review the prescriber's order and the patient's profile for potential contraindications and adverse drug reactions.

(3) The pharmacy providing services to the facility pursuant to Article 25 (commencing with Section 4427) of Chapter 9 of Division 2 of the Business and Professions Code shall control access to the drugs stored in the automated drug delivery system.

(4) Access to the automated drug delivery system shall be controlled and tracked using an identification or password system or biosensor.

(5) The automated drug delivery system shall make a complete and accurate record of all transactions that will include all users accessing the system and all drugs added to, or removed from, the system.

(6) After the pharmacist reviews the prescriber's order, access by licensed personnel to the automated drug delivery system shall be limited only to drugs ordered by the prescriber and reviewed by the pharmacist and that are specific to the patient. When the prescriber's order requires a dosage variation of the same drug, licensed personnel shall have access to the drug ordered for that scheduled time of administration.

(7) (A) Systems that allow licensed personnel to have access to multiple drugs and are not patient specific in their design, shall be allowed under this subdivision if those systems have electronic and mechanical safeguards in place to ensure that the drugs delivered to the patient are specific to that patient. Each facility using such an automated drug delivery system shall notify the department in writing prior to the utilization of the system. The notification submitted to the department pursuant to this paragraph shall include, but is not limited to, information regarding system design, personnel with system access, and policies and procedures covering staff training, storage, and security, and the facility's administration of these types of systems.

(B) As part of its routine oversight of these facilities, the department shall review a facility's medication training, storage, and security, and its administration procedures related to its use of an automated drug delivery system to ensure that adequate staff training and safeguards are in place to make sure that the drugs delivered are appropriate for the patient. If the department determines that a facility is not in compliance with this section, the department may revoke its authorization to use automated drug delivery systems granted under subparagraph (A).

(g) The stocking of an automated drug delivery system shall be performed by a pharmacist. If the automated drug delivery system utilizes removable pockets, cards, drawers, similar technology, or unit of use or single dose containers as defined by the United States Pharmacopoeia, the stocking system may be done outside of the

facility and be delivered to the facility if all of the following conditions are met:

(1) The task of placing drugs into the removable pockets, cards, drawers, or unit of use or single dose containers is performed by a pharmacist, or by an intern pharmacist or a pharmacy technician working under the direct supervision of a pharmacist.

(2) The removable pockets, cards, drawers, or unit of use or single dose containers are transported between the pharmacy and the facility in a secure tamper-evident container.

(3) The facility, in conjunction with the pharmacy, has developed policies and procedures to ensure that the removable pockets, cards, drawers, or unit of use or single dose containers are properly placed into the automated drug delivery system.

(h) Review of the drugs contained within, and the operation and maintenance of, the automated drug delivery system shall be done in accordance with law and shall be the responsibility of the pharmacy. The review shall be conducted on a monthly basis by a pharmacist and shall include a physical inspection of the drugs in the automated drug delivery system, an inspection of the automated drug delivery system machine for cleanliness, and a review of all transaction records in order to verify the security and accountability of the system.

(i) Drugs dispensed from an automated drug delivery system that meets the requirements of this section shall not be subject to the labeling requirements of Section 4076 of the Business and Professions Code or Section 111480 of this code if the drugs to be placed into the automated drug delivery system are in unit dose packaging or unit of use and if the information required by Section 4076 of the Business and Professions Code and Section 111480 of this code is readily available at the time of drug administration. For purposes of this section, unit dose packaging includes blister pack cards.

(j) This section shall become operative on July 1, 2019.

SEC. 12. 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.

Approved \_\_\_\_\_, 2018

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*Governor*

**SB 1448 (*Hill*) Controlled Substances:  
Healing Arts Licensees: Probation Status:  
Disclosure**

**Senate Bill No. 1448**

**CHAPTER 570**

An act to add Sections 1007, 2228.1, 2228.5, 2459.4, 3663.5, and 4962 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, Hill. Healing arts licensees: probation status: disclosure.

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce specified provisions of the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee within the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the licensing and regulation of acupuncturists. Existing law authorizes each of these regulatory entities to discipline its licensee by placing her or him on probation, as specified.

This bill, on and after July 1, 2019, would require the California Board of Podiatric Medicine, the Naturopathic Medicine Committee, the State Board of Chiropractic Examiners, and the Acupuncture Board to require a licensee to provide a separate disclosure, as specified, to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019. The bill, on and after July 1, 2019, would require the Medical Board of California and the Osteopathic Medical Board of California to require a licensee to provide a separate disclosure, as specified, to a patient or a patient's guardian or health care surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, under specified circumstances. The bill would also require the California Board of Podiatric Medicine, the Naturopathic Medicine Committee, the State Board of Chiropractic Examiners, the Acupuncture Board, the Medical Board of California, and the Osteopathic Medical Board

of California to provide specified information relating to licensees on probation on the regulatory entity's online license information Internet Web site.

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

SECTION 1. This act shall be known, and may be cited, as the Patient's Right to Know Act of 2018.

SEC. 2. Section 1007 is added to the Business and Professions Code, to read:

1007. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) “Board” for purposes of this section means the State Board of Chiropractic Examiners.

SEC. 3. Section 2228.1 is added to the Business and Professions Code, to read:

2228.1. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee’s probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board’s telephone number, and an explanation of how the patient can find further information on the licensee’s probation on the licensee’s profile page on the board’s online license information Internet Web site, to a patient or the patient’s guardian or health care surrogate before the patient’s first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient’s guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

SEC. 4. Section 2228.5 is added to the Business and Professions Code, to read:

2228.5. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

(f) For purposes of this section:

(1) "Board" means the California Board of Podiatric Medicine.

(2) "Licensee" means a person licensed by the California Board of Podiatric Medicine.

SEC. 5. Section 2459.4 is added to the Business and Professions Code, to read:

2459.4. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment

that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) A violation of this section shall not be punishable as a crime.

(f) For purposes of this section:

(1) "Board" means the Osteopathic Medical Board of California.

(2) "Licensee" means a person licensed by the Osteopathic Medical Board of California.

SEC. 6. Section 3663.5 is added to the Business and Professions Code, to read:

3663.5. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the committee shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the committee, the committee's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the committee's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary

order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the committee shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the committee's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the committee, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the committee.

(e) A violation of this section shall not be punishable as a crime.

SEC. 7. Section 4962 is added to the Business and Professions Code, to read:

4962. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) A violation of this section shall not be punishable as a crime.

**SB 1480 (*Hill*) Professions and vocations**

## Senate Bill No. 1480

### CHAPTER 571

An act to amend Sections 101.7, 328, 2064.5, 2065, 2135, 2428, 2499.5, 2529.1, 2529.5, 2529.6, 2708, 2816, 2892.6, 2895, 3047, 3147, 3680, 4518, 4548, 4604, 4809.7, 4830, 4836.2, and 11506 of, and to add Sections 1006.5, 2892.7, 4518.1, 4826.4, 4829.5, and 4841.2 to, the Business and Professions Code, to amend Sections 7000, 7103, 8731, 8778.5, 8785, 103775, and 103780 of the Health and Safety Code, and to amend an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners, and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith” approved by voters on November 7, 1922, (the Chiropractic Act) by amending Sections 5 and 12 of the act, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 19, 2018. Filed with  
Secretary of State September 19, 2018.]

