

Governor Edmund G. Brown Jr.  
State of California

Anna Caballero, Secretary  
Business, Consumer Services  
and Housing Agency

Awet Kidane, Director  
Department of Consumer Affairs



Alan Roth, MS, MBA, RRT-NPS, FAARC  
President

Judy McKeever, RCP  
Vice-President

Mary Ellen Early  
Member

Rebecca F. Franzoia  
Member

Mark Goldstein, MBA, BS, RRT  
Member

Michael Hardeman  
Member

Ronald H. Lewis, MD  
Member

Laura C. Romero, PhD  
Member

Thomas Wagner, BS, RRT, FAARC  
Member

**Mission**

“To protect and serve consumers by licensing qualified respiratory care practitioners, enforcing the provisions of the Respiratory Care Practice Act, expanding the availability of respiratory care services, increasing public awareness of the profession, and supporting the development and education of respiratory care practitioners.”

Toll Free: (866) 375-0386  
Website: [www.rcb.ca.gov](http://www.rcb.ca.gov)

# Respiratory Care Board of California

3750 Rosin Court, Suite 100, Sacramento, CA 95834

## Board Meeting Agenda

**November 6, 2015**

**10:00 a.m. - 1:00 p.m.**

**1625 North Market Blvd.  
South Building, Room S-102  
(First Floor Hearing Room)  
Sacramento, CA 95834**

10:00 a.m. **Call to Order** (Alan Roth)

**1. Public Comment** (Alan Roth)

Public comment will be accepted after each agenda item and toward the end of the agenda for public comment not related to any particular agenda item. The President may set a time limit for public comment as needed.

**2. Approval of May 15, 2015 Minutes** (Alan Roth)

**3. Approval of June 23, 2015 Minutes** (Alan Roth)

**4. Executive Officer's Report** (Stephanie Nunez)

- a. Continuing Education Hours Increase Effective July 1, 2015
- b. Unauthorized Practice of Respiratory Care Notice
- c. Sunset Review 2016/2017

**5. 2013-2016 Strategic Plan Review**

**6. Enforcement Performance Measures and Statistics**

**7. RCP Workforce Study Update** (Alan Roth)

**8. Consideration of CSRC Request: Mandate Half of Continuing Education be Accumulated through Live Contact Hours**

**9. Fiscal Review** (Stephanie Nunez)

**10. Legislative Action**

- a. 2015 Legislation of Interest (Christine Molina)  
AB 12, AB 85, **AB 333**, AB 507, AB 611, AB 860, AB 1060, SB 390, **SB 467** and **SB 800**
- b. 2015 Board-Cosponsored Legislation (Stephanie Nunez)
  - i. SB 525 (Nielsen) / Notice to CA Dept. of Public Health
  - ii. AB 923 (Steinorth)

**11. Attorney General Legal Opinion: Spirometry by Medical Assistants**

**12. RCP Staffing Ratios/Ventilator Patients**

• **Closed Session** •

The Board will convene into Closed Session, as authorized by Government Code section 11126(c), subdivision (3), to deliberate on the following matters and any other matters that may arise after the issuance of this agenda notice.

- I. Consideration of Proposed Stipulated Decision: K. S. P., Applicant
- II. Consideration of Proposed Stipulated Decision: Wayland J. Fry, RCP 25017

**13. Election of Officers for 2016**

**14. 2016 Meeting Dates: Calendar**

**15. Public Comment on Items Not on the Agenda**

**16. Future Agenda Items**

1:00 p.m. **Adjournment**

## **DIRECTIONS FROM AIRPORT**

From the Sacramento International Airport:  
(approximately 9 miles/15 min. from airport)

Exit Airport

Take I-5 South towards Sacramento

Take the Arena Blvd. Exit

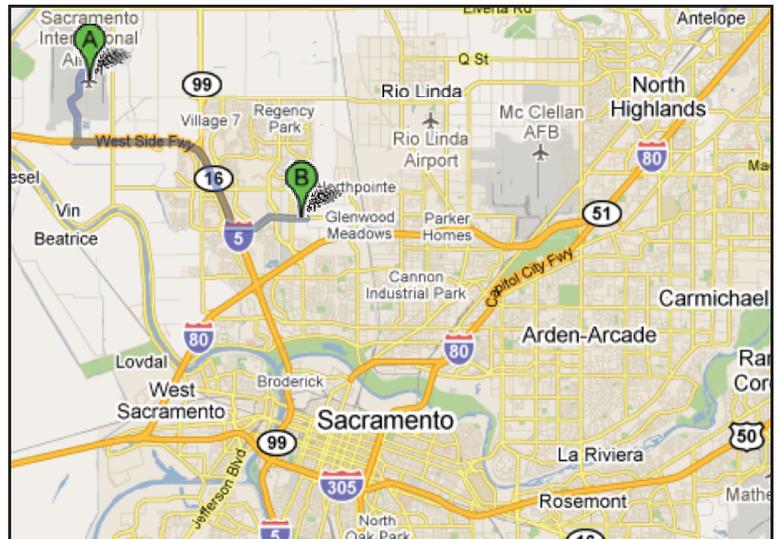
Turn Left onto Arena Blvd.

Continue onto N. Market Blvd.

(Arena turns into N. Market)

Make a U-turn at Sierra Point Drive

Destination is a three-story building on right



## **NOTICE**

This meeting will be Webcast, provided there are no unforeseen technical difficulties. To view the Webcast, please visit <http://thedcapage.wordpress.com/webcasts/>

Action may be taken on any item on the agenda. Time and order of agenda items are subject to change at the discretion of the President. Meetings of the Respiratory Care Board are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. In addition to the agenda item which addresses public comment, the audience will be given appropriate opportunities to comment on any issue before the Board, but the President may, at his discretion, apportion available time among those who wish to speak. Contact person: Paula Velasquez, telephone: (916) 999-2190 or (866) 375-0386.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Paula Velasquez at (916) 999-2190/ (866) 375-0386 or sending a written request to: Paula Velasquez, Respiratory Care Board, 3750 Rosin Court, Suite 100, Sacramento, CA 95834. Providing your request at least nine (9) business days before the meeting will help ensure availability of the requested accommodation.



## **PUBLIC SESSION MINUTES**

**Friday, May 15, 2015**

**Loma Linda University – Drayson Center  
25040 Stewart Street (Collins Auditorium)  
Loma Linda, CA 92350**

**Members Present:** Alan Roth, MS MBA RRT-NPS FAARC, President  
Judy McKeever, RCP, RRT, Vice President  
Mary Ellen Early  
Mark Goldstein, MPA, RRT, RCP  
Michael Hardeman  
Ronald Lewis, M.D.  
Laura Romero, Ph.D.  
Thomas Wagner, BS, RRT, FAARC

**Member Absent:** Rebecca Franzoia

**Staff Present:** Dianne Dobbs, Esq., Legal Counsel  
Kelsey Pruden, Esq., Legal Counsel  
Stephanie Nunez, Executive Officer  
Christine Molina, Staff Services Manager

### **CALL TO ORDER**

The Public Session was called to order at 10:00 a.m. by President Roth. A quorum was present.

### **PUBLIC COMMENT**

President Roth explained that public comment would be allowed on agenda items, as those items are discussed by the Board during the meeting. He added that under the Bagley-Keene Open Meeting Act, the Board may not take action on items raised by public comment that are not on the Agenda, other than to decide whether to schedule that item for a future meeting.



1 College plans to begin its program this fall and Modesto Junior College has a tentative start date of  
2 December 2016 or January 2017.  
3

#### 4 **e. RCP Work Force Study** 5

6 Some delays were encountered in the contracting process for the RCB Workforce Study. However,  
7 the 18 month contract was approved with a start date of March 15, 2015 through September 2016.  
8 The timeline was shared with the Board. President Roth is currently working on putting together an  
9 advisory group with a limit of 6 individuals in professional area that include rural hospitals, acute care  
10 hospitals, education, home care, pulmonary/sleep labs, and children's hospitals.  
11

### 12 **5. BREEZE FISCAL IMPACT**

13 *(Nunez)*  
14

15  
16 Ms. Nunez gave an update on the fiscal impact of BreEZe. Costs at the end of February 2015 were  
17 revealed to be three times higher than initially stated. The Department of Consumer Affairs has  
18 statutory authority over monies concerning the BreEZe project for all boards. The RCB has pushed for  
19 information on future costs for maintenance; however they are unknown at this time. Ms. Nunez has  
20 asked DCA's budget office to provide this information as soon as it is available. If maintenance costs  
21 are high, changes to the current fee structure may need to be made to keep the fund stable.  
22

23 Dr. Lewis questioned releases and expressed concern over the lack of options.  
24

#### 25 Public Comment:

26 Jeff Davis, UCLA, questioned BreEZe funding.  
27

28 Ms. Nunez explained right now expenditures and revenues are about equal. As such, the RCB's fund  
29 can remain fiscally stable so long as maintenance does not get too costly for too many years.  
30  
31

### 32 **6. ENFORCEMENT PERFORMANCE MEASURES** 33 34

35 Ms. Nunez reviewed the enforcement performance measures data.  
36

37 Ms. Dobbs explained AG and OAH delays, continuances and scheduling which impact overall  
38 performance measures.  
39

40 Ms. Early requested full enforcement statistics including graphs. President Roth agreed asking for  
41 this format with a full spreadsheet.  
42  
43

### 44 **7. REQUEST TO SPONSOR PROCLAMATION FOR "CONGENITAL DIAPHRAGMATIC HERNIA 45 (CDH) ACTION DAY" – APRIL 19th** 46

47 The Board reviewed information concerning Congenital Diaphragmatic Hernia (CDH). Since 2000, it  
48 is estimated that over 500,000 babies have been born with CDH; however, only 50 percent of those  
49 babies survived. Those with CDH often endure multiple surgeries and possible medical complications  
50 beyond their diagnosis that include heart defects, pulmonary complications, gastric and intestinal  
51 problems, developmental delays, and may require respiratory and medicinal support for years.

1 Raising awareness of this congenital defect will help bring about acceptance and support for those  
2 suffering with it and will help advocate for urgently needed medical research and advances.

3  
4 Vice President McKeever stated RCPs play a vital role in the care provided to babies born with CDH,  
5 and urged the Board to support the awareness of CDH, as this disease is not often recognized.

6  
7 Dr. Lewis moved to support the proclamation supporting April 19 as Congenital Diaphragmatic Hernia  
8 Action Day.

9  
10 M/Lewis /S/McKeever

11 In Favor: Early, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

12 Unanimous

13 MOTION PASSED

14  
15  
16 **8. PULMONARY FUNCTION TESTING: REQUEST FOR ATTORNEY GENERAL LEGAL OPINION**  
17 **– STATUS/ACTION**  
18 *(Nunez)*

19  
20 Ms. Nunez stated there has been no update on the requested legal opinion concerning pulmonary  
21 function testing. However, she will continue routine follow up on the status.

22  
23 Public Comment:

24 Lee Endike, SJVC, gave the board examples of problems he has experienced with medical assistants  
25 performing pulmonary function testing.

26  
27 Jeff Davis, UCLA, requested the opportunity to provide input in the future as he had a credentialed  
28 employee with no license who retired, and may have been subject to a citation and fine.

29  
30  
31 **9. LEGISLATIVE ACTION**  
32 *(Molina/Nunez)*

33  
34 **a. 2015 Legislation of Interest**

35  
36 Ms. Molina reviewed and provided information regarding the 2015 Legislation of Interest, including  
37 staff recommended positions, as follows:

- 38  
39 AB 12: State government: administrative regulations: review  
40 Status: April 29, 2015: Re-referred to Assembly Appropriations  
41 Board's Position: Watch  
42 AB 85: Open Meetings  
43 Status: April 22, 2015: Referred to Assembly Appropriations Suspense File  
44 Board's Position: Oppose  
45 AB 333: Healing arts: continuing education  
46 Status: April 29, 2015: Referred to Assembly Appropriations (as amended)  
47 Board's Position: Watch  
48 AB 507: DCA: BreEZe system: annual report  
49 Status: April 22, 2015: Referred to Assembly Appropriations Suspense File  
50 Board's Position: Watch  
51 AB 611: Controlled Substances: prescriptions: reporting  
52 Status: April 21, 2015: Hearing before Assembly B&P cancelled at the request of the  
53 author. Will likely become a 2-year bill.

1 Board's Position: Watch  
2 AB 860: Sex crimes: professional services  
3 Status: April 22, 2015: Referred to Senate Rules Committee  
4 Board's Position: Watch  
5 AB 1060: Profession and vocations; licensure  
6 Status: April 30, 2015: To Assembly Floor with recommendation for consent  
7 Board's Position: Watch  
8 SB 390: Home health agencies: skilled nursing services  
9 Status: April 22, 2015: Hearing before Senate Health Committee cancelled at the  
10 request of author  
11 Board's Position: Watch  
12 SB 467: Professions and Vocations  
13 Status: April 28, 2015: Referred to Committee on Appropriations  
14 Board's Position: Watch  
15 SB 800: Committee on Business, Professions and Economic Development  
16 Status: April 28, 2015: Referred to Senate Appropriations with recommendations for  
17 consent  
18 Board's Position: Watch  
19  
20

21 **b. 2015 Board Cosponsored Legislation AB 923 and SB 525**

22  
23 Ms. Nunez reviewed the Board's co-sponsored legislation:

24  
25 AB 923: Respiratory care practitioners  
26 Status: This has become a 2-year bill  
27 Board's Position: Support  
28 SB 525: Respiratory care practice  
29 Status: In Assembly – Pending Referral  
30 Board's Position: Support  
31

32 Ms. Nunez thanked the CSRC and their legislative advocate for co-sponsoring the legislation and for  
33 their invaluable assistance throughout the legislative process.  
34

35 Public Comment

36 Hank Lockridge, RCP 2129, gave an example of a nurse performing conscious sedation many years  
37 ago. He added it reduces costs while providing patient safety and recommends additional education  
38 while supporting the baccalaureate degree requirement.  
39

40 Patrick Moore supports the threshold to advance the profession with patient safety being the priority.  
41

42 Dr. Lewis moved to Support AB 923 and SB 525 and Watch AB 12, AB 333, AB 507, AB 611, AB 860,  
43 AB 1060, SB 390, SB 467, SB 800 and Oppose AB 85.  
44

45 M/Lewis /S/Goldstein

46 In Favor: Early, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

47 Unanimous

48 MOTION PASSED

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**CLOSED SESSION**

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The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 11:05 a.m. and reconvened into Public Session at 12:10 a.m.

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**PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

No public comment was provided at this time.

**FUTURE AGENDA ITEMS**

Online versus classroom continuing education (including information and percentages) will be added to future agenda items.

**ADJOURNMENT**

The Public Session Meeting was adjourned by President Roth at 12:15 p.m.

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ALAN ROTH  
President

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STEPHANIE A. NUNEZ  
Executive Officer



## PUBLIC SESSION MINUTES

June 23, 2015

11:00 a.m.

### MEETING VIA TELECONFERENCE

#### SACRAMENTO, CALIFORNIA

Respiratory Care Board  
3750 Rosin Ct, Ste., 100  
Sacramento, CA 95834

#### SOUTH SACRAMENTO, CALIFORNIA

Sutter Care at Home Timberlake  
8322 Ferguson Avenue  
Sacramento, CA 95828

#### GLENDALE, CALIFORNIA

Medical Board of California  
Conf. Rm. DIST 17, 320 Arden Ave, Ste., 250  
Glendale, CA 91203

#### NEWARK, CALIFORNIA

Ohlone College, Health Science & Environment Studies Dept.  
39399 Cherry Street, Room N 2222  
Newark, CA 94560

Members Present: Alan Roth, MS MBA RRT-NPS FAARC, President (**Sacramento**)  
Mary Ellen Early (**Glendale**)  
Rebecca Franzoia (**Sacramento**)  
Mark Goldstein, BS, RRT, RCP (**South Sacramento**)  
Michael Hardeman (**Sacramento**)  
Ronald Lewis, M.D. (**Sacramento**)  
Laura Romero, Ph.D. (**Glendale**)  
Thomas Wagner, BS, RRT, FAARC (**Newark**)

Staff Present: Dianne Dobbs, Esq., Legal Counsel (**Sacramento**)  
Kelsey Pruden, Esq., Legal Counsel (**Sacramento**)  
Christine Molina, Staff Services Manager (**Sacramento**)

1 **CALL TO ORDER**

2  
3 The Public Session was called to order at 11:01 a.m. by President Roth from the Respiratory Care  
4 Board office at 3750 Rosin Court, Suite 100, Sacramento, CA 95834. President Roth took attendance  
5 of the Board Member by roll call. The Board Members introduced themselves by announcing their  
6 name, location, and noting if members of the public were in attendance. A quorum was established.  
7

8  
9 **PUBLIC COMMENT**

10 As there were no members of the public in attendance, no public comment was provided at this time.  
11  
12

13  
14 =====  
15 **CLOSED SESSION**

16  
17 The Board convened into Closed Session, as authorized by Government Code Section 11126c,  
18 subdivision (3) at 11:04 a.m. and reconvened into Public Session at 12:01 p.m.  
19 =====

20  
21 The meeting returned to Open Session at 12:01 p.m. Mr. Goldstein indicated that a member of the  
22 public had arrived at his location (South Sacramento).  
23

24  
25 **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

26  
27 The member of the public introduced himself as Michael Monasky who asked the Board about its  
28 vision for the sub-acute, skilled nursing facility and homecare settings. However Ms. Dobbs, Legal  
29 Counsel, stated that as this item is not on the Agenda, the Board could not provide any comment  
30 related to this inquiry.  
31

32  
33 **ADJOURNMENT**

34  
35 The Public Session Meeting was adjourned by President Roth at 12:06 p.m.  
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42 \_\_\_\_\_  
43 ALAN ROTH  
44 President

42 \_\_\_\_\_  
43 STEPHANIE A. NUNEZ  
44 Executive Officer



# Strategic Plan

2013-2016

**Respiratory Care  
Board of California**

# MEMBERS OF THE RESPIRATORY CARE BOARD OF CALIFORNIA

CHARLES B. SPEARMAN, MSED, RCP, RRT, PRESIDENT

MARK D. GOLDSTEIN, BS, RRT, RCP, VICE PRESIDENT

MARY ELLEN EARLY, MEMBER

REBECCA F. FRANZOIA, MEMBER

MICHAEL HARDEMAN, MEMBER

RONALD H. LEWIS, MD, MEMBER

MURRY L. OLSON, RCP, RRT-NPS, RPFT, MEMBER

LAURA C. ROMERO, PHD, MEMBER

ALAN ROTH, MS, MBA, RRT-NPS, FAARC, MEMBER

STEPHANIE NUNEZ, EXECUTIVE OFFICER

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# **ABOUT THE RESPIRATORY CARE BOARD OF CALIFORNIA**

The Respiratory Care Board of California (RCB) licenses and regulates Respiratory Care Practitioners (RCPs) who perform critical lifesaving and life support procedures prescribed by physicians, which directly affect the body's major organs. Working with patients of all ages in different care settings, RCPs treat people who suffer from chronic lung problems, cystic fibrosis, lung cancer, AIDS, as well as heart attack and accident victims and premature infants.

The mandate of the RCB is to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. To accomplish this, the RCB must ensure that applicants meet education and examination requirements in addition to passing a criminal history background check, prior to receiving to an RCP license. The Board assures the continued qualification of its licensees through license renewal, continuing education, investigation of complaints, and discipline of those found in violation. The Respiratory Care Practice Act (RCPA) is comprised of the Business and Professions Code Section 3700, et. seq. and the California Code of Regulations, Title 16, Division 13.6, Article 1, et. seq.

The enabling statute to license RCPs was signed into law over 30 years ago in 1982. The Board is comprised of a total of nine members, including four public members, four RCP members, and one physician and surgeon member. Each appointing authority - the Governor, the Senate Rules Committee, and the Speaker of the Assembly- appoints three members. The Board appoints the Executive Officer who oversees a staff of 18 permanent positions and 2 temporary positions. This current framework provides a balanced representation needed to accomplish the Board's mandate to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care.

The Board continually strives to enforce its mandate and mission in the most efficient manner, through exploring new and/or revised policies, programs, and processes. The Board also pursues increasing the quality or availability of services, as well as regularly providing courteous and competent service to its stakeholders.