#### LEGISLATIVE COUNSEL’S DIGEST

SB 1480, Hill. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs, specifies the various boards that comprise the department, and requires the boards to meet at least 3 times a year.

This bill would instead require the boards to meet at least 2 times a year.

(2) Existing law requires the Director of Consumer Affairs to implement complaint prioritization guidelines for boards to use in prioritizing their respective complaint and investigative workloads.

This bill would require the director to amend those guidelines to include the category of “allegations of serious harm to a minor,” as specified.

(3) Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensure and regulation of physicians and surgeons. Existing law prohibits a postgraduate trainee, intern, resident, postdoctoral fellow, or instructor from engaging 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. Existing law provides an exemption to this provision and authorizes a graduate of an approved medical school to engage in the practice of medicine as a part of a postgraduate training program, as specified. Existing law, on and after January 1, 2020, limits to 12 months the practice of medicine, and receipt of compensation for that practice, by a medical school graduate as a part of an approved first-year postgraduate training program. Existing law, on and after January 1, 2020, limits to 27 months the practice of medicine, and receipt of compensation for that

practice, by a medical school graduate as a part of an approved residency or fellowship. Existing law, on and after January 1, 2020, requires all privileges and exemptions under these provisions to cease automatically if the resident or fellow fails to receive a license to practice medicine within 27 months from the commencement of the residency or fellowship or if the board denies his or her application for licensure. Existing law, on and after January 1, 2020, requires all approved postgraduate training that the medical school graduate has successfully completed in the United States or Canada to count toward the aggregate 39-month license exemption. Existing law, on and after January 1, 2020, requires a medical school graduate to successfully complete 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.

This bill would, on and after January 1, 2020, delete the 12-month and 27-month limitations on the license exemptions for medical school graduates in first-year postgraduate training programs and residencies and fellowships, respectively. The bill would, on and after January 1, 2020, authorize the board, upon review of supporting documentation, to grant an extension beyond the 39-month license exemption to a postgraduate training licensee to successfully complete the 36 months of required approved postgraduate training. The bill would, on and after January 1, 2020, require an applicant who has successfully completed 36 months of approved postgraduate training in another state or in Canada and who is accepted into an approved postgraduate training program in California to obtain his or her license within 90 days after beginning the program. The bill would, on and after January 1, 2020, replace the requirement that the 24 months in the postgraduate training program be consecutive with a requirement that there be successful progression through the 24 months.

The bill would, on and after January 1, 2020, require the program director for a postgraduate training program in California to report to the board, on a form approved by the board, and provide any supporting documents as required by the board, specified events regarding a postgraduate trainee's status in the postgraduate program within 30 days of the event.

Existing law requires the board to issue a physician's and surgeon's certificate to an applicant who holds a specified license from another state or a Canadian province or Canadian provinces and who, in addition to meeting other requirements, has satisfactorily completed at least 2 years of approved postgraduate training or has satisfactorily completed at least one year of approved postgraduate training and takes and passes the clinical competency written examination. Existing law, on and after January 1, 2020, revises this provision to, among other things, exclude the applicant from licensure.

This bill instead would continue to include such an applicant who meets the other requirements as revised on and after January 1, 2020.

Existing law authorizes a person who voluntarily cancels his or her license or fails to renew his or her license within 5 years after its expiration under the Medical Practice Act to apply for and obtain a new license upon

satisfaction of specified requirements, including satisfactory completing 2 years of approved postgraduate training.

This bill would instead require the person to satisfactorily complete 3 years of approved postgraduate training.

Existing law establishes various fees in connection with the issuance of licenses under the Medical Practice Act, and requires those fees to be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California, available to the board for specified purposes upon appropriation by the Legislature. Existing law requires that an applicant for a physician's and surgeon's postgraduate training license be required to pay only 50% of the initial license fee. Existing law requires the applicant to, among other things, pay the reduced licensing fee to be considered for a postgraduate training license.

This bill would instead require the applicant to pay a nonrefundable application and processing fee.

(4) Existing law regulates the practice of podiatric medicine by the California Board of Podiatric Medicine and prescribes various fees relating to, among others, an application, licensure, and renewal. All revenue received by the board is required to be deposited into the Board of Podiatric Medicine Fund, which is available to the board upon appropriation by the Legislature.

This bill would revise those fee provisions by, among other things, deleting the oral examination fee and increasing, until January 1, 2021, the amount of the biennial renewal fee.

(5) Existing law, the Nursing Practice Act, regulates the practice of nursing by the Board of Registered Nursing and authorizes the board to appoint an executive officer.

This bill would authorize the executive officer to adopt a decision entered by default and a stipulation for surrender of a license.

Existing law establishes various fees in connection with the issuance of licenses under the act, and requires those fees to be deposited in the Board of Registered Nursing Fund, available to the board upon appropriation by the Legislature. Existing law establishes that the fee paid by a registered nurse for an evaluation of his or her qualifications to use the title "public health nurse" shall be not less than \$500 or more than \$1,500.

This bill would instead establish a fee for that purpose of not less than \$300 or more than \$1,000, would establish a penalty for failure to renew a certificate to practice as a public health nurse within the prescribed time, and would require the Board of Registered Nursing to reimburse any registered nurse who paid more than \$300 for an evaluation between April 5, 2018, and December 31, 2018.

(6) Existing law, the Vocational Nursing Practice Act, provides for the regulation of vocational nurses by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, establishes the Vocational Nursing and Psychiatric Technician Fund, and makes those funds available to the board upon appropriation by the Legislature. Existing law prescribes various fees in connection with the issuance of licenses under the act and

requires the board to collect a biennial fee not to exceed \$200 from a continuing education course provider.

This bill would instead require the board to collect an initial approval and a biennial renewal fee of \$150 unless a higher fee, not to exceed \$250, is established by the board. The bill would also require the board to collect an initial approval and a biennial renewal fee of \$150, unless a higher fee, not to exceed \$250, is established by the board, from any provider of a course in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal. The bill would revise the fees and fee amounts to be assessed under the act, including, but not limited to, application, examination, and renewal fees.

(7) Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. Existing law authorizes a person to renew an expired optometrist license by paying specified fees and filing a form prescribed by the board. Existing law, commencing July 1, 2018, requires the board to charge an applicant for licensure a fee of \$2, and an applicant for renewal a fee of \$4, for purposes of developing an interface with the National Practitioner Data Bank.

This bill would also authorize the renewal of expired statements of licensure, branch office licenses, and fictitious name permits by filing an application for renewal and paying renewal and delinquency fees prescribed by the board, and would make the National Practitioner Data Bank fee \$4 for both licensure and renewal applicants.

(8) Existing law, the Naturopathic Doctors Act, provides for the regulation of the practice of naturopathic medicine by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law establishes various fees in connection with the issuance of a license to practice naturopathic medicine, which are deposited in the Naturopathic Doctor's Fund and are available to the committee upon appropriation by the Legislature.

This bill would revise those provisions by, among other things, increasing the application, initial licensing, and renewal fees, and establishing a fee for a certified license verification.

(9) Existing law makes it unprofessional conduct for certain unlicensed persons who have completed clinical training in psychoanalysis and are registered to engage in psychoanalysis to use controlled substances, dangerous drugs, or alcoholic beverages under prescribed circumstances, including if the use impairs the ability of the registrant to practice safely. Existing law requires an unlicensed person registered to engage in psychoanalysis pursuant to those provisions to pay a sum not in excess of \$100 and a renewal fee not in excess of \$50 to the Contingent Fund of the Medical Board of California. Existing law requires the board to revoke the exemption from licensure of any person who has been required to register as a sex offender, as specified. Existing law makes all of the these provisions inoperative on and after January 1, 2019.

This bill would delete the repeal of the above-specified provisions. By extending the term for an existing appropriation, the bill would make an appropriation.

(10) Existing law provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, and authorizes the board, if it adopts a continuing education program, to collect a fee from continuing education course providers. Existing law also prescribes various fees in connection with the issuance of a psychiatric technician license.

This bill would instead require the board, if it adopts a continuing education or blood withdrawal program, to collect an initial approval and a biennial renewal fee from a provider of a course in continuing education or blood withdrawal, as specified. The bill would also revise the fees and fee amounts required for licensure as a psychiatric technician.

(11) Existing law, the Massage Therapy Act, provides for the certification and regulation of massage therapists by the California Massage Therapy Council and requires an applicant for certification as a massage therapist to pass a massage and bodywork competency assessment examination.

This bill would make that examination requirement inoperative from January 1, 2019, until January 1, 2021.

(12) The Veterinary Medicine Practice Act regulates the practice of veterinary medicine by the Veterinary Medical Board and makes a violation of its provisions a crime. Existing law separately provides immunity from liability to a veterinarian or registered veterinary technician who renders services during certain states of emergency.

This bill would authorize a California-licensed veterinarian at a registered premises located within a 25-mile radius of any declared condition of emergency to, in good faith, provide veterinary services without establishing a veterinarian-client-patient relationship and dispense or prescribe a dangerous drug or device where failure to provide services or medications may result in loss of life or intense suffering. The bill would provide immunity from liability for a veterinarian providing those services.

Existing law excludes specified persons from the provisions regulating the practice of veterinary medicine, including veterinary medicine students in 2 specified schools of veterinary medicine who participate in diagnosis and treatment, as specified.

This bill would instead exclude students from any veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participate in diagnosis or treatment with direct supervision, or surgery with immediate supervision, subject to specified conditions.

Existing law provides for a veterinary assistant controlled substance permit issued by the Veterinary Medical Board to qualified applicants and authorizes the board to deny, revoke, or suspend a veterinary assistant controlled substance permit for specified reasons.

This bill would add to the list of reasons the conviction of a crime substantially related to the qualifications, functions, or duties of veterinary

medicine, veterinary surgery, or veterinary dentistry. The bill would also authorize the board, in addition to denial, revocation, or suspension, to issue a probationary veterinary assistant controlled substance permit.

The bill would prohibit a graduate of a veterinary college from performing animal health care tasks otherwise performed by a registered veterinary technician, except as specified, and would require a veterinarian to offer a consultation to the client each time he or she initially prescribes, dispenses, or furnishes a dangerous drug, as defined, to an animal patient in an outpatient setting. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

Existing law requires the Veterinary Medical Board to establish a regular inspection program, and provides that the board is required to make every effort to inspect at least 20% of veterinary premises annually.

This bill would instead require the board to inspect at least 20% of veterinary premises annually.

(13) Existing law requires a person to meet specified requirements in order to use the title “certified common interest development manager,” and requires a certified common interest development manager to make specified disclosures to the board of directors of a common interest development before providing services to the common interest development. Existing law repeals those provisions governing certified common interest development managers on January 1, 2019.

This bill would delete the repeal provision, thereby extending those provisions indefinitely.

(14) Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor, and establishes an application fee of not more than \$100 and, on and after January 1, 2019, a renewal fee of \$250. Existing law authorizes the Legislature to fix the amounts of the fees payable by applicants and licensees, and directs the deposit of these fees into the State Board of Chiropractic Examiners’ Fund, a continuously appropriated fund.

This bill would delete the provisions providing for the application and renewal fees and would instead establish a schedule of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act, including, among others, application and renewal fees for licensure, fees to apply for approval for a continuing education course, and satellite office certificate fees. By increasing specified fees and establishing new fees for deposit into a continuously appropriated fund, the bill would make an appropriation.

(15) The bill would make technical changes to various provisions of the Business and Professions Code. The bill would also make technical changes to various provisions of the Health and Safety Code by eliminating cross-references to obsolete provisions governing cemeteries.

(16) 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.

Appropriation: yes.

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

SECTION 1. Section 101.7 of the Business and Professions Code is amended to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least two times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least two times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

SEC. 2. 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).

(c) On or before July 1, 2019, the director shall amend the guidelines implemented pursuant to subdivision (a) to include the category of "allegations of serious harm to a minor" under the "urgent" or "highest priority" level.

SEC. 3. Section 1006.5 is added to the Business and Professions Code, to read:

1006.5. Notwithstanding any other law, the amount of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act and this chapter are fixed in the following schedule:

(a) Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars (\$371).

(b) Fee for initial license to practice chiropractic: one hundred eighty-six dollars (\$186).

(c) Fee to renew an active or inactive license to practice chiropractic: three hundred thirteen dollars (\$313).

(d) Fee to apply for approval as a continuing education provider: eighty-four dollars (\$84).

(e) Biennial continuing education provider renewal fee: fifty-six dollars (\$56).

(f) Fee to apply for approval of a continuing education course: fifty-six dollars (\$56) per course.

(g) Fee to apply for a satellite office certificate: sixty-two dollars (\$62).

(h) Fee to renew a satellite office certificate: thirty-one dollars (\$31).

(i) Fee to apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: three hundred seventy-one dollars (\$371).

(j) Fee to apply for a certificate of registration of a chiropractic corporation: one hundred eighty-six dollars (\$186).

(k) Fee to renew a certificate of registration of a chiropractic corporation: thirty-one dollars (\$31).

(l) Fee to file a chiropractic corporation special report: thirty-one dollars (\$31).

(m) Fee to apply for approval as a referral service: five hundred fifty-seven dollars (\$557).

(n) Fee for an endorsed verification of licensure: one hundred twenty-four dollars (\$124).

(o) Fee for replacement of a lost or destroyed license: fifty dollars (\$50).

(p) Fee for replacement of a satellite office certificate: fifty dollars (\$50).

(q) Fee for replacement of a certificate of registration of a chiropractic corporation: fifty dollars (\$50).

(r) Fee to restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee specified in subdivision (c).

(s) Fee to apply for approval to serve as a preceptor: thirty-one dollars (\$31).

(t) Fee to petition for reinstatement of a revoked license: three hundred seventy-one dollars (\$371).

(u) Fee to petition for early termination of probation: three hundred seventy-one dollars (\$371).

(v) Fee to petition for reduction of penalty: three hundred seventy-one dollars (\$371).