## RECENT ACCOMPLISHMENTS

As a part of the strategic planning process, Board members evaluated the goals set forth in its previous strategic plan, and identified the objectives that were accomplished. The following are the significant Board accomplishments since the last strategic plan was adopted in 2008:

- Published and annually update Respiratory Care Practitioner school pass rates on website.
- Developed practice issues in emergency situations and included recommendations for improved procedures, including training for the LTV 1200 machine.
- Informed RCPs about proper protocol for concurrent therapy through the RCB Newsletter and website.
- Used the 25-year RCB anniversary as a springboard to conduct a public outreach media campaign with the California Society for Respiratory Care.
- Revised Disciplinary Guidelines including terms and conditions of probation for use by Administrative Law Judges and Board Members to determine consistent and appropriate discipline against RCPs who have violated the RCPA.
- Delegated authority to the Executive Officer to prepare and file proposed default decisions, and to adopt stipulated settlements where an action to revoke the license has been filed and the respondent agrees to surrender his or her license. The Executive Officer's authority to sign maximizes consumer protection by expediting enforcement.
- Improved consumer protection by increasing the frequency of testing for licensees on probation for substance abuse/use issues.
- Began acceptance of alternative payment methods (i.e., credit cards) for license fees and reduced application processing times for license renewals.

- Promulgated regulations to:
  - Incorporate the newly developed Uniform Standards regarding substance abusing healing arts licensees, consistent with the requirements of Senate Bill 1441, Ridley-Thomas (Chapter 548, Statutes of 2008).
  - Authorize the issuance of a notice to cease practice to any licensee placed on probation who has committed a “Major Violation” as identified in the Board’s Disciplinary Guidelines.
  - Further recognize military education and experience as part of education waiver criteria.
  - Streamline the citation and fine process.
  - Clarify and add criteria substantially related to the practice of respiratory care.
- Maintained Board Member quorum at all Board meetings since 2007.
- Increased outreach by fostering relationships with professional societies and associations, and through the distribution of the RCB newsletters.
- Created a process to query out-of-state applicants with the National Practitioner Data Bank to ensure that the applicant has not been disciplined in another state before applying for licensure in California.
- Developed a record retention policy to ensure cost effective and efficient record keeping practices, while preserving historical information.
- In accordance with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), the Board adopted a policy concerning drug testing frequency (including increased testing to 52-104 times per year) for persons whose licenses have been placed on probation.

- Participated in “Transitioning the Respiratory Therapist Workforce for 2015 and Beyond,” a professional planning conference hosted by the American Association for Respiratory Care.
- Validated the disciplinary cycle by implementing and reviewing process changes consistent with the Department’s Consumer Protection Enforcement Initiative (CPEI) spearheaded by the RCB, thereby reducing disciplinary case processing times within 12 to 18 months.
- Launched the “Inspire” campaign to bring awareness to the profession as a meaningful and smart career choice. The Board also launched its “Inspire” Facebook page and a dedicated website. ([www.2BeARespiratoryTherapist.ca.gov](http://www.2BeARespiratoryTherapist.ca.gov)).
- Initiated the momentum resulting in Senate Bill 132 (Denham, Chapter 635, Statutes of 2009) which established certification for polysomnographic technologists under the Medical Board of California. [Previous legislative attempts in 2008: SB 1125 (Denham) and SB 1526 (Perata)].
- Senate Bill 819 (Committee on Business, Professions and Economic Development, Chapter 308, Statutes of 2009) clarifies existing law authorizing the Board to recoup costs for disciplinary matters and added the Respiratory Care Practitioner to a list of other health care providers who are not held liable for any injury sustained in a state of an emergency.
- Continued to place priority on customer service to RCB stakeholders by rejecting the use of automated voice response systems.
- Reengineered internal processes and eliminated the initial licensing fee to improve initial application processing times.

## OUR MISSION

To protect and serve consumers by licensing qualified respiratory care practitioners, enforcing the provisions of the Respiratory Care Practice Act, expanding the availability of respiratory care services, increasing public awareness of the profession, and supporting the development and education of respiratory care practitioners.

## OUR VISION

All California consumers are aware of the Respiratory Care profession and its licensing Board, and receive competent and qualified respiratory care.

## OUR VALUES

**Ethical** – Possession of the morals and values to make decisions with integrity that are consistent with the Board’s mandate and mission.

**Diversity** – Recognize the rights of all individuals to mutual respect and acceptance of others without biases based on differences of any kind.

**Dignity** – Conduct business honorably without compromise to the Board or individual values.

**Quality** – Strive for superior service and products and meaningful actions in serving stakeholders.

**Flexibility** – Provide sincere considerations of other interests, factors, and conditions and be willing and/or able to modify previous positions for the betterment of the Board and its mandate and mission.

**Teamwork** – Strive to work cooperatively and in a positive manner to reach common goals and objectives.

**Efficiency** – Continually improve our system of service delivery through innovation, effective communications, and development, while mindful of the time, costs, and expectations stakeholders have invested.

# GOAL 1: ENFORCEMENT

Protect consumers by preventing violations and effectively enforcing laws and regulations when violations occur.

- ✓ **1.1** Pursue legislation to allow the release of criminal records without authorization for individuals seeking licensure with the Board. (Essential)  
**SB 305 (statutes of 2013) carried the Board's proposed legislation authorizing all boards to receive information without individual authorization (Section 144.5 of the B&P)**
- **1.2** Partner with other healing arts boards to pursue legislation that will allow for the immediate suspension of a license for an egregious act. (Essential)  
**The initial legislative proposal for immediate suspension was rejected (concerns for due process). The Board had sponsored legislation, AB 923, to make such arrests public information and grant the Board authorization to notify employers of arrests. This language proved to be too controversial as well. Currently, proposing the issue become a "cross-cutting" issue for DCA during the Sunset Review process, to determine its viability and impact across all boards.**
- ✓ **1.3** Establish a maximum time period to post on the internet, citations, fines and disciplinary matters. (Essential)  
**On April 4, 2014, the Board adopted a policy where it now considers the removal of public reprimands and citations and fines after a period of five years has elapsed.**
- **1.4** Reengineer the Board's enforcement processes for formal disciplinary actions by securing authority to draft routine accusations, statements of issue, and possibly stipulated agreements. (Important)  
**The Department of Consumer of Affairs is of the opinion that our board currently has this authority. However, the Office of the Attorney General does not support this process. As a result, no staffing resources exist to implement this process. Discussed further in Goal 4.2.**
- ✓ **1.5** Further define the process for addressing practice-related violations using the Board's authority to issue reprimands. (Important)  
**This process has evolved since the Board expanded the use of the "in-house public reprimand" for practice-related violations in 2014. Consideration to issue public reprimands is done on a case by case basis. In general, cases that fit at least three of the following criteria are considered:**
  - 1) The error was acknowledged by the licensee and corrective action was taken immediately, if applicable.**
  - 2) No patient harm.**
  - 3) No history of practice-related violations.**
  - 4) The benefit of placing a licensee on probation for the error is insignificant.****Ultimately, the Board has the final determination on whether a public reprimand is appropriate or if further disciplinary action is warranted.**

## GOAL 2: PRACTICE STANDARDS

Establish regulatory standards for respiratory care practice in California and ensure the professional qualifications of all Respiratory Care Practitioners (RCPs).

- ✓ **2.1** Transition from using the Certified Respiratory Technician (CRT) exam to the Registered Respiratory Technician (RRT) exam as the minimum standard. (Essential)

**AB 1972 (Jones, Statutes of 2014) changed the competency examination required for licensure as a respiratory care practitioner, from the CRT exam to the RRT written and clinical exams. The RRT credential issued by the National Board for Respiratory Care is the nationally recognized as the highest level credential specific to respiratory care.**

- WS 2.2** Strengthen law and regulations governing student and/or applicant clinical supervision requirements. (Essential)

**The Workforce Study currently underway by the University of California, San Francisco will be providing more information for the Board to act upon as it relates to Goal 2.2. Specifically, the following questions are key issues the UCSF will be exploring:**

- How is the supervision over RCP students participating in clinical education exercised?**
- What is the process used to evaluate students in terms of demonstrating clinical competencies?**
- Are there components of the clinical training experience that need to be improved?**

**The Workforce Study is expected to be complete by 1/1/17.**

- 2.3 Identify exemption level, if any, for Pulmonary Function Therapists (including persons holding the Certified Pulmonary Function Therapist/Registered Pulmonary Function Therapist credential and medical assistants). (Important)

**SB 305 (Lieu, Statutes of 2013/Sunset extension bill) exempted specific personnel employed by Los Angeles County hospitals from respiratory care practitioner licensure in order to perform pulmonary function testing.**

**At the Board's May 2013 it was decided to not allow for any additional exemptions and to begin enforcing existing law. The Medical Board of California disagreed with this interpretation as it relates to medical assistants performing pulmonary function testing. In December 2013, the Board, along with the Medical Board of California, jointly requested a legal opinion on the performance of pulmonary function testing by unlicensed personnel. As of October 1, 2015, the Board awaits the legal opinion.**

- ✓ 2.4 Define limits of RCP's responsibility on home delivery of equipment and patient care. (Important)

**It was determined that the intent of this goal is outside the Board's purview and would be better addressed by the CMS or a facility's legal counsel. The Board currently has regulations, California Code of Regulations, Section 1399.360, that provide for the care that RCPs should provide as it relates respiratory durable medical equipment in the home.**

- WS** 2.5 Evaluate the effectiveness and impact of the Professional Ethics and Law courses to determine whether or not the courses should be mandated. (Important)

**The Workforce Study currently underway by the University of California, San Francisco will be providing more information for the Board to act upon as it relates to Goal 2.5. Specifically, the following questions are key issues the UCSF will be exploring:**

- How effective are the Professional Ethics and Law courses that RCPs are currently required to take?**
- What is their impact on the practice of respiratory care?**
- Should they continue to be mandated?**

**The Workforce Study is expected to be complete by 1/1/17.**

WS

**2.6 Consider whether or not continuing education hour requirements are sufficient to ensure clinical and technical relevance. (Important)**

The number of continuing education (CE) hours required for license renewal was increased from 15 to 30 hours effective 7/1/15 (renewals with expiration dates on or after 7/31/17 will be required to meet this new requirement). [The regulatory package was approved 4/9/15]

#### Regulatory Change

§ 1399.350. Continuing Education Required.

(a) Each respiratory care practitioner (RCP) is required to complete ~~15~~ 30 hours of approved continuing education (CE) every 2 years. At least two-thirds of the required CE hours shall be directly related to clinical practice. ...

On 8/27/2015, the California Society for Respiratory Care submitted a request for the Board to consider mandating that half of the continuing education required for renewal, be obtained through an in-person live format. The Board will consider this request at its 11/6/15 meeting.

The Workforce Study currently underway by the University of California, San Francisco will be providing more information for the Board to act upon as it relates to Goal 2.6. Specifically, the following questions are key issues the UCSF will be exploring:

- Should the number of CE hours be increased [further]? If so, by how much? Why do CE hours need to be increased?
- Should there be restriction on the extent to which CE courses can be delivered online rather than in person?
- Should there be core CE courses taken by all RCPOs? If so, why?

The Workforce Study is expected to be complete by 1/1/17.

WS

**2.7 Explore the feasibility of modifying the minimum entry educational requirements from an AA to BS degree. (Important)**

The Workforce Study currently underway by the University of California, San Francisco will be providing more information for the Board to act upon as it relates to Goal 2.7. Specifically, the following questions are key issues the UCSF will be exploring:

- What is the feasibility and what would be the impact of establishing the requirement that respiratory therapists have a baccalaureate degree in California?
- Are newly hired RCPs adequately prepared in terms of clinical skills/knowledge?
- What deficiencies in skills/knowledge of new RCP hires do employers have to address through [on-the-job] training programs?
- Can the level of clinical skill/knowledge currently required of RCPs to provide effective care be adequately covered in a two-year associate degree program?

The Workforce Study is expected to be complete by 1/1/17.

- ✓ **2.8** Pursue legislative or regulatory amendment to require respiratory care instructors, program directors and clinical instructors to have a valid and current RCP license or required credential. (Beneficial)

**SB 525 (Nielsen, Statutes of 2015) was signed by the Governor on 9/2/15. SB 525 included the following provision as part of the respiratory care scope of practice, providing clarity that licensure as a respiratory care practitioner is required for educators:**

**Business and Professions Code**

**Section 3702.7.**

**The respiratory care practice is further defined and includes, but is not limited to, the following:**

**.....**

**(d) Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances. ...**

- WS 2.9** Pursue legislative or regulatory amendments to gain or clarify authorization that would allow RCPs who meet certain requirements to write orders including medications under protocol. (Beneficial)

**The Workforce Study currently underway by the University of California, San Francisco will be providing more information for the Board to act upon as it relates to Goal 2.9. Specifically, the following questions are key issues the UCSF will be exploring:**

- What are the curricular needs and implications of allowing Respiratory Care Practitioners to exercise prescriptive authority under protocol?**
- What kind of training is needed to qualify RCPs to exercise prescriptive authority under protocol?**

**The Workforce Study is expected to be complete by 1/1/17.**

- ✓ **2.10** Clarify in regulation that “associated aspects of cardiopulmonary” as used in B&P, section 3702, includes cardiac diseases and cardiac rehabilitation. (Beneficial)

SB 525 (Nielsen, Statutes of 2015) was signed by the Governor on 9/2/15. SB 525 included the following provision as part of the respiratory care scope of practice:

Business and Professions Code

Section 3702.

(a) Respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes all of the following:

...

(b) As used in this section, the following apply:

(1) “Associated aspects of cardiopulmonary and other systems functions” includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.

...

- ✓ **2.11** Pursue legislative or regulatory amendment to authorize RCPs to test, manage and educate (not treat or diagnose) diabetic patients. (*Currently rely on “overlapping functions” in section 3701*) (Beneficial)

SB 525 (Nielsen, Statutes of 2015) was signed by the Governor on 9/2/15. SB 525 included the following provision as part of the respiratory care scope of practice:

Business and Professions Code

Section 3701.

...

(c) For purposes of this section, it is the intent of the Legislature that “overlapping functions” includes, but is not limited to, providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

- ✓ **2.12** Update Continuing Education regulations including recognition of NBRC specialty exams, Adult Critical Care, Sleep Disorders Testing, and recognition of training and education on the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) as acceptable continuing education (pursuant to B&P 32-amended 2011). (Beneficial)

**Continuing education (CE) requirements were updated via regulation as follows. The regulatory package was approved 4/9/15 and the provisions contained in the package have an effective date of 7/1/15.**

**1399.351. Approved CE Programs.**

**(a) Any course or program meeting the criteria set forth in this Article will be accepted by the board for CE credit.**

**(b) Passing an official credentialing or proctored self-evaluation examination shall be approved for CE as follows:**

**(1) Registered Respiratory Therapist (RRT) – 15 CE hours if not taken for licensure; Adult Critical Care Specialty Examination (ACCS) - 15 hours;**

...

**(5) Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist (SDS) - 15 hours**

...

**(c) Any course including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) meeting the criteria set for in this Article, will be accepted by the board for CE credit.**

...

## GOAL 3: OUTREACH

Increase public and professional awareness of the RCB's mission, activities and services as well as enhance communication with stakeholders.

- ✓ **3.1** Keep applicants and licensees informed about the changes and new functionality that will be offered by the new BreEZe system (*e.g., Contact program directors and request assistance in educating applicants; promote the e-blast sign up and provide updates; capture in newsletters*). (Important)

**Board staff generated email blasts as well as direct communications with program directors at all education programs in California. Additional communications will be made once the "Apply On-Line" feature is turned on which is expected to occur in early 2016.**

- ✓ **3.2** Establish a routine email outreach program to inform and educate the RCP community on current RCB updates, trends and news items related to respiratory care in place of the RCB's biannual/annual newsletter. (Beneficial)

**Board staff implemented the "e-blast" notice system in May 2013. Applicants and licensees were notified via hard copy newsletters to submit their e-mail addresses to receive future news. The Board will be publishing a final hard copy newsletter to share recent and significant news and event as well as, encourage licensees to sign up for the e-blast communications. In addition, the on-line application feature in BreEZe will begin collecting email addresses that may be used for an alternate form of sharing information.**

## GOAL 4: ORGANIZATIONAL EFFECTIVENESS

Enhance organizational effectiveness and improve processes and the quality of customer service in all programs.

- 4.1. Review and update the RCB website to ensure information is current, timely and accurate, and ensure website is accessible and easy to use. (Essential)

**Board staff are currently preparing for a full redesign of the Board's website.**

- ✓ 4.2 Pursue budget change proposals to secure additional staffing to meet strategic objectives. (Important)

**Board staff submitted a budget change proposal (BCP) requesting two additional positions in 2013. One position was requested for practice-related investigations and one to pursue Goal #1.4 to generate draft legal pleadings in-house. The budget change proposal (BCP) was approved by the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency. The Department of Finance was also very encouraged by the efficiencies sought. Unfortunately, the Office of the Attorney General took issue with the proposal. Ultimately, only the position designated for investigations was approved and received 7/1/14.**

- 4.3 Create and carry out a transition plan for the BreEZe license tracking system including providing public access to on-line licensing and renewals, updating application materials, and modifying internal business processes to assist the DCA in ensuring a smooth transition to the new system. (Important)

**The initial BreEZe rollout took place in October 2013. At that time, Board staff chose to hold off on turning on the "Apply On-Line" feature to provide sufficient time and familiarization with the system to ensure a smooth transition. Staff managers developed intricate business plans to accommodate the numerous process changes that accompanied BreEZe. Overall, the initial rollout went smoothly. Staff managers developed alternate methods to work around minor glitches. Since that time all of the "glitches" have been addressed. The only two remaining issues are those with "reports" and our accessibility to data through those reports, and preparing for the "Apply On-Line" feature deployment.**

- ✓ **4.4** Further clarify Active Military Exemptions pursuant to AB 1904 and AB 1588 (*statutes of 2012*).

Necessary clarification for military exemptions was made via regulation as follows. The regulatory package was approved 4/9/15 and the provisions contained in the package have an effective date of 7/1/15.

**1399.329. Military Renewal Application Exemptions**

**Pursuant to subdivision (c) of section 114.3 of the B&P, the board shall prorate the renewal fee and the number of CE hours required in order for a licensee to engage in any activities requiring licensure, upon discharge from active duty service as a member of the United States Armed Forces or the California National Guard.**

- ✓ **4.5** Establish out-of-state practitioner exemption from licensure for sponsored event. (*Establish minimum education, training and other requirements via regulation for practitioners licensed in good standing, in another state to provide respiratory care services through a sponsored event.*) (Reference B&P sections 900 and 901; AB 2699, Statutes of 2010). (Beneficial)

An exemption process for out-of-state practitioners for sponsored events was established via regulation. The regulations are extensive and are covered in California Code of Regulations, Title 16, Division 13.6, Article 4, Sections 1399.343-1399.346. The regulatory package was approved 4/9/15 and the provisions contained in the package have an effective date of 7/1/15. The regulations were promulgated to comply with AB 2699. However, the Board does not expect any significant number, if any, of such requests.

- ✓ **4.6** Amend regulations to clarify authority to request driving history records for licensed RCPs and individuals applying for licensure. (Beneficial)

Necessary clarification for driving history records was made via regulation as follows. The regulatory package was approved 4/9/15 and the provisions contained in the package have an effective date of 7/1/15.

**1399.326. Driving Record**

**The board shall review the driving history for each applicant as part of its investigation prior to licensure.**

✓ **4.7 Complete Record Retention Project as outlined in the Board’s policy adopted February 2011. (Beneficial)**

**The Board adopted its first ever Record Retention Policy for electronic and paper records in February 2011. In 2013, staff had completed destroying records in accordance with the policy back to 1985 (the first year of licensure).**

**All electronic records will be maintained for a minimum of 60 years. No electronic files were destroyed.**

**All hard copies of abandoned applications for licensure (without enforcement history), are scheduled to be destroyed after two years. Board staff have destroyed 367 records, to date.**

**All records for cancelled, deceased or retired licensees (without enforcement history) are scheduled to be destroyed after ten years. Board staff have destroyed over 6,800 hard copy records (6,749 cancelled; 76 deceased; 23 retired), to date.**

**Records with an enforcement history are scheduled to be destroyed after 60 years. No such records have been destroyed, to date.**

**Destruction of records now occurs on regular basis, at least quarterly.**

○ **4.8 Complete Department of Justice Project: By destroying remaining records and notifying the Department of Justice of “No Longer Interested” in rap sheets, as required by law (secure temporary help to address this project). (Beneficial)**

**The Board was current with this project until the implementation of BreZE in October 2013. At this time, the Board is relying upon reports necessary to identify records where the “no longer interested” notice should be sent. Those reports have not yet been established. Once the report for this is available, the backlog will be addressed and the process will be done routinely on a monthly basis.**

\*The Board established three levels of priorities for objectives within a goal category that include:  
Essential (E) *Necessary to support our most critical functions or ensure our compliance with law and/or regulation*  
Important (I) *Increase the functionality of our business processes and greatly enhance our effectiveness*  
Beneficial (B) *Implementation would be beneficial to our organization but not critical to our success*  
During the course of the facilitation consensus was reached on the priority level with the status annotated.