SEC. 4. Section 2064.5 of the Business and Professions Code is amended 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 a nonrefundable application and processing 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 or 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. 5. Section 2065 of the Business and Professions Code, as added by Section 29 of Chapter 775 of the Statutes of 2017, 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 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.

(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. 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, except as otherwise allowed under subdivision (g) or (h), 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, except as otherwise allowed under subdivision (h).

(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, which includes successful progression through 24 months in the same program, to be eligible for a California physician's and surgeon's certificate.

(f) The program director for an approved postgraduate training program in California shall report to the board, on a form approved by the board,

and provide any supporting documents as required by the board, the following actions within 30 days of the action:

(1) A postgraduate trainee is notified that he or she has received partial or no credit for a period of postgraduate training, and his or her postgraduate training period is extended.

(2) A postgraduate trainee takes a leave of absence or any break from his or her postgraduate training, and he or she is notified that his or her postgraduate training period is extended.

(3) A postgraduate trainee is terminated from the postgraduate training program.

(4) A postgraduate trainee resigns, dies, or otherwise leaves the postgraduate training program.

(5) A postgraduate trainee has completed a one-year contract approved by the postgraduate training program.

(g) Upon review of supporting documentation, the board, in its discretion, may grant an extension beyond 39 months to a postgraduate training licensee to successfully complete the 36 months of required approved postgraduate training.

(h) An applicant for a physician's and surgeon's license who has successfully completed 36 months of approved postgraduate training in another state or in Canada and who is accepted into an approved postgraduate training in another state or in Canada and who is accepted into an approved postgraduate training program in California shall obtain his or her physician's and surgeon's license within 90 days after beginning that postgraduate training program or all privileges and exemptions under this section shall automatically cease.

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

SEC. 6. Section 2135 of the Business and Professions Code, as added by Section 64 of Chapter 775 of the Statutes of 2017, is amended to read:

2135. The board shall issue a physician's 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 (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 become operative on January 1, 2020.

SEC. 7. Section 2428 of the Business and Professions Code is amended to read:

2428. (a) A person who voluntarily cancels his or her license or who fails to renew his or her license within five years after its expiration shall not renew it, but that person may apply for and obtain a new license if he or she:

(1) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(2) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the licensing authority that passes on the qualifications of applicants for the license that, with due regard for the public interest, he or she is qualified to practice the profession or activity for which the applicant was originally licensed.

(3) Pays all of the fees that would be required if application for licensure was being made for the first time.

The licensing authority may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without an examination pursuant to this section.

Nothing in this section shall be construed to authorize the issuance of a license for a professional activity or system or mode of healing for which licenses are no longer required.

(b) In addition to the requirements set forth in subdivision (a), an applicant shall establish that he or she meets one of the following requirements: (1) satisfactory completion of at least three years of approved postgraduate training; (2) certification by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651; or (3) passing of the clinical competency written examination.

(c) Subdivision (a) shall apply to persons who held licenses to practice podiatric medicine except that those persons who failed to renew their licenses within three years after its expiration may not renew it, and it may not be reissued, reinstated, or restored, except in accordance with subdivision (a).

SEC. 8. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be determined by the board and shall be as described below. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of one hundred dollars (\$100) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee of one hundred dollars (\$100).

(b) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars (\$800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.

(c) Before January 1, 2021, the biennial renewal fee shall be one thousand one hundred dollars (\$1,100). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(d) On and after January 1, 2021, the biennial renewal fee shall be nine hundred dollars (\$900). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee shall be one hundred fifty dollars (\$150).

(f) The duplicate wall certificate fee shall be one hundred dollars (\$100).

(g) The duplicate renewal receipt fee shall be fifty dollars (\$50).

(h) The endorsement fee shall be thirty dollars (\$30).

(i) The letter of good standing fee or for loan deferment shall be one hundred dollars (\$100).

(j) There shall be a fee of one hundred dollars (\$100) for the issuance of a resident's license under Section 2475.

(k) The fee for approval of a continuing education course or program shall be two hundred fifty dollars (\$250).

SEC. 9. 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.

SEC. 10. 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.

SEC. 11. 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.

SEC. 12. Section 2708 of the Business and Professions Code is amended to read:

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

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

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

(d) The executive officer is authorized to adopt a decision entered by default and a stipulation for surrender of a license.

(e) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 13. Section 2816 of the Business and Professions Code is amended to read:

2816. The nonrefundable fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title “public health nurse” shall not be less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000). The fee to be paid upon the application for renewal of the certificate to practice as a public health nurse shall not be less than one hundred twenty-five dollars (\$125) and not more than five hundred dollars (\$500). The penalty fee for failure to renew a certificate to practice as a public health nurse within the prescribed time shall be 50 percent of the renewal fee in effect on the date of renewal of the certificate, but not less than sixty-two dollars and fifty cents (\$62.50), and not more than two hundred fifty dollars (\$250). All fees payable under this section shall be collected by and paid to the Board of Registered Nursing Fund. It is the intention of the Legislature that the costs of carrying out the purposes of this article shall be covered by the revenue collected pursuant to this section. The board shall refund any registered nurse who paid more than three hundred dollars (\$300) for an evaluation of his or her qualifications to use the title “public health nurse” between April 5, 2018, and December 31, 2018.

SEC. 14. Section 2892.6 of the Business and Professions Code is amended to read:

2892.6. The board shall collect an initial approval fee and a biennial renewal fee of one hundred fifty dollars (\$150) unless a higher fee, not to

exceed two hundred fifty dollars (\$250), is established by the board, from any provider of a course in continuing education who requests approval by the board of such course for purposes of continuing education requirements under this chapter. That fee, however, shall in no event exceed that cost required for the board to administer the approval of continuing education courses by continuing education providers.

SEC. 15. Section 2892.7 is added to the Business and Professions Code, to read:

2892.7. The board shall collect an initial approval and a biennial renewal fee in the amount of one hundred fifty dollars (\$150) unless a higher fee, not to exceed two hundred fifty dollars (\$250), is established by the board, from any provider of a course in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal, who requests approval by the board of such a course for purposes of intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal requirements under this chapter. That fee, however, shall not exceed the regulatory cost required for the board to administer the approval of intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal courses by intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal providers.

SEC. 16. Section 2895 of the Business and Professions Code is amended to read:

2895. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed a prescribed course of study in a California-approved vocational nursing program shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board.

(b) The fee to be paid upon the filing of an application for licensure by examination by applicants who are qualified to take the examination by methods other than as specified in subdivision (a) shall be two hundred fifty dollars (\$250) unless a higher fee, not to exceed three hundred thirty dollars (\$330), is established by the board.

(c) The fee to be paid upon the filing of an application for licensure by endorsement shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board.

(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase the examination from a vendor approved by the board.

(e) The fee to be paid for any examination for licensure after the first shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board.

(f) The biennial renewal fee to be paid upon the filing of an application for renewal shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board. In

addition, an assessment of five dollars (\$5) shall be collected and credited to the Vocational Nurse Education Fund, pursuant to Section 2895.5.

(g) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be one hundred ten dollars (\$110) unless a higher fee, not to exceed 50 percent of the regular renewal fee and in no case no more than one hundred fifty dollars (\$150), is established by the board.