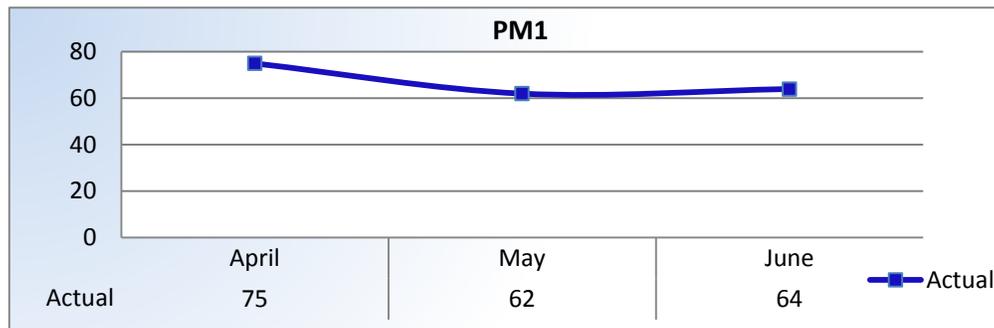
## Performance Measures

### Q4 Report (April – June 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

#### PM1 | Volume

Number of complaints and convictions received.

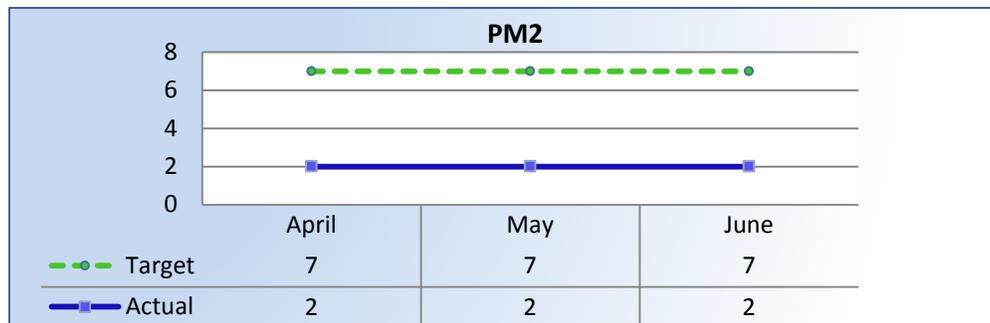


Total Received: 201 Monthly Average: 67

**Complaints: 79 | Convictions: 122**

#### PM2 | Intake

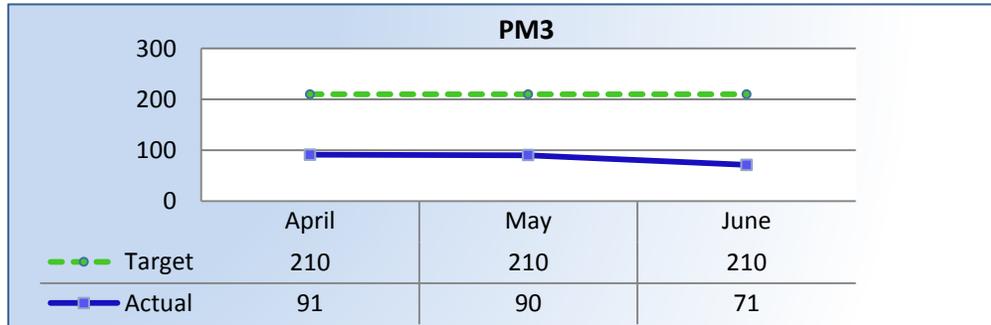
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 7 Days | Actual Average: 2 Days**

### PM3 | Intake & Investigation

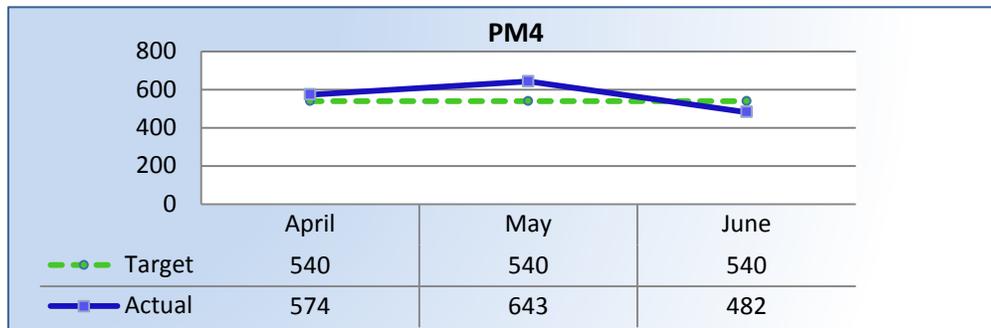
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



**Target Average: 210 Days | Actual Average: 83 Days**

### PM4 | Formal Discipline

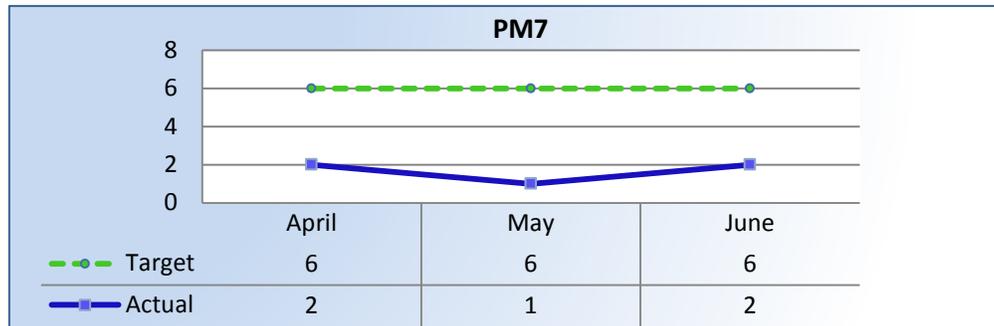
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



**Target Average: 540 Days | Actual Average: 568 Days**

### PM7 | Probation Intake

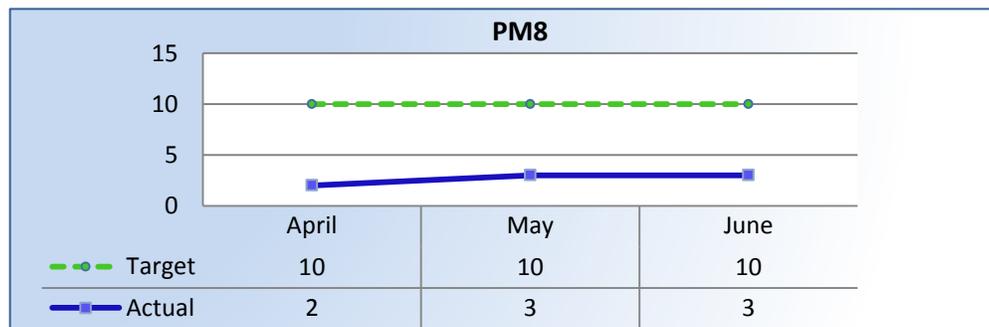
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



**Target Average: 6 Days | Actual Average: 2 Days**

### PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



**Target Average: 10 Days | Actual Average: 3 Days**

## RESPIRATORY CARE BOARD OF CALIFORNIA

# Respiratory Care

Licenses and regulates respiratory care practitioners.

**STAFF:**

**16.4 civil service**  
**1 exempt**

**LICENSES:**

**22,153**

**BOARD MEMBERSHIP:**

**4 licensees**  
**1 physician**  
**4 public representatives**

**STRATEGIC PLAN ADOPTED:**

**2013**

[www.rcb.ca.gov](http://www.rcb.ca.gov)

**MAJOR ACCOMPLISHMENTS**

- Successfully launched the BreZE Licensing and Enforcement System in October 2013, and modified business processes consistent with new system functionality.
- Finalized a Strategic Plan for 2013–2016, including updating the mission and vision statements, and identifying strategic objectives in the areas of enforcement, practice standards, outreach, and organizational effectiveness.
- Adopted an Enforcement History Web Retention Policy to establish a maximum time period to post citations, fines, and disciplinary matters on the Internet.
- Established a routine e-mail outreach program to inform and educate the respiratory community on current Board updates, trends, and news items related to respiratory care.

**MAJOR NEW LEGISLATION OR REGULATIONS**

- Pursued legislation Senate Bill 305, Lieu (Chapter 516, Statutes of 2013), to specify that any board under the Department of Consumer Affairs (DCA) is authorized to receive certified records from a local or State agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation.
- Co-sponsored Assembly Bill 1972, Jones (Chapter 179, Statutes of 2014), to establish the Registered Respiratory Therapist (RRT) examination as the minimum requirement for licensure.
- Initiated the rule-making process to: clarify that the Board shall review the driving history for each applicant as part of its application screening process; increase the number of continuing education (CE) units from 15 to 30 and modify courses recognized for CE credit; amend the fee structure that more accurately reflects fees imposed by the national testing vendor; add a preference to applications from active military personnel and their spouses or domestic partners, and exempt military personnel who are called to active duty from CE and renewal fee requirements; and establish a process for temporary licensure for out-of-state entities and personnel to practice respiratory care in California at a community (sponsored free healthcare) event of not more than 10 days.

## Summary of Licensing Activity

Initial Licenses/Certificates/Permits			
TYPE	APPS RECEIVED	ISSUED	RENEWED
RESPIRATORY CARE PRACTITIONER	<b>1,560</b>	<b>1,422</b>	<b>9,215</b>

Licensing Population by Type			
TYPE	CERTIFICATES/ PERMITS	LICENSES/ REGISTRATIONS	APPROVALS
RESPIRATORY CARE PRACTITIONER	<b>N/A</b>	<b>22,153</b>	<b>N/A</b>

Renewal and Continuing Education (CE)		
TYPE	FREQUENCY OF RENEWAL	NUMBER CE HOURS REQUIRED EACH CYCLE
RESPIRATORY CARE PRACTITIONER	<b>EVERY 2 YEARS</b>	<b>15</b>

Exams		
PASS	FAIL	TOTAL
<b>1,299</b>	<b>771</b>	<b>2,070</b>

## Summary of Enforcement Activity

Consumer Complaints – Intake	
<b>244</b>	RECEIVED
<b>18</b>	CLOSED WITHOUT REFERRAL FOR INVESTIGATION
<b>225</b>	REFERRED FOR INVESTIGATION
<b>1</b>	PENDING

Conviction/Arrest Notification Complaints	
<b>613</b>	RECEIVED
<b>612</b>	CLOSED/REFERRED FOR INVESTIGATION
<b>1</b>	PENDING

Inspections	
<b>N/A</b>	

Investigations	
<b>808</b>	OPENED
<b>811</b>	CLOSED
<b>243</b>	PENDING

Number of Days to Complete Intake and Investigations	
<b>513</b>	UP TO 90 DAYS
<b>145</b>	91 TO 180 DAYS
<b>98</b>	181 DAYS TO 1 YEAR
<b>48</b>	1 TO 2 YEARS
<b>7</b>	2 TO 3 YEARS
<b>0</b>	OVER 3 YEARS
<b>119</b>	AVERAGE NUMBER OF DAYS TO COMPLETE INTAKE AND INVESTIGATIONS

Citations and Fines	
<b>79</b>	ISSUED
<b>79</b>	ISSUED WITH A FINE
<b>2</b>	WITHDRAWN
<b>0</b>	DISMISSED
<b>189</b>	AVERAGE NUMBER OF DAYS TO ISSUE A CITATION AND FINE

Total Amount of Fines	
<b>\$65,950</b>	ASSESSED
<b>\$1,100</b>	REDUCED
<b>\$23,593</b>	COLLECTED

### Summary of Enforcement Activity

#### Criminal/Civil Actions

<b>1</b>	REFERRALS FOR CRIMINAL/CIVIL ACTION
<b>1</b>	CRIMINAL ACTIONS FILED
<b>0</b>	CIVIL ACTIONS FILED

#### Office of the Attorney General/Disciplinary Actions

<b>67</b>	CASES OPENED/INITIATED
<b>69</b>	CASES CLOSED
<b>62</b>	CASES PENDING

#### Number of Days to Complete AG Cases

<b>14</b>	1 YEAR
<b>38</b>	1 TO 2 YEARS
<b>9</b>	2 TO 3 YEARS
<b>0</b>	3 TO 4 YEARS
<b>0</b>	OVER 4 YEARS
<b>531</b>	AVERAGE NUMBER OF DAYS TO IMPOSE DISCIPLINE

#### Formal Actions Filed/Withdrawn/Dismissed

<b>10</b>	STATEMENTS OF ISSUES FILED
<b>45</b>	ACCUSATIONS FILED
<b>11</b>	RESTRAINING/RESTRICTION/SUSPENSION ORDERS GRANTED
<b>5</b>	STATEMENTS OF ISSUES WITHDRAWN/DISMISSED
<b>0</b>	ACCUSATIONS WITHDRAWN/DISMISSED

#### Administrative Outcomes/Final Orders

<b>2</b>	LICENSE APPLICATIONS DENIED
<b>18</b>	REVOCATION
<b>7</b>	SURRENDER OF LICENSE
<b>17</b>	PROBATION WITH SUSPENSION
<b>0</b>	SUSPENSION ONLY
<b>7</b>	PROBATION ONLY
<b>7</b>	PUBLIC REPRIMAND
<b>2</b>	OTHER DECISIONS

#### Petitions to Revoke Probation Filed/Petitions and Accusations to Revoke Probation Filed

<b>8</b>	TOTAL NUMBER FILED
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#### Subsequent Disciplinary—Administrative Outcomes/Final Orders

<b>3</b>	REVOCATION
<b>4</b>	SURRENDER OF LICENSE
<b>0</b>	PROBATION WITH SUSPENSION
<b>0</b>	SUSPENSION ONLY
<b>1</b>	PROBATION ONLY
<b>0</b>	PUBLIC REPRIMAND
<b>0</b>	OTHER DECISIONS

#### Petition for Modification or Termination of Probation

<b>4</b>	GRANTED
<b>0</b>	DENIED
<b>4</b>	TOTAL

#### Petition for Reinstatement of Revoked License/Registration/Certification

<b>0</b>	GRANTED
<b>1</b>	DENIED
<b>1</b>	TOTAL

#### Cost Recovery to DCA

<b>\$236,091</b>	ORDERED
<b>\$77,685</b>	COLLECTED

#### Consumer Restitution to Consumers/Refunds/Savings

<b>N/A</b>	RESTITUTION ORDERED
<b>N/A</b>	AMOUNT REFUNDED
<b>N/A</b>	REWORK AT NO CHARGE
<b>N/A</b>	ADJUSTMENTS IN MONEY OWED/PRODUCT RETURNED/EXCHANGED
<b>N/A</b>	TOTAL SAVINGS ACHIEVED FOR CONSUMERS



August 27, 2015

Respiratory Care Board of California  
3750 Rosin Court, Suite 100  
Sacramento, CA 95834  
Attention: Alan Roth, President

Dear President Roth,

The California Society for Respiratory Care Board of Directors is pleased that the Respiratory Care Board of California (RCB) is implementing the 30 Continuing Education Units (CEU) minimum bi-annual continuing education requirements. The CSRC continues to support the proposition that furthering the educational experience for an RCP leads to a more competent and safer practitioner. Respiratory Care is a highly technical field and practitioners work with technologies and modalities of therapy that are changing at faster and faster rates. We feel it imperative that RCP's be tasked with staying current in the changing environment. On June 1<sup>st</sup>, 2015, the CSRC Board of Directors unanimously adopted a proposal to request the addition of clarification to the CEU education requirements. We do hereby request that the RCB further stipulate that "at least half of the required bi-annual CEU hours (15 hrs.) mandated to keep an RCP License active, shall be completed as Live Contact Hours."

Although there are many avenues for a California RCP to secure CEU credits, the CSRC Board of Directors believe that "live contact hours" provide a practitioner with a significantly richer learning experience. All approved CEU programs do provide RCPs with the intended core information. However, we believe that Adult Learning also should include, but not limited to:

- Direct interaction time with those presenting the information in the form of formal question and answer periods within the Live Contact Hour program.
- Direct interaction time with those presenting the information in the form of informal question and answer periods outside of the formal program.
- Interaction time between RCPs as they discuss the presented information between themselves before the program, during breaks and after the program.
- The sharing of best practices as RCPs from different facilities and job roles interact with each other before, during and after Live Contact Hour programs.
- RCP to RCP interaction and networking opportunities at the Live Contact Hour program and venue.

Through such interactions while engaging in Live Contact Hour programs, the content is further discussed and ingrained by the participants. We feel that this yields a far richer experience for participants and ultimately leads to RCP's who provide a higher level of competent and safer care for our patients.

Thank you for your diligent consideration of this request by the California Society for Respiratory Care.

Respectfully,

A handwritten signature in black ink that reads "Michael Madison".

Michael Madison  
CSRC President

CC: File

# FISCAL REVIEW

Agenda Item: 9  
Meeting Date: 11/6/15

## REVENUE

Revenue Category	2013/14 Actual	2014/15 Actual	2015/16 Projected	Projected Workload 2015/16	Current Fees 2015/16
Application (CA)	\$483,323	\$417,600	\$435,000	1,450	\$300
Application (Foreign)					
Application (O-O-S)					
Renewal	\$2,119,434	\$2,156,020	\$2,185,000	9,500	\$230
Delinquent Fees	\$41,400	\$63,480	\$77,050	335	\$230
Endorsement	\$12,640	\$13,350	\$13,750	550	\$25
Duplicate License	\$3,050	\$3,250	\$3,500	140	\$25
Cite and Fine	\$23,593	\$30,469	\$30,000	var	var
Miscellaneous	\$27,841	\$25,139	\$18,130	var	var
<b>Total Revenue</b>	<b>\$2,711,281</b>	<b>\$2,709,308</b>	<b>\$2,762,430</b>		

## EXPENDITURES

Expenditure Items	2013/14 Actual	2014/15 Actual	2015/16 Projected	Actual Exp. thru 09/30/15	Budgeted 2015/16
Salary & Benefits	\$1,477,424	\$1,548,852	\$1,577,000	\$390,963	\$1,596,000
Training	\$579	\$380	\$1,000	\$0	\$12,000
Travel	\$24,942	\$17,316	\$20,000	\$3,069	\$39,000
Printing	\$36,231	\$19,431	\$30,000	\$20,850	\$28,000
Postage	\$32,694	\$22,464	\$30,000	\$5,047	\$41,000
Equipment	\$17,301	\$22,542	\$10,000	\$490	\$0
ProRata <sup>1</sup>	\$556,040	\$625,438	\$776,000	\$194,078	\$776,000
Fingerprints	\$5,794	\$6,341	\$5,000	\$1,274	\$55,000
All Other Fixed Expenses <sup>2</sup>	\$252,056	\$314,458	\$346,000	\$24,657	\$459,000
Division of Investigation	\$0	\$0	\$77,000	\$19,250	\$77,000
Attorney General	\$401,214	\$410,020	\$425,000	\$134,398	\$462,000
Office of Admin Hearings	\$74,528	\$44,516	\$60,000	\$0	\$137,000
Court Reporter Services	\$4,947	\$4,000	\$6,000	\$507	\$0
Evidence and Witness	\$38,563	\$39,191	\$50,000	\$1,225	\$32,000
<b>Total Expenditures</b>	<b>\$2,922,313</b>	<b>\$3,074,949</b>	<b>\$3,413,000</b>	<b>\$795,808</b>	<b>\$3,714,000</b>

<sup>1</sup> ProRata includes departmental and central administrative services.

<sup>2</sup> All Other Fixed Expenses include general expenses, communications, facility operations, data processing maintenance, consultant and professional services, examinations and Teale Data Center.

## FUND CONDITION

	2014/15*	2015/16	2016/17	2017/18
Beginning Reserve, July 1	\$2,613	\$2,488	\$1,982	\$1,526
Prior Year Adjustments	\$47			
Revenues	\$2,766	\$2,762	\$2,807	\$2,807
<b>TOTAL RESOURCES</b>	<b>\$5,426</b>	<b>\$5,250</b>	<b>\$4,789</b>	<b>\$4,333</b>
Budget Expenditure	\$3,075	\$3,413	\$3,413	\$3,413
Disbursements <sup>1</sup>	\$3	\$5		
Reimbursements	(\$140)	(\$150)	(\$150)	(\$150)
<b>TOTAL EXPENDITURES</b>	<b>\$2,938</b>	<b>\$3,268</b>	<b>\$3,263</b>	<b>\$3,263</b>
<b>RESERVE, JUNE 30</b>	<b>\$2,488</b>	<b>\$1,982</b>	<b>\$1,526</b>	<b>\$1,070</b>

\* Actual

<sup>1</sup> Represents State Controller Operations and Financial Information System for California disbursements

## 2015 LEGISLATION OF INTEREST

[Bills approved by the Governor are attached for reference]

ASSEMBLY BILL 12	
Author:	Cooley [D]
Title:	State government: administrative regulations: review
Introduced:	December 1, 2014
Last Amended:	August 19, 2015
Status:	8/27/15: Referred to Appropriations suspense file. May become a 2 year bill.
Summary:	Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations. This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018 review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.
Position: <b>WATCH</b>	

ASSEMBLY BILL 85	
Author:	Wilk [R]
Title:	Open Meetings
Introduced:	January 6, 2015
Amended:	April 15, 2015
Status:	9/28/15: Vetoed by the Governor
Summary:	The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions. This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.
Position: <b>OPPOSE</b>	

ASSEMBLY BILL 333	
Author:	Melendez [R]
Title:	Healing arts: continuing education
Introduced:	February 13, 2015
Last Amended:	June 24, 2015
Status:	9/30/15: Signed by the Governor, Chapter 360, Statutes of 2015
Summary:	This bill would allow specified healing arts licensees to apply one unit, as defined, of continuing education credit once per renewal cycle towards any required continuing education units for attending certain courses that result in the licensee becoming a certified instructor of cardiopulmonary resuscitation (CPR) or the proper use of an automated external defibrillator (AED), and would allow specified healing arts licensees to apply up to 2 units of continuing education credit once per renewal cycle towards any required continuing education units for conducting board-approved CPR or AED training sessions for employees of school districts and community college districts in the state. The bill would specify that these provisions would not apply if a licensing board's laws or regulations establishing continuing education requirements exclude the courses or activities mentioned above.
Position: <b>WATCH</b>	

ASSEMBLY BILL 507	
Author:	Olsen [R]
Title:	Department of Consumer Affairs: BreEZe system: annual report
Introduced:	February 23, 2015
Last Amended:	July 9, 2015
Status:	8/17/15: Hearing before Senate BP&ED cancelled at the request of the author. May become a 2 year bill.
Summary:	Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Officer, based on information provided by the department in a specified manner. This bill would, on and after March 1, 2016, or thereafter when available, require the department to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the department's 3rd phase of the BreEZe implementation project, when available, including, but not limited to, a timeline for the implementation. The bill would also require the department to post on its Internet Web site the name of each regulatory entity that is utilizing the BreEZe system once the regulatory entity begins using the BreEZe system.
Position: <b>WATCH</b>	

ASSEMBLY BILL 611	
Author:	Dahle [R]
Title	Controlled Substances: prescriptions: reporting
Introduced:	February 24, 2015
Last Amended:	April 15, 2015
Status:	4/21/15: Hearing before Assembly B&P cancelled at the request of the author. May become a 2 year bill.
Summary:	<p>Existing law requires certain health care practitioners and pharmacists to apply to the Department of Justice to obtain approval to access information contained in the Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program (PDMP) regarding the controlled substance history of a patient under his or her care. Existing law requires the Department of Justice, upon approval of an application, to provide the approved health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care. Existing law authorizes an application to be denied, or a subscriber to be suspended, for specified reasons, including, among others, a subscriber accessing information for any reason other than caring for his or her patients. This bill would also authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of a licensee. The bill would, upon approval of an application, require the department to provide to the approved individual the history of controlled substances dispensed to the licensee. The bill would clarify that only a subscriber who is a health care practitioner or a pharmacist may have an application denied or be suspended for accessing subscriber information for any reason other than caring for his or her patients. The bill would also specify that an application may be denied, or a subscriber may be suspended, if a subscriber who has been designated to investigate the holder of a professional license accesses information for any reason other than investigating the holder of a professional license.</p>
Position: WATCH	

ASSEMBLY BILL 860	
Author:	Daly [D]
Title:	Sex crimes: professional services
Introduced:	February 26, 2015
Last Amended:	June 2, 2015
Status:	8/27/15: Referred to Senate Appropriations suspense file. May become a 2 year bill.
Summary:	Under existing law, a person is guilty of sexual battery, punishable by imprisonment in a county jail or in the state prison for 2, 3, or 4 years, if he or she touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, while the victim is unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose. Existing law makes the crime punishable by 2, 3, or 4 years in the state prison if committed against a minor by a person with a prior conviction for sexual battery. This bill would expand the crime of sexual battery to apply to a person who performs professional services that entail having access to another person's body, who touches an intimate part of the that person's body while performing those services and the touching was against the person's will and for the purpose of sexual arousal, sexual gratification, or sexual abuse. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. Existing law defines rape as an act of sexual intercourse accomplished with a person not the spouse of the perpetrator under any of several circumstances. Existing law also defines the crimes of sodomy, oral copulation, and sexual penetration. This bill would expand the definitions of each of those crimes to include when any of those acts are performed against a victim's will by a professional whose services entail having access to the victim's body, if the conduct is performed by the professional while performing those services. By expanding the scope of these crimes, the bill would impose a state-mandated local program.
Position: <b>WATCH</b>	

ASSEMBLY BILL 1060	
Author:	Bonilla [D]
Title:	<del>Professions and vocations: licensure</del> Cancer clinical trials.
Introduced:	February 26, 2015
Amended:	June 17, 2015
Status:	As amended, no longer a bill of interest to the Board.
Summary:	<del>Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensure with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, as specified. This bill would require the board to provide that information through first-class mail and by email if the board has an email address on file for the ex-licensure.</del>
Position: <b>WATCH</b>	

**SENATE BILL 390**

Author:	Bates [R]
Title:	Home health agencies: skilled nursing services
Introduced:	February 25, 2015
Status:	4/14/15: Hearing before Senate Health cancelled at the request of the author. May become a 2 year bill.
Summary:	<p>Existing law provides for the licensure and regulation by the State Department of Public Health of home health agencies, which are private or public organizations that provide or arrange for the provision of skilled nursing services to persons in their temporary or permanent place of residence. "Skilled nursing services," for purposes of a home health agency, means services provided by a registered nurse or a licensed vocational nurse. Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing. Existing law, the Vocational Nursing Practice Act, provides for the licensure and regulation of the practice of licensed vocational nursing by the Board of Vocational Nursing and Psychiatric Technicians of the State of California. This bill would require registered nurses and licensed vocational nurses who provide skilled nursing services for a home health agency to perform their duties consistent with the Nursing Practice Act and the Vocational Nursing Practice Act, respectively. The bill would prohibit registered nurses or licensed vocational nurses who otherwise meet the qualifications of the provisions relating to home health agencies from being required to have a minimum period of professional nursing experience prior to providing skilled nursing services for a home health agency, provided that the nurse has successfully completed specified training. Because a violation of the provisions relating to home health agencies is a misdemeanor, the bill would impose a state-mandated local program.</p>
Position: <b>WATCH</b>	

SENATE BILL 467	
Author:	Hill [D]
Title:	Professions and Vocations
Introduced:	February 25, 2015
Last Amended:	September 3, 2015
Status:	10/8/15: Signed by the Governor, Chapter 656, Statutes of 2015
Summary:	<p>Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.</p> <p>This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.</p> <p>Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commence directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.</p> <p>This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation. The bill would exempt the Medical Board of California from required utilization of these guidelines.</p>
Position: <b>WATCH</b>	

SENATE BILL 800	
Author:	Committee on Business, Professions and Economic Development
Title:	Healing Arts
Introduced:	March 18, 2015
Last Amended:	September 3, 2105
Status:	10/1/15: Signed by the Governor, Chapter 426, Statutes of 2015
Summary:	This is the DCA Health Board Omnibus bill (contains various provisions not specific to the RCB).
Position: <b>WATCH</b>	

# Assembly Bill No. 333

## CHAPTER 360

An act to add Section 856 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 30, 2015. Filed with  
Secretary of State September 30, 2015.]

### LEGISLATIVE COUNSEL'S DIGEST

AB 333, Melendez. Healing arts: continuing education.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards, as defined, within the Department of Consumer Affairs and imposes various continuing education requirements for license renewal.

This bill would allow specified healing arts licensees to apply one unit, as defined, of continuing education credit, once per renewal cycle, towards any required continuing education units for attending certain courses that result in the licensee becoming a certified instructor of cardiopulmonary resuscitation (CPR) or the proper use of an automated external defibrillator (AED), and would allow specified healing arts licensees to apply up to 2 units of continuing education credit, once per renewal cycle, towards any required continuing education units for conducting CPR or AED training sessions for employees of school districts and community college districts in the state. The bill would specify that these provisions would only apply if a licensing board's laws or regulations establishing continuing education requirements include the courses or activities mentioned above.

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

SECTION 1. Section 856 is added to the Business and Professions Code, to read:

856. (a) (1) A person licensed pursuant to this division who is required to complete continuing education units as a condition of renewing his or her license may, once per renewal cycle, apply one unit of continuing education credit, pursuant to paragraph (2), towards that requirement for attending a course that results in the licensee becoming a certified instructor of cardiopulmonary resuscitation (CPR) or the proper use of an automated external defibrillator (AED).

(2) A licensee may only apply continuing education credit for attending one of the following courses:

(A) An instructional program developed by the American Heart Association.

(B) An instructional program developed by the American Red Cross.

(C) An instructional program that is nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines for the performance of CPR and the use of an AED.

(b) A person licensed pursuant to this division who is required to complete continuing education units as a condition of renewing his or her license may, once per renewal cycle, apply up to two units of continuing education credit towards that requirement for conducting CPR or AED training sessions for employees of school districts and community college districts in the state.

(c) For purposes of this section, “unit” means any measurement for continuing education, such as hours or course credits.

(d) This section shall only apply to a person licensed under this division if the applicable licensing board’s laws or regulations establishing continuing education requirements include the courses or activities described in subdivisions (a) and (b).

# Senate Bill No. 467

## CHAPTER 656

An act to amend Sections 5000, 5015.6, 7000.5, 7011, and 7071.6 of, to add Sections 312.2, 328, and 5100.5 to, and to repeal Section 7067.5 of, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor October 8, 2015. Filed with  
Secretary of State October 8, 2015.]

### LEGISLATIVE COUNSEL'S DIGEST

SB 467, Hill. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commence directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation. The bill would exempt the Medical Board of California from required utilization of these guidelines.

Under existing law, the California Board of Accountancy within the department is responsible for the licensure and regulation of accountants and is required to designate an executive officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of a penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Under existing law, the Contractors' State License Law, the Contractors' State License Board is responsible for the licensure and regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

This bill would extend these repeal dates to January 1, 2020.

Existing law requires every applicant for an original contractor's license, the reactivation of an inactive license, or the reissuance or reinstatement of a revoked license to evidence financial solvency, as specified, and requires the registrar to deny the application of any applicant who fails to comply with that requirement. Existing law, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, requires the applicant or licensee to file or have on file a contractor's bond in the sum of \$12,500.

This bill would repeal that evidence of financial solvency requirement and would instead require that bond to be in the sum of \$15,000.

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

SECTION 1. Section 312.2 is added to the Business and Professions Code, to read:

312.2. (a) The Attorney General shall submit a report to the department, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2018, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:

- (1) The number of accusation matters referred to the Attorney General.
- (2) The number of accusation matters rejected for filing by the Attorney General.
- (3) The number of accusation matters for which further investigation was requested by the Attorney General.

(4) The number of accusation matters for which further investigation was received by the Attorney General.

(5) The number of accusations filed by each constituent entity.

(6) The number of accusations a constituent entity withdraws.

(7) The number of accusation matters adjudicated by the Attorney General.

(b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:

(1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.

(2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.

(3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.

(4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.

(5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.

(6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.

(c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. Section 328 is added to the Business and Professions Code, 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) The Medical Board of California shall not be required to utilize the guidelines implemented pursuant to subdivision (a).

SEC. 3. Section 5000 of the Business and Professions Code is amended to read:

5000. (a) There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, 7 of whom shall be licensees, and 8 of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

(b) The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint individuals representing a cross section of the accounting profession.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(d) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

SEC. 4. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 5. Section 5100.5 is added to the Business and Professions Code, to read:

5100.5. (a) After notice and hearing the board may, for unprofessional conduct, permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services described in Section 5051.

(b) A licensee may petition the board pursuant to Section 5115 for reduction of penalty or reinstatement of the privilege to engage in the service or act restricted or limited by the board.

(c) The authority or sanctions provided by this section are in addition to any other civil, criminal, or administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other disciplinary authority, penalties, or sanctions.

(d) Failure to comply with any restriction or limitation imposed by the board pursuant to this section is grounds for revocation of the license.

(e) For purposes of this section, both of the following shall apply:

(1) "Unprofessional conduct" includes, but is not limited to, those grounds for discipline or denial listed in Section 5100.

(2) "Permanently restrict or limit the practice of" includes, but is not limited to, the prohibition on engaging in or performing any attestation engagement, audits, or compilations.

SEC. 6. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.

(b) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 7. Section 7011 of the Business and Professions Code is amended to read:

7011. (a) The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.

(b) The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

(c) For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.

(d) Appointments shall be made in accordance with the provisions of civil service laws.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 8. Section 7067.5 of the Business and Professions Code is repealed.

SEC. 9. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of fifteen thousand dollars (\$15,000).

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the

amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

- (1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.
- (2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.
- (3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

# Senate Bill No. 800

## CHAPTER 426

An act to amend Sections 28, 146, 500, 650.2, 800, 1603a, 1618.5, 1640.1, 1648.10, 1650, 1695, 1695.1, 1905.1, 1944, 2054, 2401, 2428, 2529, 2650, 2770, 2770.1, 2770.2, 2770.7, 2770.8, 2770.10, 2770.11, 2770.12, 2770.13, 2835.5, 3057, 3509.5, 4836.2, 4887, 4938, 4939, 4980.399, 4980.43, 4980.54, 4984.01, 4989.34, 4992.09, 4996.2, 4996.22, 4996.28, 4999.1, 4999.2, 4999.3, 4999.4, 4999.5, 4999.7, 4999.45, 4999.46, 4999.55, 4999.76, and 4999.100 of, to amend the heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of, and to repeal Section 1917.2 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor October 1, 2015. Filed with  
Secretary of State October 1, 2015.]

### LEGISLATIVE COUNSEL'S DIGEST

SB 800, Committee on Business, Professions and Economic Development.  
Healing arts.

Under existing law, the Department of Consumer Affairs is comprised of various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts:

(1) Existing law requires persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist to have completed prescribed coursework or training in child abuse assessment and reporting. Existing law requires the training to have been obtained from an accredited or approved educational institution, a continuing education provider approved by the responsible board, or a course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

This bill would require the responsible board to specify a continuing education provider for child abuse assessment and reporting coursework by regulation, and would permit the responsible board to approve or accept a sponsored or offered course.

(2) Existing law relating to unlicensed activity enforcement lists specified provisions that require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions and, notwithstanding any other law, makes a violation of a listed provision punishable as an infraction under specified circumstances.

This bill would include in those listed provisions an existing requirement for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees.

The bill would also include in those listed provisions a provision of the Educational Psychologist Practice Act that makes it unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so doing, he or she holds a valid, unexpired, and unrevoked license under that act, the violation of which is a misdemeanor. The bill would further include in those listed provisions existing requirements of the Licensed Professional Clinical Counselor Act that a person not practice or advertise the performance of professional clinical counseling services without a license and pay the license fee, as required by that act, the violation of which is a misdemeanor.

By creating new infractions, this bill would impose a state-mandated local program.

(3) The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. For purposes of the act, any reference to the Board of Dental Examiners is deemed a reference to the Dental Board of California.

This bill would delete certain existing references to the Board of Dental Examiners and, instead, refer to the Dental Board of California.

(4) Existing law provides for the regulation of dental hygienists by the Dental Hygiene Committee of California, within the jurisdiction of the Dental Board of California. Existing law authorizes the committee, until January 1, 2010, to contract with the dental board to carry out any of specified provisions relating to the regulation of dental hygienists, and, on and after January 1, 2010, to contract with the dental board to perform investigations of applicants and licensees. Existing law requires a new educational program for registered dental hygienists to submit a specified feasibility study. Existing law limits the fee for each curriculum review and site evaluation for these programs to a specified amount.

This bill would require the Dental Hygiene Committee of California to create and maintain a central file of the names of licensees, to provide an individual historical record with information on acts of licensee misconduct and discipline. The bill would remove the limiting dates from the contracting provisions, thereby authorizing the committee to contract with the dental board indefinitely to carry out any of specified provisions relating to the regulation of dental hygienists, including performing investigations of applicants and licensees. The bill would additionally limit the fee for each feasibility study review to that same specified amount.

(5) The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician surgeon. The act prohibits a person who fails to renew his or her license within 5 years after its expiration from renewing it, and prohibits the license from being reissued, reinstated, or restored thereafter, although the act authorizes a person to apply for and obtain a new license under specified circumstances.

This bill would recast that renewal provision to prohibit renewal by a person who voluntarily cancels his or her license or who fails to renew it as described, and would authorize that person to apply for and obtain a license under those specified circumstances, without regard to reissuance, reinstatement, or restoration.

(6) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct for, among other things, repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities.

This bill would substitute, for those described bases for suspension or revocation of the exemption, the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer.

(7) The Physical Therapy Practice Act provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California. The act establishes education requirements for a physical therapist assistant, including subject matter instruction through a combination of didactic and clinical experiences, and requires the clinical experience to include at least 18 weeks of full-time experience with a variety of patients.

This bill would delete that 18-week full-time experience requirement for physical therapist assistant education.

(8) The Nursing Practice Act provides for the licensure and regulation of registered nurses and nurse practitioners by the Board of Registered Nursing. The act, on and after January 1, 2008, requires an applicant for initial qualification or certification as a nurse practitioner who has not been qualified or certified as a nurse practitioner to meet specified requirements. Certain provisions allow the board to find registered nurses qualified to use the title of “nurse practitioner.”

This bill would delete those title provisions.

The Nursing Practice Act provides for a diversion program to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness.

This bill would instead refer to the program as an intervention program.

(9) The Optometry Practice Act provides for the licensure and regulation of optometrists by the State Board of Optometry. The act prescribes license eligibility requirements, including, but not limited to, submitting proof that the person is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements, submitting proof that the person has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in 5 of the 7 consecutive years immediately preceding the date of his or her application, and has never had his or her license to practice optometry

revoked or suspended. For purposes of those provisions, “in good standing” includes the requirement that the person has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

This bill would delete that active practice requirement and would require that the license have never been revoked or suspended in any state where the person holds a license. The bill, with regard to making such a finding of mental incompetence, would replace a finding by a physician with a finding by a licensed psychologist or licensed psychiatrist.

(10) The Physician Assistant Practice Act requires the Physician Assistant Board to annually elect a chairperson and vice chairperson from among its members.

This bill would require the annual election of a president and vice president.

(11) Existing law relating to veterinary medicine requires a veterinary assistant to obtain a controlled substance permit from the Veterinary Medical Board in order to administer a controlled substance, and authorizes the board to deny, revoke, or suspend the permit, after notice and hearing, for any of specified causes. Existing law authorizes the board to revoke or suspend a permit for the same.

This bill would, instead, authorize the board to suspend or revoke the controlled substance permit of a veterinary assistant, after notice and hearing, for any of specified causes, and to deny, revoke, or suspend a permit for the same.

(12) The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. The act requires the board to issue a license to practice acupuncture to a person who meets prescribed requirements. The act requires, in the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience that meets certain standards established by the board. Existing law, commencing January 1, 2017, specifically requires the board to establish standards for the approval of educational training and clinical experience received outside the United States and Canada.

This bill would remove Canada from those provisions, thereby applying the same standards to all training and clinical experience completed outside the United States.

(13) The Board of Behavioral Sciences is responsible for administering the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act.

The Licensed Marriage and Family Therapist Act provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. The act sets forth the educational and training requirements for licensure as a marriage and family therapist, including certain supervised-experience requirements whereby a prospective licensee

is required to work a specified number of hours in a clinical setting under the supervision of experienced professionals. The act requires all persons to register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure. The act, with regard to interns, requires all postdegree hours of experience to be credited toward licensure, except when employed in a private practice setting, if certain conditions are met. The act limits the number of hours applicants for a marriage and family therapist license may provide counseling services via telehealth.

The bill would require postdegree hours of experience to be credited toward licensure if certain conditions are met. The bill would prohibit an applicant for licensure as a marriage and family therapist from being employed or volunteering in a private practice until registered as an intern by the board. The bill would similarly prohibit an applicant for professional clinical counselor under the Licensed Professional Clinical Counselor Act from being employed or volunteering in a private practice until registered as an intern by the board.