(h) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(i) The fee to be paid for an interim permit shall be twenty dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50), is established by the board.

(j) The fee to be paid for a duplicate license or wall certificate shall be in an amount not less than twenty-five dollars (\$25) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(k) The fee to be paid for verification of licensure papers to other states shall be one hundred dollars (\$100) unless a higher fee, not to exceed one hundred fifty dollars (\$150), is established by the board.

(l) The fee to be paid for postlicensure certification in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal shall be twenty dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50), is established by the board.

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

SEC. 17. Section 3047 of the Business and Professions Code is amended to read:

3047. (a) The board shall develop an interface with the National Practitioner Data Bank for the purpose of conducting inquiries on applicants for licensure, applicants for renewal of licensure, and current licensees.

(b) The board shall limit its inquiries to both of the following:

(1) Whether an applicant or current licensee has been subject to discipline.

(2) Whether an applicant or current licensee has been the subject of an action required to be reported to the National Practitioner Data Bank by federal law.

(c) On and after July 1, 2018, the board shall charge, in addition to the fees in Section 3152, an applicant for licensure and an applicant for renewal of licensure four dollars (\$4) for the purposes of this section.

SEC. 18. Section 3147 of the Business and Professions Code is amended to read:

3147. (a) Except as otherwise provided by Section 114, an expired optometrist license may be renewed at any time within three years after its expiration, and a retired license issued for less than three years may be reactivated to active status, by filing an application for renewal or reactivation on a form prescribed by the board, paying all accrued and unpaid renewal fees or reactivation fees determined by the board, paying any delinquency fees prescribed by the board, and submitting proof of completion of the required number of hours of continuing education for the last two

years, as prescribed by the board pursuant to Section 3059. Renewal or reactivation to active status under this section shall be effective on the date on which all of those requirements are satisfied. If so renewed or reactivated to active status, the license shall continue as provided in Sections 3146 and 3147.5.

(b) Expired statements of licensure, branch office licenses, and fictitious name permits issued pursuant to Sections 3070, 3077, and 3078, respectively, may be renewed at any time by filing an application for renewal, paying all accrued and unpaid renewal fees, and paying any delinquency fees prescribed by the board.

SEC. 19. Section 3680 of the Business and Professions Code is amended to read:

3680. (a) The application fee for a doctor of naturopathic medicine shall be no more than five hundred dollars (\$500) and may be increased to not more than six hundred dollars (\$600).

(b) The initial license fee shall be one thousand dollars (\$1,000) and may be increased to not more than one thousand two hundred dollars (\$1,200).

(c) The renewal fee for a license shall be one thousand dollars (\$1,000) and may be increased to not more than one thousand two hundred dollars (\$1,200).

(d) The late renewal fee for a license shall be two hundred twenty-five dollars (\$225).

(e) The fee for processing fingerprint cards shall be the current fee charged by the Department of Justice.

(f) The fee for a duplicate or replacement license shall be thirty-eight dollars (\$38).

(g) The fee for a certified license verification shall be thirty dollars (\$30).

SEC. 20. Section 4518 of the Business and Professions Code is amended to read:

4518. In the event the board adopts a continuing education or blood withdrawal program, the board shall collect an initial approval and a biennial renewal fee as prescribed under Sections 4548 and 4518.1 from any provider of a course in continuing education or blood withdrawal who requests approval by the board of the course for purposes of continuing education or blood withdrawal requirements adopted by the board. The fee, however, shall in no event exceed the cost required for the board to administer the approval of continuing education or blood withdrawal courses by continuing education or blood withdrawal providers.

SEC. 21. Section 4518.1 is added to the Business and Professions Code, to read:

4518.1. The board shall collect an initial approval and a biennial renewal fee in the amount of one hundred fifty dollars (\$150) unless a higher fee, not to exceed two hundred fifty dollars (\$250), is established by the board, from any provider of continuing education or a course to meet the certification requirements for blood withdrawal who requests approval by the board of the course for purposes of continuing education or blood withdrawal requirements under this chapter. That fee, however, shall not

exceed the regulatory cost required for the board to administer the approval of continuing education or blood withdrawal by continuing education or blood withdrawal providers.

SEC. 22. Section 4548 of the Business and Professions Code is amended to read:

4548. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed a prescribed course of study in a California-approved school for preparation of psychiatric technicians shall be two hundred sixty-five dollars (\$265) unless a higher fee, not to exceed three hundred forty-five dollars (\$345), is established by the board.

(b) The fee to be paid upon the filing of an application for licensure by examination by applicants who are qualified to take the examination by methods other than as described in subdivision (a) shall be two hundred ninety-five dollars (\$295) unless a higher fee, not to exceed three hundred seventy-five dollars (\$375), is established by the board.

(c) The fee to be paid upon the filing of an application for licensure by endorsement shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board.

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

(e) The fee to be paid for any examination for licensure after the first shall be two hundred sixty-five dollars (\$265) unless a higher fee, not to exceed three hundred forty-five dollars (\$345), is established by the board.

(f) The biennial renewal fee to be paid upon the filing of an application for renewal shall be two hundred twenty dollars (\$220) unless a higher fee, not to exceed three hundred dollars (\$300), is established by the board.

(g) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be one hundred ten dollars (\$110) unless a higher fee, not to exceed 50 percent of the regular renewal fee and in no case more than one hundred fifty dollars (\$150), is established by the board.

(h) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(i) The fee to be paid for an interim permit shall be twenty dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50), is established by the board.

(j) The fee to be paid for a duplicate license or wall certificate shall be in an amount not less than twenty-five dollars (\$25) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(k) The fee to be paid for processing verification of licensure papers to other states shall be twenty dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50), is established by the board.

(l) The fee to be paid for postlicensure certification in blood withdrawal shall be twenty dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50), is established by the board.

SEC. 23. Section 4604 of the Business and Professions Code is amended to read:

4604. (a) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant has successfully completed the curricula in massage and related subjects totaling a minimum of 500 hours, or the credit unit equivalent, that incorporates appropriate school assessment of student knowledge and skills.

(A) Of the 500 hours, a minimum of 100 hours of instruction shall address anatomy and physiology, contraindications, health and hygiene, and business and ethics.

(B) All of the 500 hours shall be from approved schools. The council shall accept the 500 hours if, at the time all of the hours were completed, the school or schools were approved. The 500 hours may be completed at more than one approved school. Notwithstanding any other law, pursuant to its policies and procedures for approval of schools, the council shall accept hours earned by an applicant for certification as a massage therapist if those hours were completed before July 1, 2016, and were earned from a school providing education in this state that was unapproved by the council after July 1, 2016, based solely on the fact that the National Certification Board for Therapeutic Massage and Bodywork took denial or disciplinary action against the school. For purposes of this section, “unapproved” means that the council determined that it will not accept hours from a school toward certification.

(3) The applicant has passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards and that is approved by the council. The successful completion of this examination may have been accomplished before the date the council is authorized by this chapter to begin issuing certificates. This paragraph shall be inoperative commencing on January 1, 2019, and shall become operative on January 1, 2021.

(4) The applicant has successfully passed a background investigation pursuant to Section 4606, and has not violated any of the provisions of this chapter.

(5) All fees required by the council have been paid.

(6) The council may issue a certificate to an applicant who meets the qualifications of this chapter if he or she holds a current and valid registration, certification, or license from any other state whose licensure requirements meet or exceed those defined within this chapter. If an applicant has received education at a school that is not approved by the council, the council shall have the discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

(b) A certificate issued pursuant to this chapter and any identification card issued by the council shall be surrendered to the council by any certificate holder whose certificate is suspended or revoked.

SEC. 24. Section 4809.7 of the Business and Professions Code is amended to read:

4809.7. The board shall establish a regular inspection program that will provide for random, unannounced inspections and the board shall inspect at least 20 percent of veterinary premises on an annual basis.

SEC. 25. Section 4826.4 is added to the Business and Professions Code, to read:

4826.4. (a) A California-licensed veterinarian at premises registered in accordance with Section 4853 that is located within a 25-mile radius of any condition of emergency specified in Section 8558 of the Government Code may, in good faith, do both of the following in addition to any other acts authorized by law:

(1) Render necessary and prompt care and treatment to an animal patient without establishing a veterinarian-client-patient relationship if conditions are such that one cannot be established in a timely manner.

(2) Dispense or prescribe a dangerous drug or device, as defined in Section 4022, in reasonable quantities where failure to provide services or medications, including controlled substances, may result in loss of life or intense suffering of the animal patient. Prior to refilling a prescription pursuant to this paragraph, the veterinarian shall make a reasonable effort to contact the originally prescribing veterinarian.

(b) A veterinarian acting under this section shall make an appropriate record that includes the basis for proceeding under this section.

(c) A veterinarian who performs services pursuant to this section shall have immunity from liability pursuant to subdivision (b) of Section 8659 of the Government Code.

SEC. 26. Section 4829.5 is added to the Business and Professions Code, to read:

4829.5. (a) Each time a veterinarian initially prescribes, dispenses, or furnishes a dangerous drug, as defined in Section 4022, to an animal patient in an outpatient setting, the veterinarian shall offer to provide, in person or through electronic means, to the client responsible for the animal, or his or her agent, a consultation that includes the following information:

(1) The name and description of the dangerous drug.

(2) Route of administration, dosage form, dosage, duration of drug therapy, the duration of the effects of the drug, and the common severe adverse effects associated with the use of a short-acting or long-acting drug.

(3) Any special directions for proper use and storage.

(4) Actions to be taken in the event of a missed dose.

(5) If available, precautions and relevant warnings provided by the drug's manufacturer, including common severe adverse effects of the drug.

(b) If requested, a veterinarian shall provide drug documentation, if available.

(c) A veterinarian may delegate to a registered veterinary technician or veterinary assistant the task of providing the consultation and drug documentation required by this section.

(d) It shall be noted in the medical record of the animal patient if the consultation described in this section is provided or declined by the client or his or her agent.

SEC. 27. Section 4830 of the Business and Professions Code is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California-licensed veterinarian and attend on a specific case. The California-licensed veterinarian shall maintain a valid veterinarian-client-patient relationship. The veterinarian providing the assistance shall not establish a veterinarian-client-patient relationship with the client by attending the case or at a future time and shall not practice veterinary medicine, open an office, appoint a place to meet patients, communicate with clients who reside within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient that is located within this state.

(3) Veterinarians called into the state by a law enforcement agency or animal control agency pursuant to subdivision (b).

(4) A student of a veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participates as part of his or her formal curriculum in the diagnosis and treatment with direct supervision, or in surgery with immediate supervision, provided all of the following requirements are met:

(A) The clinical training site has been approved by the university where the student is enrolled.

(B) The student has prior training in diagnosis, treatment, and surgery as part of the formal curriculum.

(C) The student is being supervised by a California-licensed veterinarian in good standing, as that term is defined in paragraph (1) of subdivision (b) of Section 4848.

(5) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(6) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural Code, to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from the licensing requirements of this chapter if the law enforcement agency or animal control agency determines that it is necessary to call the veterinarian in order for the agency or officer to conduct the investigation in a timely, efficient, and effective manner. In determining whether it is necessary to call a veterinarian from another state, consideration shall be given to the availability of veterinarians in this state to attend to these cases. An agency, department, or officer that calls a veterinarian pursuant to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a regularly licensed veterinarian in good standing who is called from another state to attend to cases that are a part of an investigation described in paragraph (1) may provide veterinary medical care for animals that are affected by the investigation with a temporary shelter facility, and the temporary shelter facility shall be exempt from the registration requirement of Section 4853 if all of the following conditions are met:

(A) The temporary shelter facility is established only for the purpose of the investigation.

(B) The temporary shelter facility provides veterinary medical care, shelter, food, and water only to animals that are affected by the investigation.

(C) The temporary shelter facility complies with Section 4854.

(D) The temporary shelter facility exists for not more than 60 days, unless the law enforcement agency or animal control agency determines that a longer period of time is necessary to complete the investigation.

(E) Within 30 calendar days upon completion of the provision of veterinary health care services at a temporary shelter facility established pursuant to this section, the veterinarian called from another state by a law enforcement agency or animal control agency to attend to a case shall file a report with the board. The report shall contain the date, place, type, and general description of the care provided, along with a listing of the veterinary health care practitioners who participated in providing that care.

(c) For purposes of paragraph (3) of subdivision (a), the board may inspect temporary facilities established pursuant to this section.

SEC. 28. Section 4836.2 of the Business and Professions Code is amended to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars (\$100).

(c) The board may suspend or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may deny, revoke, or suspend a veterinary assistant controlled substance permit, or, subject to terms and conditions deemed appropriate by the board, issue a probationary veterinary assistant controlled substance permit, for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) The applicant or permit holder has been convicted of a state or federal felony controlled substance violation.

(4) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(5) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, veterinary surgery, or veterinary dentistry, in which case the record of the conviction shall be conclusive evidence.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information, as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

(f) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (e).

(g) This section shall become operative on July 1, 2015.

SEC. 29. Section 4841.2 is added to the Business and Professions Code, to read:

4841.2. (a) Except as provided in subdivision (b), a graduate of a recognized veterinary college shall not perform animal health care tasks otherwise performed by a registered veterinary technician unless the graduate has obtained licensure or registration as otherwise required under this chapter.

(b) If, on or before January 1, 2020, a graduate of a recognized veterinary college has performed animal health care tasks otherwise performed by a registered veterinary technician, the graduate shall discontinue performing such duties on or after January 1, 2020, unless the graduate is issued a license or registration as otherwise required under this chapter.

SEC. 30. Section 11506 of the Business and Professions Code is amended to read:

11506. This part shall be subject to review by the appropriate policy committees of the Legislature.

SEC. 31. Section 7000 of the Health and Safety Code is amended to read:

7000. The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Division 102 (commencing with Section 102100) of this code and Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code.

SEC. 32. Section 7103 of the Health and Safety Code is amended to read:

7103. (a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

SEC. 33. Section 8731 of the Health and Safety Code is amended to read:

8731. (a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 7612.6 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That requirement may be imposed by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

(c) (1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 1.5 (commencing with Section 7611) of Chapter 12 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.