The bill would authorize a marriage and family therapist intern and trainee to provide services via telehealth if he or she is supervised as required by the act, and is acting within the scope authorized by the act and in accordance with any regulations governing the use of telehealth promulgated by the Board of Behavioral Sciences.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act require applicants for licensure under those acts to comply with specified educational and experience requirements, including, but not limited to, hours of supervised experience, and sets forth terms, conditions, and limitations for those hours of experience, as specified.

The bill would revise those experience requirements and provide that individuals who submit applications for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the current requirements.

The Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act require the Board of Behavioral Sciences to approve continuing education providers for specified educational courses relating to licensure for marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors.

This bill would modify those acts to require the Board of Behavioral Sciences to identify, by regulation, acceptable continuing education providers.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide for the registration of interns and allow a maximum of possible renewals after initial registration, after which a new registration number is required to be obtained. The Clinical Social Worker Practice Act provides similarly for the registration and renewal of registration of associate clinical social workers. An applicant

who is issued a subsequent number is barred from employment or volunteering in a private practice.

This bill would revise those provisions to refer throughout to subsequent registration numbers.

(14) Existing law provides for the registration of telephone medical advice services. Existing law imposes requirements for obtaining and maintaining registration, including a requirement that medical advice services be provided by specified licensed, registered, or certified health care professionals.

This bill would expand the specified health care professionals to include naturopathic doctors and licensed professional clinical counselors. The bill would require a service to notify the department of certain business changes, and to submit quarterly reports.

(15) This bill would additionally delete or update obsolete provisions and make conforming or nonsubstantive changes.

(16) This bill would incorporate additional changes to Section 1944 of the Business and Professions Code made by this bill and AB 483 to take effect if both bills are chaptered and this bill is chaptered last.

(17) 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 28 of the Business and Professions Code is amended to read:

28. (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.

(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse

assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:

(A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.

(B) A continuing education provider as specified by the responsible board by regulation.

(C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in his or her practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.

SEC. 2. 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) Sections 2052 and 2054.
- (2) Section 2630.
- (3) Section 2903.
- (4) Section 3575.
- (5) Section 3660.
- (6) Sections 3760 and 3761.
- (7) Section 4080.
- (8) Section 4825.
- (9) Section 4935.
- (10) Section 4980.
- (11) Section 4989.50.
- (12) Section 4996.
- (13) Section 4999.30.
- (14) Section 5536.
- (15) Section 6704.
- (16) Section 6980.10.
- (17) Section 7317.
- (18) Section 7502 or 7592.
- (19) Section 7520.
- (20) Section 7617 or 7641.
- (21) Subdivision (a) of Section 7872.
- (22) Section 8016.
- (23) Section 8505.
- (24) Section 8725.
- (25) Section 9681.
- (26) Section 9840.
- (27) Subdivision (c) of Section 9891.24.
- (28) 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. 3. Section 500 of the Business and Professions Code is amended to read:

500. If the register or book of registration of the Medical Board of California, the Dental Board of California, or the California State Board of Pharmacy is destroyed by fire or other public calamity, the board, whose duty it is to keep the register or book, may reproduce it so that there may be shown as nearly as possible the record existing in the original at the time of destruction.

SEC. 4. Section 650.2 of the Business and Professions Code is amended to read:

650.2. (a) Notwithstanding Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 or any other person, to participate in or operate a group advertising and referral service for dentists if all of the following conditions are met:

(1) The patient referrals by the service result from patient-initiated responses to service advertising.

(2) The service advertises, if at all, in conformity with Section 651 and subdivisions (i) and (l) of Section 1680.

(3) The service does not employ a solicitor within the meaning of subdivision (j) of Section 1680.

(4) The service does not impose a fee on the member dentists dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.

(5) Participating dentists charge no more than their usual and customary fees to any patient referred.

(6) The service registers with the Dental Board of California, providing its name and address.

(7) The service files with the Dental Board of California a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more dentists, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(9) When member dentists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating dentists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form

that remains clearly visible for at least five seconds to the television audience. This subdivision shall be operative on and after July 1, 1994.

(b) The Dental Board of California may adopt regulations necessary to enforce and administer this section.

(c) The Dental Board of California may suspend or revoke the registration of any service that fails to comply with paragraph (9) of subdivision (a). No service may reregister with the board if it has a registration that is currently under suspension for a violation of paragraph (9) of subdivision (a), nor may a service reregister with the board if it had a registration revoked by the board for a violation of paragraph (9) of subdivision (a) less than one year after that revocation.

(d) The Dental Board of California may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

(e) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for dentists without providing its name and address to the Dental Board of California.

(f) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by dentists for the purposes of advertising.

(g) This section shall not be construed to authorize a referral service to engage in the practice of dentistry.

SEC. 5. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, 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. 6. Section 1603a of the Business and Professions Code is amended to read:

1603a. A member of the Dental Board of California who has served two terms shall not be eligible for reappointment to the board. In computing two terms hereunder, that portion of an unexpired term that a member fills as a result of a vacancy shall be excluded.

SEC. 7. Section 1618.5 of the Business and Professions Code is amended to read:

1618.5. (a) The board shall provide to the Director of the Department of Managed Health Care a copy of any accusation filed with the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when the accusation is filed, for a violation of this chapter relating to the quality of care of any dental provider of a health care service plan, as defined in Section 1345 of the Health and Safety Code. There shall be no liability on the part of, and no cause of action shall arise against, the State of California, the Dental Board of California, the Department of Managed Health Care, the director of that department, or any officer, agent, employee, consultant, or contractor of the state or the board or the department for the release of any false or unauthorized information pursuant to this section, unless the release is made with knowledge and malice.

(b) The board and its executive officer and staff shall maintain the confidentiality of any nonpublic reports provided by the Director of the Department of Managed Health Care pursuant to subdivision (i) of Section 1380 of the Health and Safety Code.

SEC. 8. Section 1640.1 of the Business and Professions Code is amended to read:

1640.1. As used in this article, the following definitions shall apply:

(a) "Specialty" means an area of dental practice approved by the American Dental Association and recognized by the board.

(b) "Discipline" means an advanced dental educational program in an area of dental practice not approved as a specialty by the American Dental Association; but offered from a dental college approved by the board.

(c) "Dental college approved by the board" means a dental school or college that is approved by the Commission on Dental Accreditation of the American Dental Association, that is accredited by a body that has a reciprocal accreditation agreement with that commission, or that has been approved by the Dental Board of California through its own approval process.

SEC. 9. Section 1648.10 of the Business and Professions Code is amended to read:

1648.10. (a) The Dental Board of California shall develop and distribute a fact sheet describing and comparing the risks and efficacy of the various types of dental restorative materials that may be used to repair a dental patient's oral condition or defect. The fact sheet shall include:

(1) A description of the groups of materials that are available to the profession for restoration of an oral condition or defect.

(2) A comparison of the relative benefits and detriments of each group of materials.

(3) A comparison of the cost considerations associated with each group of materials.

(4) A reference to encourage discussion between patient and dentist regarding materials and to inform the patient of his or her options.

(b) The fact sheet shall be made available by the Dental Board of California to all licensed dentists.

(c) The Dental Board of California shall update the fact sheet described in subdivision (a) as determined necessary by the board.

SEC. 10. Section 1650 of the Business and Professions Code is amended to read:

1650. Every person who is now or hereafter licensed to practice dentistry in this state shall register on forms prescribed by the board, his or her place of practice with the executive officer of the Dental Board of California, or, if he or she has more than one place of practice, all of the places of practice, or, if he or she has no place of practice, to so notify the executive officer of the board. A person licensed by the board shall register with the executive officer within 30 days after the date of his or her license.

SEC. 11. Section 1695 of the Business and Professions Code is amended to read:

1695. It is the intent of the Legislature that the Dental Board of California seek ways and means to identify and rehabilitate licentiates whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licentiates so afflicted may be treated and returned to the practice of dentistry in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Dental Board of California shall implement this legislation in part by establishing a diversion program as a voluntary alternative approach to traditional disciplinary actions.

SEC. 12. Section 1695.1 of the Business and Professions Code is amended to read:

1695.1. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 13. Section 1905.1 of the Business and Professions Code is amended to read:

1905.1. The committee may contract with the dental board to carry out this article. The committee may contract with the dental board to perform investigations of applicants and licensees under this article.

SEC. 14. Section 1917.2 of the Business and Professions Code is repealed.

SEC. 15. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars (\$250).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 15.5. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for the issuance of an original license shall not exceed two hundred fifty dollars (\$250).

Commencing July 1, 2017, the fee for the issuance of an original license shall be prorated on the monthly basis.

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 16. 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) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases "doctor of podiatric medicine," "doctor of podiatry," and "podiatric doctor," or the initials "D.P.M.," and shall not be in violation of subdivision (a).

(c) 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. 17. Section 2401 of the Business and Professions Code is amended to read:

2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the board or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Health Care Services, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital that is owned and operated by a licensed charitable organization, that offers only pediatric subspecialty care, that, prior to January 1, 2013, employed licensees on a salary basis, and that has not charged for professional services rendered to patients may, commencing January 1, 2013, charge for professional services rendered to patients, provided the following conditions are met:

(1) The hospital does not increase the number of salaried licensees by more than five licensees each year.

(2) The hospital does not expand its scope of services beyond pediatric subspecialty care.

(3) The hospital accepts each patient needing its scope of services regardless of his or her ability to pay, including whether the patient has any form of health care coverage.

(4) The medical staff concur by an affirmative vote that the licensee's employment is in the best interest of the communities served by the hospital.

(5) The hospital does not interfere with, control, or otherwise direct a physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

SEC. 18. 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 two 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. 19. 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, and 2235.

SEC. 20. Section 2650 of the Business and Professions Code is amended to read:

2650. (a) The physical therapist education requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board and shall have completed a professional education program including academic course work and clinical internship in physical therapy.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

(b) The physical therapist assistant educational requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist assistant shall be a graduate of a physical therapist assistant program of an accredited postsecondary institution or institutions approved by the board, and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded an associate degree.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the CAPTE of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada or another body as may be approved by the board by regulation and shall include a combination of didactic and clinical experiences.

SEC. 21. The heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of the Business and Professions Code is amended to read:

### Article 3.1. Intervention Program

SEC. 22. Section 2770 of the Business and Professions Code is amended to read:

2770. It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses

whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing an intervention program as a voluntary alternative to traditional disciplinary actions.

SEC. 23. Section 2770.1 of the Business and Professions Code is amended to read:

2770.1. As used in this article:

(a) "Board" means the Board of Registered Nursing.

(b) "Committee" means an intervention evaluation committee created by this article.

(c) "Program manager" means the staff manager of the intervention program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 24. Section 2770.2 of the Business and Professions Code is amended to read:

2770.2. (a) One or more intervention evaluation committees is hereby created in the state to be established by the board. Each committee shall be composed of five persons appointed by the board. No board member shall serve on any committee.

(b) Each committee shall have the following composition:

(1) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.

(2) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.

(3) One public member who is knowledgeable in the field of chemical dependency or mental illness.

(c) It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

SEC. 25. Section 2770.7 of the Business and Professions Code is amended to read:

2770.7. (a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the intervention program. Only those registered nurses who have voluntarily requested to participate in the intervention program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the intervention program by contacting the board. Prior to authorizing a registered nurse to enter into the intervention program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands

that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action.

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's intervention program and successfully completes the program. If the registered nurse withdraws or is terminated from the program by an intervention evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(d) Neither acceptance nor participation in the intervention program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the intervention program.

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the intervention program at a time when the program manager or intervention evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the board of intervention program treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the intervention program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the intervention program. A registered nurse who has been under investigation by the board and has been terminated from the intervention program by an intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

SEC. 26. Section 2770.8 of the Business and Professions Code is amended to read:

2770.8. A committee created under this article operates under the direction of the intervention program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board, and to make recommendations.

(b) To review and designate those treatment services to which registered nurses in an intervention program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in an intervention program, and to consider reports regarding registered nurses participating in a program.

(f) To make recommendations to the program manager regarding the terms and conditions of the intervention agreement for each registered nurse participating in the program, including treatment, supervision, and monitoring requirements.

SEC. 27. Section 2770.10 of the Business and Professions Code is amended to read:

2770.10. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any registered nurse requesting or participating in an intervention program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licensee.

SEC. 28. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in an intervention program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all intervention program records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

SEC. 29. Section 2770.12 of the Business and Professions Code is amended to read:

2770.12. (a) After the committee and the program manager in their discretion have determined that a registered nurse has successfully completed the intervention program, all records pertaining to the registered nurse's participation in the intervention program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the intervention program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).

(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the intervention program, if he or she does any of the following:

(1) Presents information relating to any aspect of the intervention program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the intervention program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the intervention program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary to document the length of time the registered nurse participated in the intervention program.

SEC. 30. Section 2770.13 of the Business and Professions Code is amended to read:

2770.13. The board shall provide for the legal representation of any person making reports under this article to a committee or the board in any action for defamation directly resulting from those reports regarding a registered nurse's participation in an intervention program.

SEC. 31. Section 2835.5 of the Business and Professions Code is amended to read:

2835.5. On and after January 1, 2008, an applicant for initial qualification or certification as a nurse practitioner under this article who has not been qualified or certified as a nurse practitioner in California or any other state shall meet the following requirements:

(a) Hold a valid and active registered nursing license issued under this chapter.

(b) Possess a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing.

(c) Satisfactorily complete a nurse practitioner program approved by the board.

SEC. 32. Section 3057 of the Business and Professions Code is amended to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(5) Has furnished a signed release allowing the disclosure of information from the National Practitioner Database and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has never had his or her license to practice optometry revoked or suspended in any state where the person holds a license.

(7) (A) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(8) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(9) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(10) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(11) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(12) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(13) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical examination or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board may reduce or waive the fees required by paragraph (12) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a licensed psychologist or licensed psychiatrist so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 33. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The board shall elect annually a president and a vice president from among its members.

SEC. 34. 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 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 veterinary assistant to whom the permit is issued 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.

(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. 35. Section 4887 of the Business and Professions Code is amended to read:

4887. (a) A person whose license or registration has been revoked or who has been placed on probation may petition the board for reinstatement or modification of penalty including modification or termination of probation after a period of not less than one year has elapsed from the effective date of the decision ordering the disciplinary action. The petition shall state such facts as may be required by the board.

(b) The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the board. The board may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

(c) The board reinstating the license or registration or modifying a penalty may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or modify probation shall require a vote of five of the members of the board.

(d) The petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The board may deny without a hearing or argument any petition filed pursuant to this section

within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 36. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) (A) An approved educational and training program.

(B) If an applicant began his or her educational and training program at a school or college that submitted a letter of intent to pursue accreditation to, or attained candidacy status from, the Accreditation Commission for Acupuncture and Oriental Medicine, but the commission subsequently denied the school or college candidacy status or accreditation, respectively, the board may review and evaluate the educational training and clinical experience to determine whether to waive the requirements set forth in this subdivision with respect to that applicant.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist that is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States, documented educational training and clinical experience that meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state that is an approved educational and training program. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 37. Section 4939 of the Business and Professions Code, as added by Section 9 of Chapter 397 of the Statutes of 2014, is amended to read:

4939. (a) The board shall establish standards for the approval of educational training and clinical experience received outside the United States.

(b) This section shall become operative on January 1, 2017.

SEC. 38. Section 4980.399 of the Business and Professions Code is amended to read:

4980.399. (a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 39. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) To qualify for licensure as specified in Section 4980.40, each applicant shall complete experience related to the practice of marriage

and family therapy under a supervisor who meets the qualifications set forth in Section 4980.03. The experience shall comply with the following:

(1) A minimum of 3,000 hours of supervised experience completed during a period of at least 104 weeks.

(2) A maximum of 40 hours in any seven consecutive days.

(3) A minimum of 1,700 hours obtained after the qualifying master's or doctoral degree was awarded.

(4) A maximum of 1,300 hours obtained prior to the award date of the qualifying master's or doctoral degree.

(5) A maximum of 750 hours of counseling and direct supervisor contact prior to the award date of the qualifying master's or doctoral degree.

(6) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction.

(7) No hours of experience may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(8) A minimum of 1,750 hours of direct counseling with individuals, groups, couples, or families, that includes not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(9) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to marriage and family therapy that have been approved by the applicant's supervisor.

(10) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements that were in place on January 1, 2015.

(c) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by an intern or trainee only as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by an intern or trainee as an independent contractor.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(d) Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (9) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(8) The six hours of supervision that may be credited during any single week pursuant to paragraphs (1) and (2) shall apply to supervision hours gained on or after January 1, 2009.

(e) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(f) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (e), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(g) Except as provided in subdivision (h), all persons shall register with the board as an intern to be credited for postdegree hours of supervised experience gained toward licensure.

(h) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(i) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(j) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. For purposes of paragraph (3) of subdivision (a) of Section 2290.5, interns and trainees working under licensed supervision, consistent with subdivision

(c), may provide services via telehealth within the scope authorized by this chapter and in accordance with any regulations governing the use of telehealth promulgated by the board. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of their employers.

(k) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered employees and not independent contractors. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(l) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

SEC. 40. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to ensure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education

coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(g) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 41. Section 4984.01 of the Business and Professions Code, as amended by Section 31 of Chapter 473 of the Statutes of 2013, is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.
- (3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.
- (4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 42. Section 4989.34 of the Business and Professions Code is amended to read:

4989.34. (a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.

(b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider as specified by the board by regulation.

(2) The board shall establish, by regulation, a procedure identifying acceptable providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

(f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 43. Section 4992.09 of the Business and Professions Code is amended to read:

4992.09. (a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider, as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics

examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 44. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant for a license shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.23.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 45. Section 4996.22 of the Business and Professions Code is amended to read:

4996.22. (a) (1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed

not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

(2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4991.2, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(i) The board may adopt regulations as necessary to implement this section.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

SEC. 46. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) On and after January 1, 2016, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number. An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

SEC. 47. Section 4999.1 of the Business and Professions Code is amended to read:

4999.1. Application for registration as a telephone medical advice service shall be made on a form prescribed by the department, accompanied by the fee prescribed pursuant to Section 4999.5. The department shall make application forms available. Applications shall contain all of the following:

(a) The signature of the individual owner of the telephone medical advice service, or of all of the partners if the service is a partnership, or of the

president or secretary if the service is a corporation. The signature shall be accompanied by a resolution or other written communication identifying the individual whose signature is on the form as owner, partner, president, or secretary.

(b) The name under which the person applying for the telephone medical advice service proposes to do business.

(c) The physical address, mailing address, and telephone number of the business entity.

(d) The designation, including the name and physical address, of an agent for service of process in California.

(e) A list of all health care professionals providing medical advice services that are required to be licensed, registered, or certified pursuant to this chapter. This list shall be submitted to the department on a form to be prescribed by the department and shall include, but not be limited to, the name, state of licensure, type of license, and license number.

(f) The department shall be notified within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

SEC. 48. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, a telephone medical advice service shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as an occupational therapist pursuant to Chapter 5.6 (commencing with Section 2570), as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all health care professionals who provide telephone medical advice services from an out-of-state location, as identified in

subparagraph (A), are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(3) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(4) Ensuring that no staff member uses a title or designation when speaking to an enrollee, subscriber, or consumer that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered health care professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(5) Complying with all directions and requests for information made by the department.

(6) Notifying the department within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

(7) Submitting quarterly reports, on a form prescribed by the department, to the department within 30 days of the end of each calendar quarter.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 49. Section 4999.3 of the Business and Professions Code is amended to read:

4999.3. (a) The department may suspend, revoke, or otherwise discipline a registrant or deny an application for registration as a telephone medical advice service based on any of the following:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.

(2) An act of dishonesty or fraud by the registrant or any employee of the registrant.

(3) The commission of any act, or being convicted of a crime, that constitutes grounds for denial or revocation of licensure pursuant to any provision of this division.

(b) The proceedings 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, and the department shall have all powers granted therein.

(c) Copies of any complaint against a telephone medical advice service shall be forwarded to the Department of Managed Health Care.

(d) The department shall forward a copy of any complaint submitted to the department pursuant to this chapter to the entity that issued the license to the licensee involved in the advice provided to the patient.

SEC. 50. Section 4999.4 of the Business and Professions Code is amended to read:

4999.4. (a) Every registration issued to a telephone medical advice service shall expire 24 months after the initial date of issuance.

(b) To renew an unexpired registration, the registrant shall, before the time at which the registration would otherwise expire, pay the renewal fee authorized by Section 4999.5.