(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee's term of office.

SEC. 34. Section 8778.5 of the Health and Safety Code is amended to read:

8778.5. Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

(a) (1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.

(2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.

(3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the cemetery authority is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay the entire trust corpus and all earned income to the beneficiary or trustor, or the legal

representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars (\$500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

SEC. 35. Section 8785 of the Health and Safety Code is amended to read:

8785. Any person, partnership, or corporation administering, managing, or having responsibility for endowment care or special care funds who violates the provisions of this chapter relating to the collection, investment, or use of those funds shall be punished either by imprisonment in a county jail for a period not exceeding six months or by fine not exceeding five hundred dollars (\$500), or by both such imprisonment and fine, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years. If the violator is a cemetery licensee or the holder of a certificate of authority, he, she, or it shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code.

SEC. 36. Section 103775 of the Health and Safety Code is amended to read:

103775. (a) Every person, except a parent informant for a certificate of live birth and as provided in subdivision (b), who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information affecting any certificate or record required by this part, is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud affecting a death certificate or record required by this part, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

SEC. 37. Section 103780 of the Health and Safety Code is amended to read:

103780. (a) Every person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of birth, fetal death, or death, or marriage license, or any record established by this part is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

SEC. 38. Section 5 of the Chiropractic Act, as amended by Section 1 of Chapter 533 of the Statutes of 1983, is amended to read:

Sec.5. (a) It shall be unlawful for any person to practice chiropractic in this state without a license so to do.

(b) Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board.

(c) Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof.

(d) On and after January 1, 2019, each application must be accompanied by the fee specified in subdivision (a) of Section 1006.5 of the Business and Professions Code.

(e) Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

(f) The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1

Anatomy, including embryology and histology.....14%

Group 2

Physiology.....6%

Group 3

Biochemistry and clinical nutrition.....	6%
Group 4	
Pathology and bacteriology.....	10%
Group 5	
Public health, hygiene and sanitation.....	3%
Group 6	
Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation.....	18%
Group 7	
Obstetrics and gynecology and pediatrics.....	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure.....	25%
Total.....	85%
Electives.....	15%

(g) Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977–78 Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

SEC. 39. Section 12 of the Chiropractic Act, as amended by Section 78 of Chapter 429 of the Statutes of 2017, is amended to read:

Sec. 12. (a) Licenses issued under the provisions of this section expire at 12 midnight on the last day of the month of birth of licentiates of the board.

(b) The board shall establish regulations for the administration of a birth month renewal program.

(c) A person practicing chiropractic within this state shall, on or before the last day of the person’s month of birth of each year, after a license is issued to the person under this act, pay to the Board of Chiropractic Examiners the renewal fee specified under subdivision (d).

(d) On and after January 1, 2019, the renewal fee shall be the amount specified in subdivision (c) of Section 1006.5 of the Business and Professions Code.

(e) The secretary shall mail to a licensed chiropractor in this state, on or before 60 days prior to the last day of the month of the licensee's birth each year, a notice that the renewal fee will be due on or before the last day of the next month following the licensee's birth. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses.

(f) The failure, neglect or refusal of a person holding a license or certificate to practice under this act in the State of California to pay the annual fee during the time the license remains in force shall, after a period of 60 days from the last day of the month of the licensee's birth, automatically work a forfeiture of the license or certificate, and it shall not be restored except upon the written application therefor and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that a licensee who fails, refuses, or neglects to pay the annual tax within a period of 60 days after the last day of the month of the licensee's birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

SEC. 40. 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.

# TAB 7



## APPLICATION FOR OSTEOPATHIC PHYSICIAN'S AND SURGEON'S CERTIFICATE

Please read all instructions prior to completing this application. All questions on this application must be answered unless otherwise indicated.

In addition to this form, other essential application requirements must be completed.

**FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS A SUFFICIENT BASIS FOR DENYING OR REVOKING A LICENSE.**

1. NAME: Last:	First:	Middle:
OTHER NAMES USED if any:		2. SOCIAL SECURITY NO. OR INDIVIDUAL TAXPAYER ID NO.:
3. DATE OF BIRTH:	4. PLACE OF BIRTH:	5. SEX: Male <input type="checkbox"/> Female <input type="checkbox"/>
6. ADDRESS:		
MAILING ADDRESS if different:		
7. CONTACT INFORMATION FOR APPLICATION PROCESS:		
Daytime Phone Number:		E-Mail address (optional):
8. PRE-OSTEOPATHIC COLLEGE(S)	ADDRESS	DATES OF ATTENDANCE
9. OSTEOPATHIC COLLEGE(S)	ADDRESS	DATES OF ATTENDANCE:
		DATE OF DEGREE:
10. POSTGRADUATE TRAINING INTERNSHIP (AOA)	Hospital Name	Address
		Type of Service
		Dates of Attendance
RESIDENCY/FELLOWSHIP:	Dates of Service	
11. BOARD CERTIFIED:	DATE CERTIFIED:	NAME OF CERTIFYING BOARD:
Yes <input type="checkbox"/> No <input type="checkbox"/>		
12. LIST ALL WRITTEN EXAMINATIONS TAKEN e.g. NBOME, State Written Boards, USMLE, FLEX etc. B & P 2099.5		
STATE WHICH EXAMINATIONS AND WHERE TAKEN		DATE COMPLETED
13. LIST ALL STATES IN WHICH YOU ARE NOW LICENSED OR HAVE EVER BEEN LICENSED TO PRACTICE OSTEOPATHIC MEDICINE		
<small>*Written examination, reciprocity, National Boards, etc.</small>		
STATE	DATE LICENSED	* HOW LICENSED
		LICENSE NUMBER
14. Are you serving, or have you previously served in the military? Yes <input type="checkbox"/> No <input type="checkbox"/>		
15. Are you married to, or in a domestic partnership or other legal union, with an active duty member of the US military officially assigned to a duty station in California? Yes <input type="checkbox"/> No <input type="checkbox"/>		