(c) An expired registration may be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the bureau and the payment of all fees authorized by Section 4999.5. A registration that is not renewed within three years following its expiration shall not be renewed, restored, or reinstated thereafter, and the delinquent registration shall be canceled immediately upon expiration of the three-year period.

SEC. 51. Section 4999.5 of the Business and Professions Code is amended to read:

4999.5. The department may set fees for registration and renewal as a telephone medical advice service sufficient to pay the costs of administration of this chapter.

SEC. 52. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) This section does not limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For purposes of this chapter, “health care professional” is an employee or independent contractor described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a marriage and family therapist pursuant to Chapter 13

(commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 53. Section 4999.45 of the Business and Professions Code, as amended by Section 54 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.45. (a) An intern employed under this chapter shall:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(2) Not be employed or volunteer in a private practice until registered as an intern.

(3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4) Renew annually for a maximum of five years after initial registration with the board.

(b) When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(c) This section shall become operative on January 1, 2016.

SEC. 54. Section 4999.46 of the Business and Professions Code, as amended by Section 3 of Chapter 435 of the Statutes of 2014, is amended to read:

4999.46. (a) To qualify for licensure as specified in Section 4999.50, applicants shall complete experience related to the practice of professional clinical counseling under an approved supervisor. The experience shall comply with the following:

(1) A minimum of 3,000 postdegree hours of supervised experience performed over a period of not less than two years (104 weeks).

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,750 hours of direct counseling with individuals, groups, couples, or families in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(4) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(5) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests,

writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that have been approved by the applicant's supervisor.

(b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements that were in place on January 1, 2015.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration within 90 days of the granting of the qualifying degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (5) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1) No more than six hours of supervision, whether individual or group, shall be credited during any single week. This paragraph shall apply to supervision hours gained on or after January 1, 2009.

(2) An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor

contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h) This section shall become operative on January 1, 2016.

SEC. 55. Section 4999.55 of the Business and Professions Code is amended to read:

4999.55. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state, or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative January 1, 2016.

SEC. 56. Section 4999.76 of the Business and Professions Code is amended to read:

4999.76. (a) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to

the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.

(2) Significant recent developments in the discipline of professional clinical counseling.

(3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.

(g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

(i) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 57. Section 4999.100 of the Business and Professions Code, as amended by Section 66 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The intern registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 58. Section 15.5 of this bill incorporates amendments to Section 1944 of the Business and Professions Code proposed by both this bill and Assembly Bill 483. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 1944 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 483, in which case Section 15 of this bill shall not become operative.

SEC. 59. 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.

## 2015 BOARD CO-SPONSORED LEGISLATION

SENATE BILL 525	
Author:	Nielsen [D]
Title:	Respiratory care practice
Introduced:	February 26, 2015
Last Amended:	June 6, 2015
Status:	September 2, 2015: Signed by the Governor, Chapter 247, Statutes of 2015
Summary:	This bill would define, for intent purposes, “overlapping functions” to include providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided certain requirements are met. This bill would provide that associated aspects of cardiopulmonary and other systems functions includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system. The bill would further define the respiratory care practice to include, among other things, the administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under specified supervision and direct orders, all forms of specified life support, and the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders.
Position:	<b>SUPPORT</b>

**ASSEMBLY BILL 923**

Author:	Steinorth [R]
Title:	Respiratory care practitioners
Introduced:	February 26, 2015
Amended:	April 6, 2015
Status:	This has become a 2-year bill.
Summary:	<p>This bill would include among those causes for discipline the commission of an act of neglect, endangerment, or abuse involving a person under 18 years of age, a person 65 years of age or older, or a dependent adult, as described. and the provision of false statements or information on any form provided by the board or to any person representing the board during an investigation, probation monitoring compliance check, or any other enforcement-related action.</p> <p>The bill would provide that the expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice respiratory care, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, does not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee, or to render a decision to suspend or revoke the license.</p> <p>This bill would expand the definition of unprofessional conduct to include any single act described above or any single act of abusive behavior, including, but not limited to, humiliation, intimidation, ridicule, coercion, threat, or any other conduct that threatens the health, welfare, or safety of a person, whether or not the victim is a patient, a friend or family member of the patient, or an employee.</p> <p>This bill would authorize the board to provide notice of an applicant's or licensee's arrest for those crimes on the board's Internet Web site, to employers, or both, and would require the board to remove the notice 60 days after the criminal matter is adjudicated or when all appeal rights have been exhausted, whichever is later.</p>
Position:	<b>SUPPORT</b>

# Senate Bill No. 525

## CHAPTER 247

An act to amend Sections 3701, 3702, and 3702.7 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 2, 2015. Filed with Secretary of State September 2, 2015.]

### LEGISLATIVE COUNSEL'S DIGEST

SB 525, Nielsen. Respiratory care practice.

Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory therapy by the Respiratory Care Board of California. A violation of the act is a crime.

Existing law declares it is the intent of the Legislature to recognize the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care personnel, and to permit additional sharing of functions within organized health care systems, as specified. Existing law also states that nothing in the act shall be construed to authorize a respiratory care practitioner to practice medicine, surgery, or any other form of healing, except as authorized by the act.

This bill, for intent purposes, would define “overlapping functions” to include providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided certain requirements are met.

Under existing law, respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes, among other things, direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient. Existing law provides for the registration and regulation of certified polysomnographic technologists by the Medical Board of California. Under existing law governing polysomnographic technologists, the practice of polysomnography is defined to include the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Existing law governing polysomnographic technologists exempts from those provisions, among others, respiratory care practitioners working within the scope of practice of their license.

This bill would provide that associated aspects of cardiopulmonary and other systems functions includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system. The bill would further define

the respiratory care practice to include, among other things, the administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under specified supervision and direct orders, all forms of specified life support, and the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. By changing the definition of a crime, the bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 3701 of the Business and Professions Code is amended to read:

3701. (a) The Legislature finds and declares that the practice of respiratory care in California affects the public health, safety, and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The Legislature also recognizes the practice of respiratory care to be a dynamic and changing art and science, the practice of which is continually evolving to include newer ideas and more sophisticated techniques in patient care.

(b) It is the intent of the Legislature in this chapter to provide clear legal authority for functions and procedures which have common acceptance and usage. It is the intent also to recognize the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care personnel, and to permit additional sharing of functions within organized health care systems. The organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(c) For purposes of this section, it is the intent of the Legislature that "overlapping functions" includes, but is not limited to, providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

SEC. 2. Section 3702 of the Business and Professions Code is amended to read:

3702. (a) Respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes all of the following:

(1) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient.

(2) Direct and indirect respiratory care services, including, but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon.

(3) Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and (A) determination of whether such signs, symptoms, reactions, behavior, or general response exhibits abnormal characteristics; (B) implementation based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician and surgeon or the initiation of emergency procedures.

(4) The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician and surgeon: administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems and baromedical therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; diagnostic and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases and respiratory secretions.

(5) The transcription and implementation of the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care.

(b) As used in this section, the following apply:

(1) "Associated aspects of cardiopulmonary and other systems functions" includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.

(2) "Respiratory care protocols" means policies and protocols developed by a licensed health facility through collaboration, when appropriate, with administrators, physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care practitioners.

SEC. 3. Section 3702.7 of the Business and Professions Code is amended to read:

3702.7. The respiratory care practice is further defined and includes, but is not limited to, the following:

(a) Mechanical or physiological ventilatory support as used in paragraph (4) of subdivision (a) of Section 3702 includes, but is not limited to, any system, procedure, machine, catheter, equipment, or other device used in whole or in part, to provide ventilatory or oxygenating support.

(b) Administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under physician and surgeon supervision and the direct orders of the physician and surgeon performing the procedure.

(c) All forms of extracorporeal life support, including, but not limited to, extracorporeal membrane oxygenation (ECMO) and extracorporeal carbon dioxide removal (ECCO2R).

(d) Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances.

(e) The treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders as provided in Chapter 7.8 (commencing with Section 3575).

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.

October 15, 2015

Karen Smith, Director, CDPH  
Executive Office, Suite 720  
California Department of Public Health  
P O Box 997377 MS 0500  
Sacramento, CA 95899-7377

RE: Respiratory Care Practitioner (aka Respiratory Therapist) Scope of Practice

Dear Ms. Smith,

The Respiratory Care Board of California would like to bring to your attention new legislation affecting the respiratory care practitioner scope of practice in California. On September 2, 2015, Governor Brown signed SB 525, which codified the respiratory care practitioner scope of practice to also include:

- The therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the heart and cardiovascular system;
- Administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under physician and surgeon supervision and the direct orders of the physician and surgeon performing the procedure;
- All forms of extracorporeal life support, including, but not limited to, extracorporeal membrane oxygenation (ECMO) and extracorporeal carbon dioxide removal (ECCO2R);
- Mechanical or physiological ventilatory support as used in paragraph (4) of subdivision (a) of Section 3702 includes, but is not limited to, any system, procedure, machine, catheter, equipment, or other device used in whole or in part, to provide ventilatory or oxygenating support. *(added in 2004)*;
- Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances, and
- The treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders as provided in Chapter 7.8 (commencing with Section 3575).

In addition, SB 525 also authorizes respiratory care practitioners to provide:

- The therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

Because there are only handful of licensed respiratory care practitioners in the State compared to registered nurses (1 to 10 RNs), we believe it is important to highlight the specialized field of respiratory care and its evolution. When the profession gained licensure in 1985, most therapists were used to provide routine breathing treatments, pulmonary function rehabilitation and other respiratory tasks. Yet, there were still a significant amount of licensees branching into more advance techniques used in hospital emergency rooms, intensive care units, cardiac rehabilitation units, hyperbaric oxygen facilities and clinical laboratories.

In 2001, the Board increased its education requirements to require a minimum of an associate degree (though it should be noted that it takes a minimum of three years to complete these programs that specialize in every aspect of the cardio pulmonary system and related areas). In 2014, the Board increased its minimum competency standard for licensure, to the most advanced credential provided for respiratory care (passage of the National Registered Respiratory Therapist written and clinical examinations). And most recently, the State has added additional education programs offering baccalaureate degrees in respiratory care.

Respiratory care practitioners have advanced their education beyond completing tasks, but using critical thinking skills to solve patient care problems in a team directed approach. Respiratory care practitioners work in all care environments (under medical direction) not just acute care, but pulmonary diagnostics and rehabilitation, long term acute care and home care, to name a few. They can lead teams in Disease Management and Case Care with their specialized expertise to reduce readmissions and increase patient compliance. Respiratory care practitioners are team-oriented and their expertise needs to be more fully utilized in this new environment of today's healthcare.

The profession continues to evolve so that the majority of respiratory care practitioners are now providing a higher level and more independent care to respiratory patients (under broad medical direction). In order for health care facilities to achieve efficiencies and provide optimum patient care, many have turned to respiratory care practitioners to perform practices that would have previously been outside their scope of practice. Likewise, many registered nurses have had additional training in respiratory care to allow them to provide the same optimum and efficient care to patients whose primary diagnoses is not respiratory-related.

The pace of the respiratory profession's evolution is expected to increase in the coming years, especially given the aging population. It is essential that laws and regulations surrounding health care recognize this evolution. Respiratory care practitioners are a vital and necessary component of life-support teams. They are the ideal provider for all respiratory patients as they have proven results for optimum patient outcomes and greater efficiencies. The Board respectfully requests the CDPH's consideration of respiratory care practitioners in future regulatory amendments or other law or policy changes affecting health care.

For your quick reference, attached is the complete respiratory care scope of practice including amendments carried in SB 525. Please contact our executive officer, Stephanie Nunez, if you have any questions or would like to be in touch with respiratory care practitioner experts. Our office is very responsive and is happy to provide any assistance you may need. You may reach Ms. Nunez at 916.999.2190.

Sincerely,

A handwritten signature in black ink that reads "Alan Roth". The signature is written in a cursive, slightly slanted style.

Alan Roth, MS, MBA, RRT-NPS, FAARC  
President

cc: Respiratory Care Board Members  
Karin Schwartz, Deputy Director and Chief Counsel  
Belinda Whitsett, Asst. Chief Counsel, CDPH  
Roberta Lawson, Executive Administrator, CCLHO, CDPH  
Claudia Crist, Chief Deputy Director, Policy & Programs, CDPH  
Jean Iacino, Deputy Director, Compliance, CDPH  
Monica Wagoner, Deputy Director, Legislative & Governmental Affairs, CDPH  
Anita Gore, Deputy Director, Public Affairs, CDPH  
Susan Fanelli, Deputy Director, Public Health Emergency Preparedness, CDPH  
Paul Kimsey, Deputy Director, State Public Health Laboratory, CDPH  
Este Geraghty, Deputy Director, Center for Health Statistics and Informatics, CDPH  
Drew Johnson, Deputy Director, Center for Chronic Disease Prev. & Health Promotion, CDPH  
Daniel Kim, Deputy Director, Center for Family Health  
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Alana Mckinzie, Chief, Office of Regulations, CDPH  
Jennifer Kent, Director, Dept. of Health Care Services  
Luis Rico, Chief, Systems of Care Division, Dept. of Health Care Services  
Tanya Homman, Chief, Medi-Cal Managed Care Division, Dept. of Health Care Services  
Mark Mimnaugh, Chief, Medical Review Branch, Dept. of Health Care Services  
Vickie Orlich, Chief, Medi-Cal Benefits, Waiver and Rates Division, DHCS  
Kimberly Kirchmeyer, Executive Director, Medical Board of California  
Louise R. Bailey, MEd, BSN, RN, Board of Registered Nursing  
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Michael Madison, President, California Society for Respiratory Care  
Frank Salvatore MBA RRT FAARC, American Association for Respiratory Care  
Dean Hess, American Association for Respiratory Care  
Cheryl West, American Association for Respiratory Care  
Curtis Sessler, MD, FCCP, President, American College of Chest Physicians  
Shannon Jamieson, Executive Director, California Thoracic Society  
Jeff Conway, MPH, Director, Joint Commission  
Anne Bauer, Field Director, Joint Commission  
Patrick Conway, M.D., Chief Medical Officer, CMS

# California Respiratory Care Practitioner Scope of Practice

## Business and Professions Code

**3701.** (a) The Legislature finds and declares that the practice of respiratory care in California affects the public health, safety, and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The Legislature also recognizes the practice of respiratory care to be a dynamic and changing art and science, the practice of which is continually evolving to include newer ideas and more sophisticated techniques in patient care.

(b) It is the intent of the Legislature in this chapter to provide clear legal authority for functions and procedures which have common acceptance and usage. It is the intent also to recognize the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care personnel, and to permit additional sharing of functions within organized health care systems. The organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(c) For purposes of this section, it is the intent of the Legislature that "overlapping functions" includes, but is not limited to, providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

**3702.** (a) Respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes all of the following:

(1) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient.

(2) Direct and indirect respiratory care services, including, but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon.

(3) Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and (A) determination of whether such signs, symptoms, reactions, behavior, or general response exhibits abnormal characteristics; (B) implementation based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician and surgeon or the initiation of emergency procedures.

(4) The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician and surgeon: administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems and baromedical therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; diagnostic

and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases and respiratory secretions.

(5) The transcription and implementation of the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care.

(b) As used in this section, the following apply:

(1) "Associated aspects of cardiopulmonary and other systems functions" includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.

(2) "Respiratory care protocols" means policies and protocols developed by a licensed health facility through collaboration, when appropriate, with administrators, physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care practitioners.

**3702.7.** The respiratory care practice is further defined and includes, but is not limited to, the following:

(a) Mechanical or physiological ventilatory support as used in paragraph (4) of subdivision (a) of Section 3702 includes, but is not limited to, any system, procedure, machine, catheter, equipment, or other device used in whole or in part, to provide ventilatory or oxygenating support.

(b) Administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under physician and surgeon supervision and the direct orders of the physician and surgeon performing the procedure.

(c) All forms of extracorporeal life support, including, but not limited to, extracorporeal membrane oxygenation (ECMO) and extracorporeal carbon dioxide removal (ECCO2R).

(d) Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances.

(e) The treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders as provided in Chapter 7.8 (commencing with Section 3575).

### **Contact**

Stephanie Nunez  
Executive Officer  
Respiratory Care Board of California  
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Sacramento, CA 95834  
Ph: (916) 999-2190  
Toll Free: (866) 375-0386  
Web: [www.rcb.ca.gov](http://www.rcb.ca.gov)

October 15, 2015

Debby Rogers, RN, MS, FAEN, Deputy Director,  
California Department of Public Health / MS 0512  
Licensing and Certification Program-Center for Healthcare Quality  
P O Box 997377  
Sacramento, CA 95899-7377

RE: All Facilities Letters (AFLs)

Dear Ms. Rogers,

On September 2, 2015, Governor Brown signed SB 525, which codified the respiratory care practitioner (aka respiratory therapist) scope of practice to include:

- The therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the heart and cardiovascular system;
- Administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under physician and surgeon supervision and the direct orders of the physician and surgeon performing the procedure;
- All forms of extracorporeal life support, including, but not limited to, extracorporeal membrane oxygenation (ECMO) and extracorporeal carbon dioxide removal (ECCO2R);
- Mechanical or physiological ventilatory support as used in paragraph (4) of subdivision (a) of Section 3702 includes, but is not limited to, any system, procedure, machine, catheter, equipment, or other device used in whole or in part, to provide ventilatory or oxygenating support. *(added in 2004)*;
- Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances, and
- The treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders as provided in Chapter 7.8 (commencing with Section 3575).

In addition, SB 525 also authorizes respiratory care practitioners to provide:

- The therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

Currently, the education requirements for licensure as a Respiratory Care Practitioner (RCP) in the State of California is a minimum of an associate degree (though it should be noted that it takes a minimum of three years to complete these programs that specialize in every aspect of the cardio pulmonary system and related areas). However, over one-third of licensed RCPs hold a baccalaureate or higher degree.

In addition, the minimum competency standard for licensure has been increased to the most advanced credential provided for respiratory care: Passage of the National Registered Respiratory Therapist written and clinical examinations provided by the National Board for Respiratory Care (NBRC). Numerous RCPs also take advantage of other credentials offered by the NBRC including:

- Certified Pulmonary Function Technologist (CPFT)
- Registered Pulmonary Function Technologist (RPFT)
- Neonatal/Pediatric Respiratory Care Specialty (NPS) Credential
- Adult Critical Care Specialty (ACCS) Credential
- Sleep Disorders Specialty (SDS) Credential

AFLs issued by the CDPH often address personnel authorized to provide certain services. In many cases, the AFLs reference a “privileged practitioner or a qualified Registered Nurse with training.” The fact that “respiratory care practitioner” is not identified like the “registered nurse” creates confusion for our stakeholders. The Board receives numerous inquiries as a result, which prompted the Board to seek the legislative amendments found in SB 525. The Board would appreciate your cooperation in identifying “Respiratory Care Practitioners” in all future AFLs, where applicable.

For your quick reference, attached is the complete respiratory care scope of practice including amendments carried in SB 525.

Please contact our executive officer, Stephanie Nunez, if you have any questions or would like to be in touch with respiratory care practitioner experts. Our office is very responsive and is happy to provide any assistance you may need. You may reach Ms. Nunez at 916.999.2190.

Sincerely,



Alan Roth, MS, MBA, RRT-NPS, FAARC  
President

cc: Respiratory Care Board Members  
Karen Smith, Director, CDPH  
Pam Dickfoss, Asst. Deputy Director, Center for Health Care Quality, CDPH  
Scott Vivona, Chief, Center for Health Care Quality, CDPH

# California Respiratory Care Practitioner Scope of Practice

## Business and Professions Code

**3701.** (a) The Legislature finds and declares that the practice of respiratory care in California affects the public health, safety, and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The Legislature also recognizes the practice of respiratory care to be a dynamic and changing art and science, the practice of which is continually evolving to include newer ideas and more sophisticated techniques in patient care.

(b) It is the intent of the Legislature in this chapter to provide clear legal authority for functions and procedures which have common acceptance and usage. It is the intent also to recognize the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care personnel, and to permit additional sharing of functions within organized health care systems. The organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(c) For purposes of this section, it is the intent of the Legislature that "overlapping functions" includes, but is not limited to, providing therapy, management, rehabilitation, diagnostic evaluation, and care for nonrespiratory-related diagnoses or conditions provided (1) a health care facility has authorized the respiratory care practitioner to provide these services and (2) the respiratory care practitioner has maintained current competencies in the services provided, as needed.

**3702.** (a) Respiratory care as a practice means a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, and includes all of the following:

(1) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient.

(2) Direct and indirect respiratory care services, including, but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon.

(3) Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and (A) determination of whether such signs, symptoms, reactions, behavior, or general response exhibits abnormal characteristics; (B) implementation based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician and surgeon or the initiation of emergency procedures.

(4) The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician and surgeon: administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems and baromedical therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance

of the natural airways; insertion without cutting tissues and maintenance of artificial airways; diagnostic and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases and respiratory secretions.

(5) The transcription and implementation of the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care.

(b) As used in this section, the following apply:

(1) "Associated aspects of cardiopulmonary and other systems functions" includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.

(2) "Respiratory care protocols" means policies and protocols developed by a licensed health facility through collaboration, when appropriate, with administrators, physicians and surgeons, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care practitioners.

**3702.7.** The respiratory care practice is further defined and includes, but is not limited to, the following:

(a) Mechanical or physiological ventilatory support as used in paragraph (4) of subdivision (a) of Section 3702 includes, but is not limited to, any system, procedure, machine, catheter, equipment, or other device used in whole or in part, to provide ventilatory or oxygenating support.

(b) Administration of medical gases and pharmacological agents for the purpose of inducing conscious or deep sedation under physician and surgeon supervision and the direct orders of the physician and surgeon performing the procedure.

(c) All forms of extracorporeal life support, including, but not limited to, extracorporeal membrane oxygenation (ECMO) and extracorporeal carbon dioxide removal (ECCO2R).

(d) Educating students, health care professionals, or consumers about respiratory care, including, but not limited to, education of respiratory core courses or clinical instruction provided as part of a respiratory educational program and educating health care professionals or consumers about the operation or application of respiratory care equipment and appliances.

(e) The treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders as provided in Chapter 7.8 (commencing with Section 3575).

### **Contact**

Stephanie Nunez  
Executive Officer  
Respiratory Care Board of California  
3750 Rosin Court, Suite 100  
Sacramento, CA 95834  
Ph: (916) 999-2190  
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**ASSEMBLY BILL**

**No. 923**

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**Introduced by Assembly Member Steinorth**

February 26, 2015

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An act to amend ~~Section~~ *Sections 3750 and 3755* of, and to add ~~Section~~ *Sections 3754.8 and 3769.7* to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 923, as amended, Steinorth. Respiratory care practitioners.

~~Under~~

(1) *Under* the Respiratory Care Practice Act, the Respiratory Care Board of California licenses and regulates the practice of respiratory care and therapy. The act authorizes the board to order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under the act, for any of specified causes. A violation of the act is a crime.

This bill would include among those causes for discipline the commission of an act of neglect, endangerment, or abuse involving a person under 18 years of age, a person 65 years of age or older, or a dependent adult, as described: *and the provision of false statements or information on any form provided by the board or to any person representing the board during an investigation, probation monitoring compliance check, or any other enforcement-related action.*

The bill would provide that the expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice respiratory care, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, does not deprive

the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee, or to render a decision to suspend or revoke the license.

(2) *Under the act the board may take action against a respiratory care practitioner who is charged with unprofessional conduct which includes, but is not limited to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any provision for which the board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license. The act provides that engaging in repeated acts of unprofessional conduct is a crime.*

*This bill would expand the definition of unprofessional conduct to include any single act described above or any single act of abusive behavior, including, but not limited to, humiliation, intimidation, ridicule, coercion, threat, or any other conduct that threatens the health, welfare, or safety of a person, whether or not the victim is a patient, a friend or family member of the patient, or an employee. Because this bill would change the definition of a crime, it would impose a state-mandated local program.*

(3) *The act authorizes the board to deny, suspend, or take other actions against a license for, among other things, conviction of a sex offense or any crime involving bodily injury or sexual misconduct.*

*This bill would authorize the board to provide notice of an applicant's or licensee's arrest for those crimes on the board's Internet Web site, to employers, or both, and would require the board to remove the notice 60 days after the criminal matter is adjudicated or when all appeal rights have been exhausted, whichever is later.*

(4) *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: ~~no~~ yes.

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

1 SECTION 1. Section 3750 of the Business and Professions  
2 Code is amended to read:

3 3750. The board may order the denial, suspension, or revocation  
4 of, or the imposition of probationary conditions upon, a license  
5 issued under this chapter, for any of the following causes:

6 (a) Advertising in violation of Section 651 or Section 17500.

7 (b) Fraud in the procurement of any license under this chapter.

8 (c) Knowingly employing unlicensed persons who present  
9 themselves as licensed respiratory care practitioners.

10 (d) Conviction of a crime that substantially relates to the  
11 qualifications, functions, or duties of a respiratory care practitioner.  
12 The record of conviction or a certified copy thereof shall be  
13 conclusive evidence of the conviction.

14 (e) Impersonating or acting as a proxy for an applicant in any  
15 examination given under this chapter.

16 (f) Negligence in his or her practice as a respiratory care  
17 practitioner.

18 (g) Conviction of a violation of ~~any of the provisions of this~~  
19 ~~chapter or of any provision of~~ Division 2 (commencing with  
20 Section 500), or violating, or attempting to violate, directly or  
21 indirectly, or assisting in or abetting the violation of, or conspiring  
22 to violate ~~any provision or term of this chapter or of any provision~~  
23 ~~of~~ Division 2 (commencing with Section 500).

24 (h) The aiding or abetting of any person to violate this chapter  
25 or any regulations duly adopted under this chapter.

26 (i) The aiding or abetting of any person to engage in the unlawful  
27 practice of respiratory care.

28 (j) The commission of any fraudulent, dishonest, or corrupt act  
29 ~~which~~ *that* is substantially related to the qualifications, functions,  
30 or duties of a respiratory care practitioner.

31 (k) Falsifying, or making grossly incorrect, grossly inconsistent,  
32 or unintelligible entries in any patient, hospital, or other record.

33 (l) Changing the prescription of a physician and surgeon, or  
34 falsifying verbal or written orders for treatment or a diagnostic  
35 regime received, whether or not that action resulted in actual patient  
36 harm.

37 (m) Denial, suspension, or revocation of any license to practice  
38 by another agency, state, or territory of the United States for any

1 act or omission that would constitute grounds for the denial,  
2 suspension, or revocation of a license in this state.

3 (n) Except for good cause, the knowing failure to protect patients  
4 by failing to follow infection control guidelines of the board,  
5 thereby risking transmission of bloodborne infectious diseases  
6 from licensee to patient, from patient to patient, and from patient  
7 to licensee. In administering this subdivision, the board shall  
8 consider referencing the standards, regulations, and guidelines of  
9 the State Department of Health Services developed pursuant to  
10 Section 1250.11 of the Health and Safety Code and the standards,  
11 regulations, and guidelines pursuant to the California Occupational  
12 Safety and Health Act of 1973 (Part 1 (commencing with Section  
13 6300) of Division 5 of the Labor Code) for preventing the  
14 transmission of HIV, hepatitis B, and other bloodborne pathogens  
15 in health care settings. As necessary, the board shall consult with  
16 the California Medical Board, the Board of Podiatric Medicine,  
17 the ~~Board of Dental Examiners~~, *Dental Board of California*, the  
18 Board of Registered Nursing, and the Board of Vocational Nursing  
19 and Psychiatric Technicians, to encourage appropriate consistency  
20 in the implementation of this subdivision.

21 The board shall seek to ensure that licensees are informed of the  
22 responsibility of licensees and others to follow infection control  
23 guidelines, and of the most recent scientifically recognized  
24 safeguards for minimizing the risk of transmission of bloodborne  
25 infectious diseases.

26 (o) Incompetence in his or her practice as a respiratory care  
27 practitioner.

28 (p) A pattern of substandard care or negligence in his or her  
29 practice as a respiratory care practitioner, or in any capacity as a  
30 health care worker, consultant, supervisor, manager or health  
31 facility owner, or as a party responsible for the care of another.

32 (q) Commission of an act of neglect, endangerment, or abuse  
33 involving a person under 18 years of age, a person 65 years of age  
34 or older, or a dependent adult as described in Section 368 of the  
35 Penal Code, without regard to whether the person was a patient.

36 (r) *Providing false statements or information on any form*  
37 *provided by the board or to any person representing the board*  
38 *during an investigation, probation monitoring compliance check,*  
39 *or any other enforcement-related action.*

1 SEC. 2. Section 3754.8 is added to the Business and Professions  
2 Code, to read:

3 3754.8. The expiration, cancellation, forfeiture, or suspension  
4 of a license, practice privilege, or other authority to practice  
5 respiratory care by operation of law or by order or decision of the  
6 board or a court of law, the placement of a license on a retired  
7 status, or the voluntary surrender of the license by a licensee shall  
8 not deprive the board of jurisdiction to commence or proceed with  
9 any investigation of, or action or disciplinary proceeding against,  
10 the licensee, or to render a decision to suspend or revoke the  
11 license.

12 SEC. 3. Section 3755 of the Business and Professions Code is  
13 amended to read:

14 3755. The board may take action against any respiratory care  
15 practitioner who is charged with unprofessional conduct in  
16 administering, or attempting to administer, direct or indirect  
17 respiratory care: ~~care in any care setting.~~ Unprofessional conduct  
18 includes, but is not limited to, ~~repeated acts~~ any act of clearly  
19 administering directly or indirectly inappropriate or unsafe  
20 respiratory care procedures, protocols, therapeutic regimens, or  
21 diagnostic testing or monitoring techniques, ~~and~~ abusive behavior,  
22 including, but not limited to, humiliation, intimidation, ridicule,  
23 coercion, threat, or any other conduct that threatens the health,  
24 welfare, or safety of a person, whether or not the victim is a patient,  
25 a friend or family member of the patient, or an employee, or  
26 violation of any provision of Section 3750. The board may  
27 determine unprofessional conduct involving any and all aspects  
28 of respiratory care performed by anyone licensed as a respiratory  
29 care practitioner. Any person who engages in repeated acts of  
30 unprofessional conduct shall be guilty of a misdemeanor and shall  
31 be punished by a fine of not more than one thousand dollars  
32 (\$1,000), or by imprisonment for a term not to exceed six months,  
33 or by both that fine and imprisonment.

34 SEC. 4. Section 3769.7 is added to the Business and Professions  
35 Code, to read:

36 3769.7. (a) *If a licensee or applicant is arrested for any crime*  
37 *described in Section 3752.5, 3752.6, or 3752.7, upon receipt of*  
38 *certified copies of arrest documents, the board may provide notice*  
39 *of the licensee's or applicant's arrest on the board's Internet Web*  
40 *site, to employers, or both.*

1     ***(b) If the board provides notice of a licensee's or applicant's***  
2 ***arrest pursuant to this section, the board shall remove the notice***  
3 ***60 days after the criminal matter is adjudicated or when all appeal***  
4 ***rights have been exhausted, whichever is later.***

5     ***SEC. 5. No reimbursement is required by this act pursuant to***  
6 ***Section 6 of Article XIII B of the California Constitution because***  
7 ***the only costs that may be incurred by a local agency or school***  
8 ***district will be incurred because this act creates a new crime or***  
9 ***infraction, eliminates a crime or infraction, or changes the penalty***  
10 ***for a crime or infraction, within the meaning of Section 17556 of***  
11 ***the Government Code, or changes the definition of a crime within***  
12 ***the meaning of Section 6 of Article XIII B of the California***  
13 ***Constitution.***

**KAMALA D. HARRIS**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



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SAN FRANCISCO, CALIFORNIA 94102-7004

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October 22, 2015

**Via U.S. Mail and Facsimile**  
**(916) 263-2387 and (916) 263-7311**

Kimberly Kirchmeyer, Executive Director  
Medical Board of California  
2005 Evergreen Street, Suite 1200  
Sacramento, CA 95815-3831

Stephanie Nunez, Executive Officer  
Respiratory Care Board of California  
3750 Rosin Court, Suite 100  
Sacramento, CA 95834

RE: Opinion No. 13-1202

Dear Ms. Kirchmeyer and Ms. Nunez:

Enclosed is our Opinion No. 13-1202 issued in response to Ms. Kirchmeyer's request of December 5, 2013.

Sincerely,

Handwritten signature of Susan Duncan Lee in black ink.

SUSAN DUNCAN LEE  
Supervising Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

SDL:sg  
Enclosure  
cc: Lawrence M. Daniels



## ANALYSIS

Spirometric testing (or “spirometry”) is the most common type of pulmonary (lung) function testing. The test requires a patient to breathe into a tube connected to a medical device called a spirometer, which produces readings for a physician to interpret. We are asked whether medical assistants—persons with limited training who are permitted to perform certain technical supportive services in a physician’s office under appropriate medical supervision—may lawfully perform this test on patients. For the reasons that follow, we conclude that a medical assistant may perform spirometry in a medical practice where it is customarily performed, as long as the training, competency, authorization, and supervision requirements in the medical-assistant statutes and regulations are satisfied.

In California, a physician’s and surgeon’s certificate to practice medicine authorizes the holder to “sever or penetrate the tissues of human beings” and “use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.”<sup>1</sup> Any person who practices medicine without such a certificate is guilty of a criminal offense.<sup>2</sup> This criminal prohibition includes diagnosing, prescribing for, or treating any physical or mental condition without a certificate.<sup>3</sup>

In their practices, physicians, surgeons, and podiatrists (collectively referred to here as physicians) may utilize the services of medical assistants.<sup>4</sup> A medical assistant is “a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services” and who has had the minimum amount of training required by the Medical Board of California (Medical Board).<sup>5</sup> “Technical supportive services” are defined, in turn, as “simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist . . . .”<sup>6</sup>

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<sup>1</sup> Bus. & Prof. Code, § 2051.

<sup>2</sup> Bus. & Prof. Code, § 2052, subd. (a); 92 Ops. Cal. Atty. Gen. 56, 57 (2009).

<sup>3</sup> Bus. & Prof. Code, § 2052, subd. (a).

<sup>4</sup> Bus. & Prof. Code, § 2069.

<sup>5</sup> Bus. & Prof. Code, § 2069, subd. (b)(1).

<sup>6</sup> Bus. & Prof. Code, § 2069, subd. (b)(4); see also Bus. & Prof. Code, § 2069, subs. (a)(2), (b)(3), (b)(4) (under specified conditions, a physician may delegate the supervision of a procedure performed by a medical assistant to a nurse practitioner, certified nurse-midwife, or physician assistant).

The technical supportive services specifically authorized by statute are: administering medication by intradermal, subcutaneous, or intramuscular injection; performing venipuncture or skin puncture to withdraw blood; and doing skin tests.<sup>7</sup> The Legislature also allows medical assistants to perform unspecified "additional technical supportive services,"<sup>8</sup> and has directed the Medical Board to "adopt and administer regulations that establish standards for technical supportive services that may be performed by a medical assistant."<sup>9</sup>

The Medical Board has promulgated regulations that set forth a non-exclusive list of technical supportive services that may be performed by medical assistants, including administering medication by certain means; performing electrocardiogram (EKG), electroencephalogram (EEG), and plethysmography tests; applying and removing bandages; removing sutures and staples; performing ear lavage to remove impacted cerumen; collecting and preserving bodily fluids; assisting patients in ambulations; preparing patients for medical procedures; providing instructions to patients; collecting and recording patient data; performing simple laboratory and screening tests customarily performed in a medical office; cutting patients' nails; and fitting prescription lenses.<sup>10</sup>

For a medical assistant to perform an additional technical supportive service, the service must not be prohibited by law and must be "a usual and customary part of the medical or podiatric practice where the medical assistant is employed."<sup>11</sup> Further, the medical assistant must complete the required training and show competence in performing the service, and a record must be made of each service performed.<sup>12</sup> Additionally, the supervising physician must authorize the medical assistant to perform the service and be responsible for the patient's treatment and care.<sup>13</sup> Also, the medical assistant must be supervised onsite by the supervising physician unless supervision is delegated to a physician assistant, nurse practitioner, or nurse-midwife according to standardized procedures in written instructions from the supervising physician.<sup>14</sup>

<sup>7</sup> Bus. & Prof. Code, §§ 2069, subd. (a)(1), 2070.

<sup>8</sup> Bus. & Prof. Code, § 2069, subd. (a)(1).

<sup>9</sup> Bus. & Prof. Code, § 2071; see Bus. & Prof. Code, § 2002.

<sup>10</sup> Cal. Code Regs., tit. 16, § 1366, subds. (b), (f).

<sup>11</sup> Cal. Code Regs., tit. 16, § 1366, subd. (a)(1).

<sup>12</sup> Cal. Code Regs., tit. 16, §§ 1366, subds. (a)(3), (a)(4), 1366.1, 1366.2, 1366.3.

<sup>13</sup> Bus. & Prof. Code, § 2069, subds. (a), (b)(2); Cal. Code Regs., tit. 16, § 1366, subds. (a)(1), (a)(5).

<sup>14</sup> Bus. & Prof. Code, § 2069, subds. (a)(1), (2), (b)(3), (b)(4).

To resolve the question whether medical assistants may lawfully perform spirometric testing under these provisions, it is necessary to have a basic understanding of both spirometry and pulmonary function testing in general. Pulmonary function testing is a "term used to indicate a battery of studies or maneuvers that may be performed using standardized equipment to measure lung function [and] can include simple screening spirometry, formal lung volume measurement, diffusing capacity for carbon monoxide, and arterial blood gases."<sup>15</sup> These tests "measure how well the lungs take in and release air and how well they move gases such as oxygen from the atmosphere into the body's circulation."<sup>16</sup> "The tests can determine the cause of shortness of breath and may help confirm the presence of lung diseases, such as asthma, bronchitis or emphysema."<sup>17</sup>

The most common type of pulmonary function test is spirometry, which uses a device called a spirometer.<sup>18</sup> "The spirometer is an instrument that measures the amount of air breathed in and/or out and how quickly the air is inhaled and expelled from the lungs while breathing through a mouthpiece. The measurements are recorded on a device called a spirograph."<sup>19</sup> For some of these measurements, the patient may "breathe normally and quietly," but for others, the patient must force "inhalation or exhalation after a deep breath."<sup>20</sup> In one common spirometry test, a clip is placed over the patient's nose, and the patient breathes through the mouth into a tube connected to the spirometer. "First the patient breathes in deeply, and then exhales as quickly and forcefully as possible into the tube. The exhale must last at least six seconds for the machine to work properly. Usually the patient repeats this test three times, and the best of the three results is considered to be the measure of the lung function."<sup>21</sup>

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<sup>15</sup> Cleveland Clinic, Center for Continuing Education, Thomas R. Gildea, M.D. & Kevin McCarthy, Pulmonary Function Testing, at <http://www.clevelandclinicmeded.com/medicalpubs/diseasemanagement/pulmonary/pulmonary-function-testing/>.

<sup>16</sup> MedlinePlus, Pulmonary Function Tests, at <http://www.nlm.nih.gov/medlineplus/ency/article/003853.htm>.

<sup>17</sup> The Free Dictionary, Pulmonary Function Test, at <http://medical-dictionary.thefreedictionary.com/pulmonary+function+test>.

<sup>18</sup> WebMD, Lung Function Tests, at <http://www.webmd.com/lung/lung-function-tests>.

<sup>19</sup> Johns Hopkins Medicine Health Library, Pulmonary Function Tests, at [http://www.hopkinsmedicine.org/healthlibrary/test\\_procedures/pulmonary/pulmonary\\_function\\_tests\\_92,P07759/](http://www.hopkinsmedicine.org/healthlibrary/test_procedures/pulmonary/pulmonary_function_tests_92,P07759/).

<sup>20</sup> UCSF Medical Center, Pulmonary Function Tests, at <http://www.ucsfhealth.org/tests/003853.html>.

<sup>21</sup> The Free Dictionary, Pulmonary Function Test, at <http://medical-dictionary.thefreedictionary.com/pulmonary+function+test>.

Spirometry measurements may include peak expiratory flow rate (airflow during forced expirations),<sup>22</sup> forced vital capacity (maximum amount of air exhaled after a deep breath), forced expiratory volume in one second (amount of air exhaled in one second), and maximum voluntary volume (maximum amount of air inhaled and exhaled in one minute).<sup>23</sup> Spirometry is frequently performed as a screening procedure to diagnose lung disease.<sup>24</sup>

With this basic understanding of spirometric testing, we next set forth the standards for determining whether the applicable statutes and regulations permit medical assistants to perform such testing.<sup>25</sup> Our principal tasks are to determine the Legislature's intent in enacting the statutes and the Medical Board's intent in promulgating the implementing regulations.<sup>26</sup> To discern these intents, we look first to

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<sup>22</sup> Peak flow is also measurable with a peak flow meter, which is a portable, handheld device that people—even children as young as four or five—may reliably operate themselves. (WebMD, Melinda Ratini, D.O., Asthma and the Peak Flow Meter, at <http://www.webmd.com/asthma/guide/peak-flow-meter>.) It is undisputed that medical assistants are legally permitted to perform pulmonary function testing using a peak flow meter.