16. Have you ever withdrawn from, or been suspended, dismissed or expelled from a medical school or postgraduate training? If Yes, attach explanation.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
17. Has a claim or action for damages ever been filed against you in the course of the practice of medicine or any other healing art which resulted in a malpractice settlement, judgment or arbitration award of over \$30,000.00?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
18. Has there ever been any peer group or professional association inquiry or action involving your practice or relationship with patients alleging unprofessional conduct, wrongdoing or negligence?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
19. Have you ever withdrawn an application from any hospital, public entity or licensing agency? If Yes, When?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
20. Have you ever had staff privileges in a hospital denied, suspended, limited, revoked or not renewed for medical disciplinary cause, or resigned from a medical staff in lieu of disciplinary or administrative action, or is any such action pending?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
21. Have you ever had a medical or any healing art license restricted, suspended, revoked, disciplined or denied in any state?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
22. Have you ever been denied permission to practice medicine or any healing art in any state?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
23. Do you have any condition which in any way impairs or limits your ability to practice medicine with reasonable skill and safety, including but not limited to, any of the following?  IF YES, PLEASE CHECK THE APPROPRIATE BOX(ES) BELOW: A condition which required admission to an inpatient psychiatric treatment facility Alcohol or chemical substance dependency or addiction Emotional, mental or behavioral disorder Other (explain) _____  FOR ANY OF THE BOXES CHECKED ABOVE, PLEASE SUBMIT COMPLETE <u>OFFICIAL</u> INPATIENT TREATMENT RECORDS, EVIDENCE OF ONGOING REHABILITATION TREATMENT, AND A PERSONAL WRITTEN EXPLANATION.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
24. Have you ever been convicted of, or pled guilty or nolo contendere to ANY criminal or civil offense in the United States, its territories, or a foreign country? This includes every citation, infraction, misdemeanor and/or felony, including traffic violations. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code Sections 11357 (b), (c), (d), (e), OR section 11360 (b) which are two years or older should NOT be reported. Convictions that were later dismissed pursuant to sections 1203.4, 1203.4a, or 1204.41 of the California Penal Code or equivalent non-California law MUST be disclosed.  Proof of Dismissal: If you have obtained a dismissal of your conviction(s) pursuant to Penal Code sections 1203.4, 1203.4a, or 1203.41, please submit a certified copy of the court order dismissing the conviction(s) with your application.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
25. Is any criminal action related to the above now pending?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
IF YOU HAVE ANSWERED "YES" TO ANY OF THE ABOVE QUESTIONS, <u>ATTACH DETAILED EXPLANATION AND SUPPORTING DOCUMENTS.</u>		
<b>CERTIFICATION</b>		
<b>I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.</b>		
_____ Signature of Applicant - Sign in Presence of the Notary	_____ Date	

**NOTICE OF COLLECTION OF PERSONAL INFORMATION**

Agency requesting information: Osteopathic Medical Board of California, 1300 National Drive, Suite 150, Sacramento, CA 95834, (916) 928-8390.

The information requested herein is mandatory, unless otherwise indicated, and is maintained by the Osteopathic Medical Board of California (Board), 1300 National Drive, Suite 150, Sacramento, California 95834, Executive Officer, (916) 928-8390, in accordance with Business & Professions Code section 3600 et seq. Disclosure of your individual taxpayer identification number or social security number is mandatory and collection is authorized by Section 30 of the Business & Professions Code. Failure to provide all or any part of the requested mandatory information will result in the rejection of your application as incomplete. Except for the individual taxpayer identification number or social security number, the information requested will be used to identify and evaluate applicants for licensure, issue and renew licenses, and enforce licensing standards set by statutes and regulations. Your individual taxpayer identification number or social security number will be used exclusively for tax enforcement purposes, compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or verification of licensure or examination status by a licensing or examination board where licensing is reciprocal with the requesting state. It will not be deemed to be a public record and will not be disclosed to the public. If you fail to disclose your individual taxpayer identification number or social security number you will be reported to the Franchise Tax Board (FTB), which may assess a \$100 penalty against you. Upon request, the Board will provide the FTB with your name, address(es) of record, individual taxpayer identification number or social security number, type of license and status, and effective date and expiration date of your license or renewal. You have the right to review your personal information maintained by the agency unless the records are exempt from disclosure. Please note that certain information you provide may be disclosed under some circumstances, such as: in response to a Public Records Act (PRA) request (beginning with Government Code section 6250), to another government agency as required by state or federal law, or in response to a court or administrative order, subpoena, or search warrant.

Photo Area  
Paste a recent 2" x 2"  
(approximate size)  
photograph here.  
  
Photo must be of your  
head and shoulder areas  
only. CCR 1613

**APPLICANT DECLARATION/SIGNATURE and NOTARY**

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name and title of officer),  
personally appeared, \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to

be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

**Signature** \_\_\_\_\_

Notary Seal



\_\_\_\_\_ Address

\_\_\_\_\_

My Commission expires \_\_\_\_\_

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intentionally  
been left blank**

<b>APPLICANT:</b> (Print Legal Name)	<b>DATE OF BIRTH:</b> (mm/dd/yyyy)	<small>MBC Use Only</small> <input type="checkbox"/> Name & DOB           <small>Criminal History</small>
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**CRIMINAL RECORD HISTORY**

Applicants who answer "NO" to the questions below, but have a previous conviction or plea, may have their application denied for knowingly falsifying the application. If in doubt as to whether a conviction should be disclosed, it is best to disclose the conviction on the application.

For each conviction, you must submit certified copies of the arresting agency report, certified copies of the court documents (court docket) and a signed and dated descriptive explanation of the circumstances surrounding the conviction (i.e., dates and location of the incident and all circumstances surrounding the incident). If the documents were purged by the arresting agency and/or court, a letter of explanation from these agencies is required. In addition, you may submit evidence of rehabilitation.

42. Have you ever been convicted of, or pled guilty or nolo contendere to <b>ANY</b> offense in the United States, its territories, or a foreign country?  <i>This includes every citation, infraction, misdemeanor and/or felony, including traffic violations. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), (e), or section 11360(b) which are two years or older should NOT be reported. Convictions that were later expunged from the record of the court or set aside pursuant to section 1203.4 of the California Penal Code or equivalent non-California law MUST be disclosed.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
43. Exclusive of juvenile court adjudications and criminal charges dismissed under section 1000.3 of the California Penal Code or equivalent non-California laws, or convictions under California Health and Safety Code section 11357(b), (c), (d), (e), or section 11360(b) which are two years or older, have you had a charge or conviction that was set aside or later expunged from the record of the court?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
44. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
45. Are you a registered sex offender?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>

**PRACTICE IMPAIRMENT OR LIMITATIONS**

An affirmative answer to any of the questions below will require the Board to make an individualized assessment of the nature, the severity and the duration of the risks associated with an ongoing medical condition to determine whether an unrestricted license should be issued, whether conditions should be imposed, or whether you are eligible for licensure. Please note that a Limited Practice License may be available. Refer to the *Application Information for a Limited Practice License* for further information.

46. Have you ever been enrolled in, required to enter into, or participated in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
47. Have you ever been treated for or had a recurrence of a diagnosed addictive disorder?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
48. Have you ever been diagnosed with an emotional, mental, or behavioral disorder that may impair your ability to practice medicine safely?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
49. Have you ever been diagnosed with a neurological or other physical condition that may impair your ability to practice medicine safely?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
50. Do you have any other condition that may in any way impair or limit your ability to practice medicine safely?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
51. Do you suffer from a progressive disorder or a health condition that will likely result in a general decline in health or function that may impair or limit your ability to practice medicine safely?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>

**NOTE: A "yes" response to question 42-51 requires a signed and dated written explanation. The *Explanation For Application Question* form may be used to provide your explanation.**

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# TAB 8

# Osteopathic Medical Board

## Future Agenda Items

Agenda Item	Requestor

# TAB 9

# Osteopathic Medical Board

## Future Meeting Dates

Date	Place	Time
Thursday January 17, 2019	Sacramento, CA	10:00 am
Thursday May 16, 2019	Chino, CA	10:00 am
Thursday September 2019 (5 <sup>th</sup> , 12 <sup>th</sup> , 19 <sup>th</sup> , or 26 <sup>th</sup> )	TBD	10:00 am

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