<sup>23</sup> Encyclopedia of Children's Health, Emphysema vs. COPD, at <http://www.healthofchildren.com/P/Pulmonary-Function-Tests.html>.

<sup>24</sup> Santos, Manual of Pulmonary Function Testing (9th ed. 2008) (Santos) ch. 1, p. 2. Spirometry may also be used to measure occupational exposure, quantify the severity of lung disease, evaluate the efficacy of bronchodilators, assess the potential effects of therapy, and determine the risk of surgical procedures to lung function. (Santos, *supra*, ch. 1, p. 8; Wilkins, et al., Egan's Fundamentals of Respiratory Care (Wilkins) (9th ed. 2009) ch. 19, p. 405; Encyclopedia of Surgery, Spirometry Tests, at <http://www.surgeryencyclopedia.com/Pa-St/Spirometry-Tests.html>.)

<sup>25</sup> In this opinion, we do not consider whether other pulmonary function tests besides spirometry are simple and routine medical tasks and procedures that may be safely performed by a medical assistant with limited training. Other pulmonary function tests typically measure different aspects of lung function and employ different procedures than spirometry. (Santos, *supra*, ch. 1, p. 2.) A separate analysis would be required in order to determine whether a given test may be properly performed by a medical assistant.

<sup>26</sup> See *Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 826; *Guerrero v. Superior Court* (2013) 213 Cal.App.4th 912, 955 (“Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies,” quoting *California Drive-In Restaurant Assn. v. Clark* (1943) 22 Cal.2d 287, 292).

the usual and ordinary meaning of the words used in the laws.<sup>27</sup> We give “significance, if possible, to every word, phrase, and sentence,”<sup>28</sup> avoiding a construction “that would render related provisions unnecessary or redundant.”<sup>29</sup> Where the definitions of words are not specialized, we “give them their usual, ordinary meaning, which in turn may be obtained by referring to a dictionary.”<sup>30</sup> Generally, the plain meaning of the statutory or regulatory provision governs.<sup>31</sup> But where the plain meaning alone does not conclusively resolve the question, we may examine extrinsic aids including the statute’s legislative history or the regulation’s rulemaking file to assist us in our interpretation.<sup>32</sup>

With these principles at hand, we initially observe that neither pulmonary function testing generally, nor spirometry specifically, is named by statute or regulation as a technical supportive service that medical assistants may perform. At the same time, no statute or regulation restricts technical supportive services to those expressly allowed, so long as the services are not specifically prohibited.<sup>33</sup> It therefore must be determined whether spirometry is an “additional” technical supportive service permitted by law.<sup>34</sup> As noted above, the Legislature has defined technical supportive services as “simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician . . . .”<sup>35</sup> And, by regulation, additional technical supportive services include the performance of “simple laboratory and screening tests customarily performed in a medical office.”<sup>36</sup> Spirometry has been variously described by medical authorities and by one federal appellate court as a simple, routine, quick, safe, painless, and easy-to-perform

<sup>27</sup> *Hunt v. Superior Court* (1999) 21 Cal.4th 984, 1000; *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387.

<sup>28</sup> *Dyna-Med, Inc. v. Fair Empl. & Hous. Com.*, *supra*, 43 Cal.3d at pp. 1386-1387.

<sup>29</sup> *Kleffman v. Vonage Holdings Corp.* (2010) 49 Cal.4th 334, 345.

<sup>30</sup> *Smith v. Selma Community Hosp.* (2010) 188 Cal.App.4th 1, 30.

<sup>31</sup> *Coalition of Concerned Communities, Inc. v. City of Los Angeles* (2004) 34 Cal.4th 733, 737.

<sup>32</sup> *MacIsaac v. Waste Management Collection and Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1083-1084; see *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 186-188 & fn. 15.

<sup>33</sup> Bus. & Prof. Code, § 2069, subd. (a)(1); Cal. Code Regs., tit. 16, § 1366, subds. (a)(1), (b).

<sup>34</sup> Cal. Code Regs., tit. 16, §§ 1366, subds. (a)(1), (b), 1366.2.

<sup>35</sup> Bus. & Prof. Code, § 2069, subd. (b)(4); see Bus. & Prof. Code, § 2069, subds. (a)(2), (b)(2), (3).

<sup>36</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(11).

screening test that may be performed in a physician's office to diagnose lung diseases.<sup>37</sup> Spirometry therefore comes within both the general definition of technical supportive services and the specified example of simple screening tests as an additional technical supportive service.

Moreover, the procedures involved in spirometry appear comparable in complexity to other "additional technical supportive services" that medical assistants may perform by regulation, "such as" EKGs and EEGs.<sup>38</sup> To perform an EKG, "[t]en electrodes are needed to produce 12 electrical views of the heart. An electrode lead, or patch, is placed on each arm and leg, and six are placed across the chest wall. The signals received from each electrode are recorded. The printed view of these recordings is the electrocardiogram."<sup>39</sup> To perform an EEG, the administrator positions the patient on a padded bed or table, or comfortable chair, and then measures the brain's electrical activity by "attach[ing] 16 to 20 electrodes to the scalp. . . . To improve the conduction of these impulses to the electrodes, a gel will be applied to them. Then a temporary glue

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<sup>37</sup> *Mikes v. Straus* (2d Cir. 2001) 274 F.3d 687, 694 (spirometry is "an easy-to-perform pulmonary function test"); Cleveland Clinic, Center for Continuing Education, Thomas R. Gildea & Kevin McCarthy, Pulmonary Function Testing, at <http://www.clevelandclinicmeded.com/medicalpubs/diseasemanagement/pulmonary/pulmonary-function-testing/> ("simple screening spirometry" may be performed "in the ambulatory setting, physician's office, emergency department, or inpatient setting"); American Lung Association, COPD – Helping the Missing Millions, at <http://www.lung.org/about-us/our-impact/top-stories/copd-helping-the-missing.html> ("Luckily, the test, called spirometry, is simple and quick"); KidsHealth, Yamini Durani, M.D., Spirometry, at <http://kidshealth.org/parent/system/medical/spirometry.html#> ("Spirometry is a quick, painless test" and a "safe procedure with little risk"); WebMD, Lung Function Tests, at <http://www.webmd.com/lung/lung-function-tests> ("Spirometry is the first and most commonly done lung function test"); Levy, et al., *Diagnostic Spirometry in Primary Care* (2009) vol. 18, No. 3, Prim. Care Respir. J. 130, 135 ("Spirometry is safe"); Royal Brompton & Harefield NHS Foundation Trust, at <http://www.rbht.nhs.uk/patients/condition/lung-function-tests/> (spirometry is a "[r]outine" pulmonary function test).

<sup>38</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(2); see *Shaddox v. Bertani* (2003) 110 Cal.App.4th 1406, 1414 (in statutory construction, "[t]he phrase 'such as' is not a phrase of strict limitation, but is a phrase of general similitude indicating that there are includable other matters of the same kind which are not specifically enumerated," internal citations and quotation marks omitted).

<sup>39</sup> Emedicinehealth, Benjamin Wedro, M.D., Electrocardiogram (ECG, EKG), at [http://www.emedicinehealth.com/electrocardiogram\\_ecg/article\\_em.htm](http://www.emedicinehealth.com/electrocardiogram_ecg/article_em.htm).

will be used to attach them to the skin." The EEG administrator "may tell the patient to breathe slowly or quickly and may use visual stimuli such as flashing lights to see what happens in the brain when the patient sees these things. The brain's electrical activity is recorded continuously throughout the exam on special EEG paper."<sup>40</sup>

Like EKGs and EEGs, spirometric testing involves giving instructions to the patient, using an apparatus connected to a medical device, and obtaining readings or results from the device for the physician to interpret. In the case of an EEG, the administrator coaches the patient's pace of breathing, as may also be done with spirometry. These basic similarities between spirometry, and EKGs and EEGs, which are identified by law as additional technical supportive services, further demonstrate that spirometry also is a simple and routine medical procedure that may be safely performed by a medical assistant with limited training.<sup>41</sup>

It is nonetheless contended that, under the Respiratory Care Practice Act (RCPA),<sup>42</sup> spirometry constitutes the practice of respiratory care, which (beyond licensed physicians) only respiratory care practitioners (RCPs) and other enumerated, licensed health care providers—but not medical assistants—may engage in. Although we agree that medical assistants may not engage in the practice of respiratory care under the RCPA, we do not agree that simply conducting spirometric testing necessarily constitutes the practice of respiratory care.

According to the RCPA, no non-physician shall practice respiratory care, respiratory therapy, or inhalation therapy, nor may any person represent himself or herself as an RCP, unless the person is licensed as an RCP.<sup>43</sup> An RCP's practice involves much more than administering spirometry: it is "a health care profession employed under

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<sup>40</sup> Emedicinehealth, Diamond Vrocher III, M.D., & Mark J. Lowell, M.D., Electroencephalography, at [http://www.emedicinehealth.com/electroencephalography\\_eeeg/page4\\_em.htm](http://www.emedicinehealth.com/electroencephalography_eeeg/page4_em.htm).

<sup>41</sup> We also observe that the Medical Board, which promulgated the medical-assistant regulations, believes that spirometry is an additional technical supportive service. (Kimberly Kirchmeyer, Executive Dir., Medical Bd. of Cal., letter to Supv. Dep. Atty. Gen. Susan Lee, Dec. 5, 2013, pp. 2-4.) This view bolsters our conclusion that medical assistants may perform spirometry, as we give great weight to an agency's interpretation of its own regulations. (*Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Industrial Indemnity Co. v. City and County of San Francisco* (1990) 218 Cal.App.3d 999, 1009; 80 Ops.Cal.Atty.Gen. 283, 289 (1997).)

<sup>42</sup> Bus. & Prof. Code, §§ 3700-3779.

<sup>43</sup> Bus. & Prof. Code, §§ 3760, 3761.

the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions . . . .”<sup>44</sup> “The scope of [an RCP’s] practice ranges from delivering temporary relief to persons with asthma, pulmonary edema, or emphysema, to providing emergency treatment for asphyxiation, heart failure, stroke, drowning, or shock.”<sup>45</sup>

A helpful distinction between practicing as a licensed health care professional and performing technical supportive services as a medical assistant was explained in the case of *PM & R Associates v. Workers’ Compensation Appeals Board* (2000) 80 Cal.App.4th 357. There, the Court of Appeal concluded that physicians may employ and supervise medical assistants to perform technical supportive services involving physical-therapy tasks without employing licensed physical therapists.<sup>46</sup> In doing so, the appellate court instructed that “the term ‘practice’ is a term of art.”<sup>47</sup> The court explained that “‘practicing’ a particular profession—independently exercising discretion and specialized training to prescribe and implement a course of action—is significantly different from providing adjunctive services to a practice, and they are substantially different in scope, with the latter being far less encompassing than the former.”<sup>48</sup>

Like physical therapists, RCPs must satisfy substantial educational, training, and licensing requirements for their profession.<sup>49</sup> But the RCPA itself recognizes that there are “overlapping functions” between “physicians and surgeons” and “respiratory care practitioners” as well as “additional sharing of functions within organized health care systems.”<sup>50</sup> And the RCPA itself states that nothing in the RCPA “is intended to limit, preclude, or otherwise interfere with the practices of other licensed personnel in carrying out authorized and customary duties and functions.”<sup>51</sup> Thus, although medical assistants are prohibited from engaging in the “practice” of respiratory care, the RCPA does not

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<sup>44</sup> Bus. & Prof. Code, § 3702.

<sup>45</sup> USCF Center for the Health Professions, Nona Kocher, et al., *Respiratory Care in California* (Kocher), p. 1, at [http://www.rcb.ca.gov/forms\\_pubs/ucsf.pdf](http://www.rcb.ca.gov/forms_pubs/ucsf.pdf).

<sup>46</sup> *PM & R Associates v. Workers’ Comp. Appeals Bd.*, *supra*, 80 Cal.App.4th at pp. 364, 369.

<sup>47</sup> *Id.* at p. 368.

<sup>48</sup> *Ibid.*

<sup>49</sup> Bus. & Prof. Code, §§ 2620, 2630, 2650, 3735, 3740, 3760, 3761, 3775; Cal. Code Regs., tit. 16, §§ 1399.349, 1399.350, 1399.350.5.

<sup>50</sup> Bus. & Prof. Code, § 3701.

<sup>51</sup> Bus. & Prof. Code, § 3762.

prevent licensed physicians in their practices from employing medical assistants to perform a technical supportive service—such as spirometry—that relates to respiratory care.

A related objection is that the training required of medical assistants falls far short of the training that RCPs undergo for their profession, and that there is no regulatory process to prevent incompetent or negligent medical assistants from working. To be sure, a person must satisfy broad educational requirements, pass a national examination, and receive continuing education in order to become a licensed RCP.<sup>52</sup> But this does not mean that a physician, “who has significantly more training than [an RCP], and who is authorized to perform [respiratory care],” is prohibited in his or her practice from using a medical assistant to perform technical supportive services relating to respiratory care.<sup>53</sup> It is the physician who is ultimately responsible for the medical assistant’s performance of these services, and it is the physician who is ultimately subject to discipline for any negligence or incompetence by the medical assistant.<sup>54</sup>

Still, it is also argued that medical assistants may not administer bronchodilator medication by inhalation, as a component of spirometric testing,<sup>55</sup> based on the regulation that states that medical assistants may “[a]dminister medication by inhalation if the medications are patient-specific and have been or will be routinely and repetitively administered to that patient.”<sup>56</sup> With reference to this phrasing, it is argued that a medical assistant’s use of bronchodilators during spirometry is impermissible to the extent that the stated conditions for administering medication by inhalation are not fulfilled. On balance, however, we do not think that the regulation’s wording forecloses medical assistants from lawfully administering medication by inhalation in every other circumstance. As discussed, the regulation merely gives illustrations of additional

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<sup>52</sup> See fn. 49, *ante*; Kocher, *supra*, at pp. 3-5.

<sup>53</sup> *PM & R Associates v. Workers' Comp. Appeals Bd.*, *supra*, 80 Cal.App.4th at p. 366.

<sup>54</sup> See *Landau v. Superior Court* (1998) 81 Cal.App.4th 191, 221-222.

<sup>55</sup> Spirometry is sometimes used to evaluate whether medication will widen the narrowed airways resulting from conditions like asthma or chronic obstructive pulmonary disease. As part of this testing, a bronchodilator medication may be given to open up the airways to determine whether normal spirometry results are achievable from medication. (See Patient.co.uk, Dr. Tim Kenny and Dr. Colin Tidy, Spirometry, at <http://www.patient.co.uk/health/spirometry-leaflet>; WebMD, Roy Benaroch, M.D., Lung Function Tests for Asthma, at <http://www.webmd.com/asthma/guide/lung-function-tests-asthma>.)

<sup>56</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(1).

technical supportive services that medical assistants may perform and was not meant to limit “the wide range of services which the physician may assign to a medical assistant.”<sup>57</sup> By comparison, medical assistants are permitted to administer medication by seemingly more intrusive means than inhalation—“by intradermal, subcutaneous, or intramuscular injections”<sup>58</sup> and “vaginally or rectally.”<sup>59</sup>

We also find it persuasive that in both the Initial and Final Statements of Reasons for the medical-assistant regulations, the Medical Board determined that inhalation was “less hazardous” than injection and that “this route of administration is similar in complexity to administration by injection and venipuncture.”<sup>60</sup> The fact that patients may be instructed to self-administer bronchodilators during spirometry also is probative of a lack of complexity.<sup>61</sup> Indeed, “[s]elf-care by the patient” is permitted under the RCPA,<sup>62</sup> and “providing a single dose [of medication] to a patient for immediate self-administration” is permitted under the medical-assistant regulations.<sup>63</sup>

We draw additional support for our conclusion from the safety checks that appear in the medical-assistant regulations for administering medication by inhalation. Specifically, a medical assistant must receive at least 10 hours of training in administering medication by inhalation before he or she is allowed to demonstrate proficiency in this task.<sup>64</sup> This training must include instruction and demonstration about pertinent anatomy and physiology, equipment, proper technique, hazards and

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<sup>57</sup> *PM & R Associates v. Workers' Comp. Appeals Bd.*, *supra*, 80 Cal.App.4th at p. 894.

<sup>58</sup> Bus. & Prof. Code, § 2069, subd. (a)(1).

<sup>59</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(1).

<sup>60</sup> See Bus. & Prof. Code, § 2070 (allowing medical assistants to perform venipuncture); *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12-13.

<sup>61</sup> National Lung Health, Education Program, Thomas L. Petty, M.D. & Paul L. Enright, M.D., Simple Office Spirometry for Primary Care Practitioners, p. 9, at [www.nlhep.org/documents/simple\\_office\\_spirometry.pdf](http://www.nlhep.org/documents/simple_office_spirometry.pdf); see also Medicine.net.com, Bronchodilator-Aerosol Oral Inhaler, at [http://www.medicinenet.com/bronchodilator-aerosol\\_oral\\_inhaler/article.htm](http://www.medicinenet.com/bronchodilator-aerosol_oral_inhaler/article.htm) (directing the user how to self-administer a bronchodilator during treatment).

<sup>62</sup> Bus. & Prof. Code, § 3765, subd. (b).

<sup>63</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(1).

<sup>64</sup> Cal. Code Regs., tit. 16, § 1366.1, subd. (d).

complications, patient care following testing, and emergency procedures.<sup>65</sup> In addition, a physician or other authorized person must verify the correct medication and dosage before a medical assistant may administer such medication by inhalation.<sup>66</sup>

Finally, it is argued that a medical assistant may not perform spirometry because it would impermissibly require the medical assistant to interpret test results when assessing whether the patient's effort is sufficient to obtain accurate measurements. We reject this argument, which conflates the administration of testing with the assessment of test results. Unless otherwise provided by law, only a physician may diagnose a medical condition.<sup>67</sup> And medical assistants are not permitted "to interpret test findings and results."<sup>68</sup> But in our view, assessing whether spirometric testing procedures and devices are yielding reliable results does not amount to diagnosing a lung disease or interpreting the results actually obtained. Otherwise, the regulations could not specifically permit a medical assistant to perform tests such as EKGs, EEGs, or plethysmography,<sup>69</sup> which also require the administrator to determine whether the medical equipment and procedures are giving valid results for the physician to interpret.<sup>70</sup>

We therefore conclude that a medical assistant may lawfully perform spirometric pulmonary function testing if the test is a usual and customary part of the medical practice where the medical assistant is employed, and the requirements for training, competency, authorization, and supervision are satisfied.<sup>71</sup>

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<sup>65</sup> Cal. Code Regs., tit. 16, § 1366.1, subd. (e).

<sup>66</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(1).

<sup>67</sup> Bus. & Prof. Code, § 2052, subd. (a).

<sup>68</sup> Cal. Code Regs., tit. 16, § 1366, subd. (b)(2).

<sup>69</sup> See Cal. Code Regs., tit. 16, § 1366, subd. (b)(2).

<sup>70</sup> See Mayo Clinic, *Electrocardiogram (ECG or EKG), What You Can Expect*, at <http://www.mayoclinic.org/tests-procedures/electrocardiogram/basics/what-you-can-expect/prc-20014152> (procedures for EKG testing); MedlinePlus, Luc Jasmin, M.D., EEG, at <http://www.nlm.nih.gov/medlineplus/ency/article/003931.htm> (procedures for EEG testing); HealthCommunities.com, *Plethysmography*, Simeon Margolis, M.D., at <http://www.healthcommunities.com/heart-tests/plethysmography.shtml> (procedures for plethysmography testing).

<sup>71</sup> This means, for example, that it might be permissible for medical assistants to perform spirometry in a pulmonologist's or primary care physician's office but not in a cardiologist's or dermatologist's office, depending on whether spirometry is a usual and customary part of the particular office's practice.

# State Pay Period Calendar for 2016

## JANUARY 2016

21 Days 168 Hours

SU	M	TU	W	TH	F	SA
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## FEBRUARY 2016

22 Days 167 Hours

SU	M	TU	W	TH	F	SA
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	1				

## SACRAMENTO

### MARCH 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

## APRIL 2016

21 Days 168 Hours

SU	M	TU	W	TH	F	SA
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

## MAY 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## TELECONFERENCE MEETING

### JUNE 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

### JULY 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1					

## AUGUST 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
		2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## SEPTEMBER 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

## SOUTHERN CA

### OCTOBER 2016

21 Days 176 Hours

SU	M	TU	W	TH	F	SA
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## NOVEMBER 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

## DECEMBER 2016

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOTE: Holidays and pay periods may be subject to applicable memoranda of understanding, statutes and regulations.